CONSULTATION PAPER

Developing a program to prevent harmful sexual behaviours for children and young people

November 2019

Department of Communities Tasmania

Table of Contents

Acronyms

COAG - Council of Australian Governments

CHSB - Children's and young peoples' Harmful Sexual Behaviour

CSS - Child Safety Service

CYP-HSB - Children's and Young People's Harmful Sexual Behaviours

SFSK-ARL - Strong Families, Safe Kids Advice and Referral Line

RCIRCSA - Royal Commission into Institutional Responses to Child Sexual Abuse

Definitions

Children's and Young People's Harmful sexual behaviours (CYP-HSB): It is widely agreed that there is a lack of consistent definitions regarding children displaying harmful sexual behaviours in Australia; and that care must be taken with chosen terminology[1]. The RCIRCSA adopted the umbrella term 'children with harmful sexual behaviours' to represent people under 18 years of age who "*have behaviours that fall across a spectrum of sexual behaviour problems, including those that are problematic to the child's own development, as well as those that are coercive, sexually aggressive and predatory towards others*"[2]. For the purposes of this discussion paper the term 'harmful sexual behaviours' will be used as a generic umbrella term.

Sexual offending refers to "*sexual behaviours that fall within the definition of a sexual offence, where the child could be held criminally responsible for their conduct*"[1].

Strong Families, Safe Kids Advice and Referral Line (SFSK-ARL): refers to the replacement of the child protection-style Intake function, with a new social-welfare oriented advice and referral function, staffed by collocated Child Safety and non-government partners, who accept calls about concerns for family and child welfare that are explored with the caller in a conversational way. Referral pathways may include to Child Safety Services for investigation, and to external service provision, but also include the caller providing additional support and assistance where appropriate.

Institutions (as defined by the RCIRCSA): Any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated).

[1] Children aged 10 and over can be charged with a sexual offence

Introduction

Tasmania is looking to develop a robust children and young people's harmful sexual behaviour (CYP-HSB) program across the public health hierarchy, including investment in therapeutic services for children and young people, whether or not they are subject to a criminal justice response, displaying violent or aggressive behaviours, subject to care and protection orders, or in detention.

Responding to children's and young people's harmful sexual behaviour/s is a growing policy issue in Australia, with an increasing awareness about the prevalence and impact. In 2009, national recognition of the issue grew under the Council of Australian Governments (COAG) *National Framework for Protecting Australia's Children 2009–2020*, with a strategy item inviting states and territories to investigate best practice therapeutic programs for children displaying sexually abusive behaviours[3] (SAB).

In 2017, the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA), uncovered a history of sexual abuse experienced by children and young people in institutions (and outside of institutions) perpetrated by adults. The RCIRCSA also found children had been the victims of CYP-HSB enacted by other children. Through public hearings, private sessions and commissioned research, the RCIRCSA documented the nature and prevalence of children displaying CYP-HSB, identified gaps in Australia's current response, and provided recommendations for future action.

The Tasmanian Government has been active in responding to the RCIRCSA Final Report. In June 2018, the Tasmanian Government tabled its response to the RCIRCSA recommendations and has since taken action across a number of areas in response to the Commission's recommendations.

The RCIRCSA noted that there is currently no national overarching framework to prevent, identify or respond to children with CYP-HSB. While policy and legislative responses to CYP-HSB have been developed by all Australian jurisdictions, they vary in scope and nature. In most jurisdictions resources for specialist therapeutic intervention are minimal and referral pathways are convoluted. The RCIRCSA recommends a consistent public health approach to CYP-HSB with a focus on early intervention and providing a specialist therapeutic response.

Action 9 of the *Safe Homes, Families, Communities: Tasmania's action plan for family and sexual violence 2019-2022* (Safe Homes, Families, Communities) commits the Tasmanian Government to deliver a state wide CYP-HSB program for children and young people. The Program will address a service system gap that stakeholders identified as a priority during the consultation to inform development of Safe Homes, Families, Communities.

Purpose

This consultation paper has been developed to explore what might be an appropriate service response to CYP-HSB, to support implementation of a Children's and Young People's Harmful Sexual Behaviour program in Tasmania. This paper is seeking your feedback to questions of how Tasmania might best respond to CYP-HSB through a public health response at the most effective level, without statutory involvement if possible.

How to provide your comments

The Department of Communities Tasmania invites your comments to the questions presented in this consultation paper. In your written submission you may address some or all of the questions.

All written submissions must be received by 5pm Tuesday 22nd December 2019.

Submissions can be sent to:

Email:
fsvap@communities.tas.gov.au

Mail:
Department of Communities Tasmania
Family and Sexual Violence Portfolio, Children and Youth Services,
Tasmania, GPO Box 65, HOBART TAS 7001

Confidentiality

The Department of Communities Tasmania will treat the submission as public unless there is a clear indication that a submission (or part of the submission) is intended to be treated as confidential.

Confidential submissions will be acknowledged publicly only to the extent of publication of the name of the individual or organisation making the submission.

Consultation findings

It is intended this consultation, and your answers to the questions posed, will assist in the development of Tasmania's response to CYP-HSB, that supports families to manage emerging difficulties early and provide children and young people with appropriate and effective interventions to avoid future harm.

Why a response to harmful sexual behaviour is important

Sexual behaviours are part of healthy child development, influenced by the child's biological, psychological, social and cultural context (RCIRCSA[4]). Children and young people's harmful sexual behaviours are identified on a continuum of what are expected and accepted sexual behaviours, through to those that are victimising and abusive, and inappropriate for a child's or young person's developmental stage.

A continuum of behaviours developed by Hackett, Homes and Branigan (2016) distinguishes between normal, inappropriate, problematic, abusive and violent sexual behaviours. 'Normal' is understood as developmentally expected behaviours which may be spontaneous, non-distressing and non-coercive[5]. 'Problematic' is defined as concerning and developmentally unusual behaviours while 'abusive' and 'violent' are defined as including highly intrusive and intentional victimisation.

Figure 1 continuum of Sexual Behaviours sourced from Hackett, Holmes & Branigan (2016).

Normal	Inappropriate	Problematic	Abusive	Violent
Behaviour is developmentally expected Socially acceptable Consensual, mutual and reciprocal Involves shared decision making	Single instances of inappropriate sexual behaviour Socially acceptable within the peer group Behaviour is in an inappropriate context Generally consensual and reciprocal	Behaviour is problematic and concerning Developmentally unusual or socially unexpected Consent issues unclear May lack reciprocity or equal power May include compulsivity	Victimising intent or outcome Misuse of power Involve coercion or force Intrusive Lack informed consent or victim unable to give consent May include expressive violence	Physically violent Highly intrusive Instrumental violence, physiologically or sexually arousing to the perpetrator Sadism

When the sexual behaviours of a child or young person become problematic, it may be damaging to both the victim and the enacting child, and an appropriate and effective response to CYP-HSB is important to protect and minimise harm to both parties. Children and young people who display CYP-HSB may have already experienced harm - such as physical, sexual or emotional abuse, or neglect[6] - and require support to ensure their future safety and wellbeing. In cases of more serious CYP-HSB, they are more likely to have a comorbid diagnosis[7]. Psychological and emotional difficulties are common, including depression, conduct disorders, and ADHD, as are factors such as family stressors or exposure to age-inappropriate materials[8].

It is difficult to establish the extent of CYP-HSB because estimating the prevalence is hindered by many factors relating to limited research and underreporting by victims[2]. An absence of agreed definitions, a lack of standardised assessment tools, insufficient service resourcing and capacity, and convoluted or absent referral pathways, interferes with intervening early and treatment of CYP-HSB.

[2] Children face additional barriers to adults when reporting sexual abuse or the experience of children's harmful sexual behaviours, such as not knowing if behaviours are inappropriate, and additional fears of not being believed. Caregivers may underreport because of a lack of awareness about the topic. Given these reasons, the RCIRCSA suggest any estimates of HSB in Australia are most likely an underestimation.

As an indication of the prevalence, a 2017 review of police statistics by the Australian Institute of Family Studies broadly estimated that 30 to 60 per cent of childhood sexual abuse is carried out by children and young people. Further indications of prevalence were reported by the RCIRCSA where CYP-HSB was a significant theme heard in private sessions:

- 16.4 per cent of private session attendees (1,129 people) spoke about experiencing sexual abuse from another child;
- Approximately 41 per cent of private session attendees (473 people) reported their sexual abuse was by another child/children, not an adult; and
- Commissioned research from the RCIRCSA also found that in 2015-16, of the people against whom police initiated legal action for a sexual offence, 21 per cent were aged 10 to 17 years[9].

There is debate about the risk of recidivism following CYP-HSB incidents, however it is agreed that appropriate responses to CYP-HSB are important to prevent continuing behaviours. The RCIRCSA Final Report notes that most children with harmful sexual behaviours will not continue offending:

> *This is underscored by evidence that appropriate support, education or therapeutic interventions can help to stop children's problematic or harmful sexual behaviours. Therefore, timely access to early intervention, assessment and therapeutic treatment services is essential[10].*

A review of evidence by the RCIRCSA found recidivism rates for youth who complete treatment is between two and 15 per cent[11]. The rate of recidivism where a criminal threshold is reached, is between three to 14 per cent[12]. RCIRSCA private sessions also found some evidence children who have been sexually abused may re-enact the abuse or become hyper-sexualised[13].

Tasmania has limited options for responding to children and young people engaging in harmful sexual behaviours. Evidence and advocacy is growing for the need for the Australian and state and territory governments to provide an effective response to CYP-HSB. This includes contributing to national work on agreed definitions, assessment tools, thresholds, suitable responses across the continuum of behaviours classified as CYP-HSB, evidence based practice, and funding to deliver these services. This needs to occur within the context that behaviours of children and young people engaging in HSB is not understood in the same way as the behaviour of adult perpetrators of sexual violence.

How do we currently support CYP-HSB in Tasmania?

One non-government organisation is funded by the Tasmanian Government to provide counselling for sexual assault victim-survivors and delivers a therapeutic behavioural change program to children aged up to and including 11 years with CYP-HSB. Currently this service works with young people aged 12 to 17 years on a fee-paying basis. Accessing a specialist private provider, which can be costly and dependent up on availability, is currently the only other option available to children and their families.

The current services are limited to a restricted provision of tertiary intervention, and excludes children displaying violence, or who are subject to criminal investigation. There is an absence of primary and secondary intervention in Tasmania and nationally.

RCIRCSA recommendations to provide an effective response to CYP-HSB

Key recommendations from the RCIRSCA to provide an effective response fall under three themes:

- A national framework for improving responses and leadership from the Australian and state and territories governments, with a public health approach to CYP-HSB;
- Improved systems with clear referral pathways and consistent and earlier assessments to receive appropriate responses; and
- Improved therapeutic interventions, including adequate funding from governments, best practice service models, strengthening the workforce and program monitoring and evaluation (recommendation 10.2 to 10.7).

Recent work by scholars and practitioners generally concur with the recommendations which are listed below:

Recommendation 10.1
The Australian Government and state and territory governments should ensure the issue of children's harmful sexual behaviours is included in the national strategy to prevent child sexual abuse that we have recommended.

Harmful sexual behaviours by children should be addressed through each of the following:

a. primary prevention strategies to educate family, community members, carers and professionals (including mandatory reporters) about preventing harmful sexual behaviours
b. secondary prevention strategies to ensure early intervention when harmful sexual behaviours are developing
c. tertiary intervention strategies to address harmful sexual behaviours.

Recommendation 10.2
The Australian Government and state and territory governments should ensure timely expert assessment is available for individual children with problematic and harmful sexual behaviours, so they receive appropriate responses, including therapeutic interventions, which match their circumstances.

Recommendation 10.3
The Australian Government and state and territory governments should adequately fund therapeutic interventions to meet the needs of all children with harmful sexual behaviours. These should be delivered through a network of specialist and generalist therapeutic services. Specialist services should also be adequately resourced to provide expert support to generalist services.

Recommendation 10.4
State and territory governments should ensure that there are clear referral pathways for children with harmful sexual behaviours to access expert assessment and therapeutic intervention, regardless of whether the child is engaging voluntarily, on the advice of an institution or through their involvement with the child protection or criminal justice systems.

Recommendation 10.5
Therapeutic intervention for children with harmful sexual behaviours should be based on the following principles:
a. a contextual and systemic approach should be used

b. family and carers should be involved
c. safety should be established
d. there should be accountability and responsibility for the harmful sexual behaviours
e. there should be a focus on behaviour change
f. developmentally and cognitively appropriate interventions should be used
g. the care provided should be trauma-informed
h. therapeutic services and interventions should be culturally safe
i. therapeutic interventions should be accessible to all children with harmful sexual behaviours.

Recommendation 10.6
The Australian Government and state and territory governments should ensure that all services funded to provide therapeutic intervention for children with harmful sexual behaviours provide professional training and clinical supervision for their staff.

Recommendation 10.7
The Australian Government and state and territory governments should fund and support evaluation of services providing therapeutic interventions for problematic and harmful sexual behaviours by children.

These themes and recommendations are discussed in the remainder of the document, with consideration of the Tasmanian context and with the view of scoping a children and young people's harmful sexual behaviour program in Tasmania.

A framework for improving responses

National, state and territory leadership

The RCIRCSA advises Australia does not have a comprehensive overarching framework (neither policies, legislation or service system responses) to prevent, identify or respond to CYP-HSB. States and territories have a variety of legislative approaches and child protection policies. The RCIRCSA recommended the Australian, and state and territory governments develop a framework for improving responses through a national strategy:

> *The Australian Government and state and territory governments should ensure the issue of children's harmful sexual behaviours is included in the national strategy to prevent child sexual abuse that we have recommended.*[14]

Development of a national strategy was a recommendation in Volume 6 of the RCIRCSA final reports (2017). In 2018, the Tasmanian Government's response to the RCIRCSA noted responsibility for this action falls with the Australian Government and agreed to prioritise collaboration with other jurisdictions for the inclusion of CYP-HSB in the national strategy to prevent child sexual abuse[15].

Consultation question 1:

What should national leadership for responding to children and young people's harmful sexual behaviours look like? And what would it achieve?

What might be the different responses at a national level for children and young people displaying harmful sexual behaviours?

A public health approach

As a part of Recommendation 10.1, the RCIRCSA endorsed a public health approach to address CYP-HSB, including a range of interventions for the broad continuum of behaviours, from lower-level behaviours that may not cause harm, to coercive and abusive behaviours that can cause varying degrees of harm[16].

The public health approach includes universal strategies and primary prevention (stopping behaviours before they start), secondary (early intervention to curb the escalation), and tertiary prevention (to cease CYP-HSB). Figure 2 outlines the public health approach appropriate to the child and level of CYP-HSB (see Appendix 1). First, all families and children should be included in a universal approach to educating parents and their children about normal child development, including sexual development, and a primary prevention approach which includes sex education and education to prevent child sexual abuse.

The RCIRSCSA recommends the following education:

- outline the difference between developmentally appropriate and harmful sexual behaviours by children in a non-stigmatising way;
- give children clear guidance on what sexual behaviours are acceptable, what peer and adult behaviours are wrong, and where they can seek help if they feel unsafe; and
- take into account gender, age, cultural context and disability[17].

Primary prevention is one of three priority areas in *Safe Homes, Families, Communities*, *Tasmania's family and sexual violence action plan 2019-2022* (Safe Homes, Families, Communities). The new action plan commits to the following primary prevention initiatives:

- supporting development of the new National Sexual Violence Primary Prevention campaign under the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children 2010-2022;
- the Department of Education is continuing to embed respectful relationships in schools; and
- the establishment of an Our Watch Primary Prevention Officer in Tasmania who will work closely with government and non-government services to promote and support primary prevention activities in Tasmania.

Development of the National Sexual Violence Primary Prevention campaign and the Our Watch Primary Prevention Officer are in progress, but as an overarching objective they will support the prevention of sexual violence and harm through education. The vast majority of CYP-HSB however, is expected to be captured in secondary prevention, which aims to give families and communities tools, resources, support, training and services to manage early behaviours before escalation.

Secondary intervention should address inappropriate child sexual behaviours, and provides early warning that unusual sexual behaviour in children and young adolescents may be an indicator that they are being groomed or are suffering child sexual abuse. This strategy should focus on children, or institutions, assessed as being at higher risk of CYP-HSB 18, and should include pathways to suitable treatment interventions, also through self-referral.

Only a small percentage of children and young people displaying CYP-HSB are expected to require tertiary intervention. This would consist of post-incident interventions, such as therapeutic options, and child protection and/or police responses as required, for all children and young people displaying serious CYP-HSB.[19].

Currently Tasmania has limited response options, however the aim of the public health approach is to broaden the capacity for responding at all levels and to also respond to CYP-HSB resulting from sexual abuse or grooming. Child protection intervention may not be necessary or an assumed response to all cases of CYP-HSB, however the need for appropriate and accessible responses across the public health hierarchy, for the child or young person and their family, whether or not child safety services or police are involved is recognised.

Consultation question 2:

What should a public health response to children and young people's harmful sexual behaviour/s look like in Tasmania?

Given that Safe Homes, Families, Communities has committed to a National Sexual Violence Primary Prevention campaign, ongoing work with an Our Watch partnership, and embedding Respectful Relationships in schools, what might a primary prevention response look like in the service response for CYP-HSB?

What assistance might be provided from the Commonwealth?

Consultation question 3:

How might Tasmania optimise the allocation/use of resources across the public health hierarchy in a children and young people's harmful sexual behaviours program and why?

Improving service systems – assessment and referral pathways

To provide an appropriate system response, the RCIRCSA recommends *timely expert assessment is available for children with problematic and harmful sexual behaviors, so they receive appropriate responses, including therapeutic interventions, which match their particular circumstances* (Recommendation 10.2). As a part of timely expert assessment, the RCIRSCA suggest institutions should have clearer policies and equip staff with the skills to identify and respond/report to CYP-HSB.

Additionally, Recommendation 10.4 stipulates there should be *clear referral pathways to access expert assessment and therapeutic intervention* whether voluntarily seeking support, or on the advice of an institution, or child protection or criminal justice systems. In an effective service system, there needs to be a variety of entry points for different levels of CYP-HSB, or at different levels of concern, from self-referral to statutory referral and intervention.

It is anticipated that agreement on definitions of CYP-HSB; assessment tools; and effective interventions, will be facilitated at the national level. This may take some time and it is likely to occur in parallel with work at the State level. Capacity to respond may be fostered in a number of locations, including families, community, general practitioners; therapeutic practitioners and service providers, and institutions such as Child and Family Centre's, day care centers, schools, Strong Families Safe Kids Advice and Referral Line (SFSK-ARL), and police.

Consultation Question 4:

Do you or your organisation use assessment tool/s to identify children and young people's harmful sexual behaviours?

If so, what assessment tool/s do you/your organisation currently use to identify children and young people's harmful sexual behaviours?

Should there be a common assessment tool? What should it be?

Child Safety's role in referral and assessment

Child protection laws vary across all states and territories. The RCIRCSA notes there is some legislation in place to protect a victim of CYP-HSB but very limited pathways to support the child who displays CYP-HSB. Until recently no state or territory's mandatory reporting legislation included a requirement to report if a child has displayed harmful sexual behaviours[20].

The Royal Commission stated:

> *Child protection laws in Queensland, Western Australia, South Australia, Tasmania and the Northern Territory provide for care and protection for victims of reported sexual abuse, but do not specifically provide for a child protection response for a child displaying harmful sexual behaviours.*
>
> *Where a child protection agency determines that a child does not need care or protection, the police have not been involved, and the child is not engaged in the criminal justice process, there is no way to respond to a child's harmful sexual behaviours unless the child's family or carer seeks assistance[21].*

Tasmania acknowledges the truth of the statement immediately above. It is expected that with an adequate public health response to CYP-HSB, families, children and young people will be able to access the services and supports they require without prejudice or stigma. In the event adequate supports are unavailable in Tasmania, referral to Child Safety Service does not overcome the absence of required services.

In Tasmania, under the *Children, Young Persons and their Families Act 1997*, a Child Safety Service intervention can be enacted if a child is harmed by or at risk of abuse or neglect. Any person who suspects a child is suffering abuse and/or neglect can contact the SFSK-ARL to have a conversation about their concerns. In addition, any person can discuss with the SFSK-ARL if they are concerned a child displaying CYP-HSB is not getting the help needed.

If concerns of abuse or neglect are substantiated and no familial protective measures are found to be in place, an intervention can occur to protect the child or young person. On a continuum, this intervention commences with family support and assistance. At the more extreme end if a family is unable to be protective, a child may be subject to care and protection orders.

This consultation is seeking advice on what service system would offer the necessary service options and referral pathways to ensure an early and appropriate response to support a child or young person displaying CYP-HSB, whether or not they were subject to statutory intervention from Child Safety or Police.

Role of mandatory reporting

The RCIRCSA discussed reviewing mandatory reporting laws as one avenue to provide a clearer support pathway for CYP-HSB. For example, in Victoria a child protection response is possible under the *Children, Youth and Families Act 2005* (Vic) for children aged 10 to 15 years, if *'the young person is in need of therapeutic treatment due to their sexually abusive behaviour'*.

In Tasmania, the SFSK-ARL is able to respond to concerns about children and young people displaying CYP-HSB and make referrals, however this is limited by the availability of sufficient service provision, at the right level, and associated available referral pathways. The expectation is, however, that as far as possible access to services will be by self-referral or direct-referral, and not necessarily mediated through the SFSK-ARL. In addition, there is no current expectation that conversations with SFSK-ARL will be mandated for CYP-HSB, although mandatory provisions remain for all types of child abuse and neglect.

The RCIRCSA noted child safety services should not 'bear the burden' of responding to CYP-HSB, and that focussing on the tertiary end of the continuum rather than primary prevention or early intervention was not helpful in developing an adequate response. Instead, it is the position of the RCIRSCA that a consistent public health approach should be implemented across government policies including child protection, therapeutic interventions, schools and community services.

Consultation Question 5:

What are the options for referral pathways for children and young people exhibiting harmful sexual behaviours?

Consultation Question 6:

Do children and young people's harmful sexual behaviour/s need to be routinely registered/reported to a single government agency?

If 'yes', what agency should manage this, why and to what benefit?

What is the suggested threshold?

Criminal justice and diversionary methods

Only a small proportion of incidents involving CYP-HSB reach a criminal justice threshold and this will vary depending on age and seriousness. Children under 10 years cannot be held criminally responsible for an offence[3]. For children aged between 10 years and 13 years to be criminally responsible, they must have sufficient capacity to know their conduct was something they ought not do[4]. Similar to CSS, a case substantiated by criminal justice will involve behaviours at the problematic and harmful end of the CYP-HSB continuum.

In regard to criminal justice as a referral pathway to therapeutic treatment, the RCIRCSA states that in most jurisdictions:

> *a court can order a child charged with a sexual offence to participate in therapeutic intervention only if they are convicted, as a sentencing option. Consequently, children with harmful sexual*

[3] Refer section 18(1) of the *Criminal Code*.
[4] Refer section 18(2) of the *Criminal Code*.

behaviours who come to the attention of the criminal justice system, but are not convicted, are often not eligible for therapeutic treatment that may assist them to cease the behaviours[22].

In Tasmania, all CYP-HSB cases dealt with by police would result in a referral to CSS. In matters where CYP-HSB is substantiated, the child or young person and their family may receive a referral to a suitable therapeutic intervention, and where children and young people are detained in AYDC that service would be offered there. Access to suitable services is dependent on the public health hierarchy of response being developed in Tasmania, with evidence based therapeutic interventions for problematic, abusive and violent sexual behaviours.

Victoria and New South Wales have legislative criteria to make care and protection orders for children who have harmed others as a result of their sexual behaviours[23]. Both states "provide grounds for responding with an intervention on the basis of a child's HSB alone – no other form of harm or risk of harm needs to be identified for eligibility"[24].

Victoria is the only state that offers an integrated therapeutic and legal response where reporters to child protection recommend a child participate in a Therapeutic Treatment Order (TTO)[25]. The Secretary can refer the matter to the Victorian Therapeutic Treatment Board who provide advice about the suitability of a TTO. If a case is substantiated, a TTO is taken to the Children's Court which mandates a child between 10 and 14 years old to complete non-voluntary therapeutic treatment, *"participants are mandated to attend treatment under the legal process but are not subject to statutory or legal processes and their consequences"*[26]. The TTO allows early intervention and offers an opportunity for families to feel comfortable voluntarily seek help for children with HSB.

There is opportunity to consider the role of other diversionary methods in Tasmania. Diversionary methods are generally employed for less serious offences and can take place at multiple points in the investigation. In its submission to the RCIRCSA, the Law Council of Australia stated "*research has also shown that diverting young children away from the criminal law system has the most beneficial results in terms of reducing recidivism, and it follows that society benefits more from keeping young children away from the criminal law system than putting them into it"*[27].

This capacity is dependent on there being sufficient service provision, and ease of access across the public health response hierarchy. While diversionary methods generally include those available for minor offences, such as police cautioning, community conferencing and court-ordered alternatives to detention[28], these would need to be used with caution in instances of CYP-HSB, and always accompanied by referral to appropriate service/s.

Consultation Question 7:

What should be the key elements of a criminal justice response to children and young people engaging in HSB?

Should a therapeutic treatment pathway be made available to children and young people exhibiting HSB whose behaviour is reported to Tasmanian Police and/or who are charged with an offense?

If so, at what point(s) in the youth justice/criminal justice process should this pathway be made available and what could the referral options be?

Consultation Question 8:

How do you/your organisation understand the causes of children and young people's harmful sexual behaviour/s; opportunities to intervene; the location/focus point of intervention and the continuum of strategies for intervention?

Improved specialist therapeutic response to CYP-HSB

Although there is evidence to suggest therapeutic treatment responses can provide good outcomes, there are constraints to providing therapeutic treatment responses in Australia, including inadequately developed evidence based options for CYP-HSB services; insufficient funding for service delivery across the spectrum; and eligibility criteria leading to exclusion of the most vulnerable and/or dangerous children and young people displaying CYP-HSB.

These are issues shared nationally. As of 2017 only four states were delivering a specialist service for children with CYP-HSB, using different models and delivery approaches[29] (see Appendix 2). At this time NSW and Victoria provided services to children and young people not convicted of a sexual offence. Queensland and South Australia only provided services to children who have been convicted of a sexual offence.

Consultation Question 9:

What challenges and/or benefits might be encountered with the proposed state wide specialist therapeutic children and young people's harmful sexual behaviour program in Tasmania?

And what might be the solutions?

Best practice principles

Although therapeutic response treatments for CYP - HSB vary across states and territories, there is consensus about best practice principles. The RCIRCSA developed best practice principles[5] for therapeutic interventions with Recommendation 10.5 stipulating the following be applied by services:

- A contextual and systemic approach should be used. For interventions to be effective they should take account of a child's whole environment and include family, neighbourhood and community supports.
- Family and carers should be involved [6]. Practitioners should equip the child's family and carers with techniques and strategies so they can play a continuing role in behaviour management and promoting positive change for the child.
- Safety should be established. An overarching safety plan must be agreed on between services, home and school that provides safe and appropriate ways of managing the child's behaviour.
- There should be accountability and responsibility for the harmful sexual behaviours.
- Therapeutic interventions should assist the child with the harmful sexual behaviours to acknowledge and take responsibility for their behaviours.
- There should be a focus on behaviour change. The aim should be to guide the child towards understanding appropriate and safe ways to behave, through education which takes account of the child's entire circumstances, including at home and at school.
- Developmentally and cognitively appropriate interventions should be used. They should be tailored to the child's age and developmental stage and accommodate learning and language difficulties, developmental delays, cognitive impairment and other needs resulting from disability.

[5] based on research, existing overseas and domestic frameworks, and consultations with experts as well as what we have been told during our public hearings and private sessions.

[6] the following stipulation for this principle is that family and carers should be involved where possible and in the best interests of the child.

- The care provided should be trauma-informed. A trauma-informed approach recognises that many children with harmful sexual behaviours have trauma in their background and therefore have complex needs that require a holistic response.
- Therapeutic services and interventions should be culturally safe. In particular, Aboriginal and Torres Strait Islander children and their families may require culturally tailored approaches. Practitioners should consult with cultural experts to ensure interventions are effective.
- Therapeutic interventions should be accessible to all children with harmful
- sexual behaviours.

Along with best practice therapeutic program delivery, Recommendation 10.6 and 10.7 of the RCIRCSA stipulates therapeutic best practice service delivery. Services that should be subject to processes that ensure service quality and consistency, including *all services provide professional training and clinical supervision for their staff* and *fund and support evaluation of services.*

Consultation Question 10:

Please provide comments about the options for a Tasmanian response:

- To support accessibility, how can the children and young people's harmful sexual behaviours program be designed to support children and young people living in rural and remote populations?
- Should all children and young people, aged to under 18 years of age be eligible to access the program (at a point in the public health hierarchy relevant to their needs)?
- What other eligibility requirements should be in place for a specialist therapeutic program?
- How can we build therapeutic services that are culturally safe?

Consultation Question 11:

How can we ensure specialist therapeutic service staff are sufficiently skilled to provide specialist therapeutic treatment for children and young people displaying harmful sexual behaviour/s?

Consultation Question 12:

Should a Standards of Practice Guide be developed to steer quality and consistent CYP-HSB therapeutic service delivery in Tasmania?

Consultation Question 13:

What processes should be in place to evaluate the Tasmanian CYP-HSB program?

Appendix 1

Figure 2 RCIRCSA Public Health Approach to CHSB

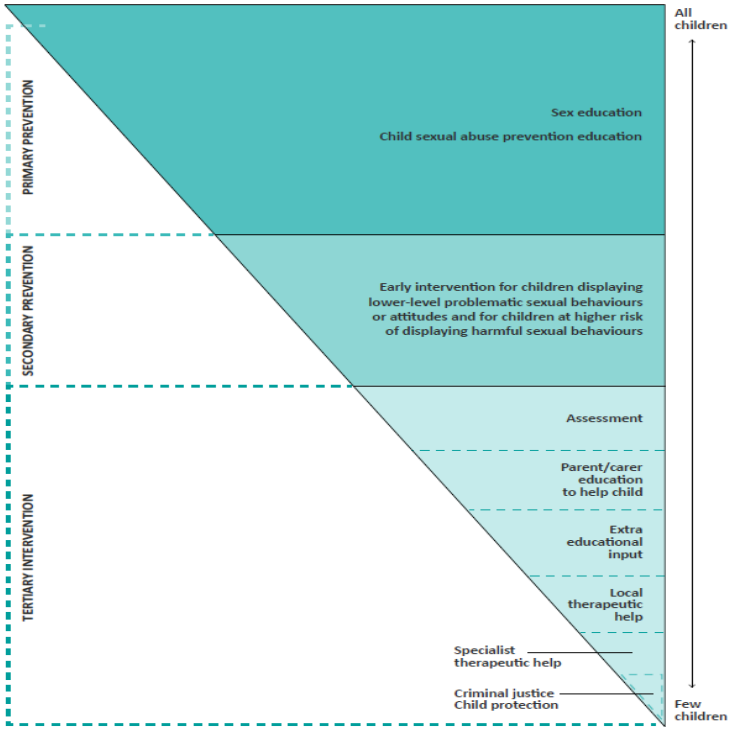

Figure 10.2 – A range of interventions for children with problematic and harmful sexual behaviours that span the public health approach to prevention

Source: Royal Commission into Institutional Responses to Child Sexual Abuse (2017). Final Report, Volume 10, *Children with harmful sexual behaviours*, Commonwealth of Australia, p.137

Appendix 2

Table 10.6 – Specialist services for children with harmful sexual behaviours by jurisdiction

Jurisdiction	Intervention	Eligibility
New South Wales	New Street Adolescent Services	Children aged 10 to 17 not convicted of a sexual offence
New South Wales	Sexualised Behaviours (under tens) Program (Sparks)	Children under 10 with problematic or harmful sexual behaviours
New South Wales	New Pathways Residential Program[a]	Children aged 10 to 17 not convicted of a sexual offence
Victoria	Sexually Abusive Behaviours Treatment Services	Children aged up to 18 following voluntary or mandatory referral
Victoria	Male Adolescent Program for Positive Sexuality	Children and young people aged 10 to 21 convicted of a sexual offence
Queensland	Griffith Youth Forensic Service	Children convicted of a sexual offence
Queensland	Mater Family and Youth Counselling Service	Children convicted of a sexual offence
South Australia	Adolescent Sexual Abuse Prevention Program (Mary Street)[b]	Children convicted of a sexual offence

[a] Funding for New Pathways ceased in 2017

[b] Mary Street stopped operating in 2016

Source: Royal Commission into Institutional Responses to Child Sexual Abuse (2017). Final Report, Volume 10, *Children with harmful sexual behaviours*, Commonwealth of Australia, p. 180

Appendix 3

Proposed allocation of resources under a Public Health Approach on the CHSB continuum

Normal	Inappropriate	Problematic	Abusive	Violent
Behaviour is developmentally expected Socially acceptable Consensual, mutual and reciprocal Involves shared decision making	Single instances of inappropriate sexual behaviour Socially acceptable within the peer group Behaviour is in an inappropriate context Generally consensual and reciprocal	Behaviour is problematic and concerning Developmentally unusual or socially unexpected Consent issues unclear May lack reciprocity or equal power May include compulsivity	Victimising intent or outcome Misuse of power Involve coercion or force Intrusive Lack informed consent or victim unable to give consent May include expressive violence	Physically violent Highly intrusive Instrumental violence, physiologically or sexually arousing to the perpetrator Sadism

Primary and secondary prevention initiatives
- Respectful relationships education
- Other primary prevention initiatives in schools
- Primary prevention campaigns
- Parenting initiatives in Child & Family Centres

Secondary Prevention
- Early intervention
- Self referral
- Diversionary tactics

-Tertiary intervention
- Specialist therapeutic
- MST for 12-17 years
- CBT for up to 12 years
- Diversionary tactics
- Self referral

Family and community response — Child Safety Service, SFKS ARL, and criminal justice response

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[3] COAG 2009, National Framework for Protecting Australia's Children 2009-2020

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