



*Address  
by*

*Robin Sullivan  
Commissioner for Children and Young People*

*At the  
Catholic Primary Schools Conference*

*at  
Legends Hotel, Surfers Paradise*

*on*

*Thursday 22<sup>nd</sup> January 2004*

***[INSERT Slide One: Title slide]***

Good morning. As Commissioner for Children and Young People I am committed to ensuring that “every child and young person is a valued member of society”.<sup>i</sup>

It is the role of the Commission for Children and Young People to advocate for the rights, interests and wellbeing of children and young people.

That is why I am here today to support the work that Catholic Education is doing to protect their students from harm.

Children and young people’s protection and wellbeing demand our individual and collective attention.

As employees of Catholic schools on the Gold Coast you have a three fold justification for promoting such a culture.

The first lies in the Judaeo Christian ethical tradition which is expressed in such phrases as “Let the little children come to me, for the kingdom of God belongs to such as these (Luke, 18) and “...whoever welcomes a little child ... in my name, welcomes me... (Matthew, 18, verses 5&6)

The second justification for your commitment to child friendly communities lies in social commentator Hugh McKay’s caution that

*Our children are like signposts to the future of our society; they tell us what we are becoming. But they are also our most precious resource for shaping the future, so we had better make sure we are nurturing them and support[ing] them to the limit of our capacity<sup>ii</sup>*

The third lies in the fact that Australia has a relevant legislative framework ranging from ratification of the UN Convention on the Rights of the Child, to the Queensland 1999 Child Protection Act, the Commission for Children and Young People Act 2000, and the 2001 Education (Accreditation of Non State Schools) Act.

It is this third justification – the legal framework that I have been asked to focus on this morning.

However, before I do, and as a former teacher and Principal I want to put the relevant Queensland legislation in an educational context.

Child protection issues have occupied a lot of ‘air time’ over the last few weeks.

While the recent Inquiry conducted by the Crime and Misconduct Commission was undertaken to investigate the abuse of children in foster care, its findings and subsequent recommendations have implications for all child protection practice in Queensland.

The Inquiry highlighted how crucial it is for organisations involved in child-related business to design and implement effective systems to decrease the risk of harm to children in their care and effectively respond to disclosures of abuse.

While many of the Inquiry's recommendations relate to the structure of the current Department of Families, and the establishment of a new Department of Child Safety, the greater vigilance called for from all involved in child protection is certainly required of school personnel.

Prior to the progressive education movement of the 1970s, schooling in Queensland was primarily about the transmission of agreed sets of understandings and skills.

Education had a strong focus on the academic. Imparting knowledge to children was believed to require firm, sometimes physical, discipline on the part of teachers, and obedience and compliance on the part of students.

Children were 'empty vessels' waiting to be filled with adult knowledge.

Nowadays, there is a greater recognition that children bring their whole selves to school, not just their academic parts.

We have a better understanding that a good education is one which acknowledges the interdependent nature of children's social, emotional, physical, spiritual and intellectual development.

Children are no longer seen as the private property of particular adults, but as citizens with rights as well as responsibilities.

***[INSERT Slide Two: Catholic education]***

This more holistic view of the child is reflected in the National Catholic Education Commission's vision statement which notes that Catholic education "is a means of discovering a meaning in life, of developing the human potential and liberating and empowering individuals to be responsible for their lives and to contribute to the society in which they live"<sup>iii</sup>.

The relationship of schools to their communities has also changed markedly. Once, families 'handed over' responsibility for student learning at the school gate. Teachers, school administrators and other school personnel had ultimate authority during school time.

Parents were seldom seen in schools, and usually only when someone was 'in trouble'.

In recent years, we have learned that separating the parts of children's lives can act to place them at risk in a number of ways.

Revelations in the popular media and during public inquiries have demonstrated that teachers and schools have not always honoured the trust placed in them by children and parents.

Children were sometimes harmed at school, and there was no one to help them. Often, there was no one who would even believe them. What happened in classrooms was invisible to the outside world.

Similarly, there were children being harmed at home with no one to tell. If information was shared with teachers or classmates, their ability to respond was limited.

Schools had no systems equipped to deal with disclosures of abuse or neglect and there were no requirements for schools to report such disclosures to other authorities.

In recent years, we have seen a growing awareness of the extent of child abuse and neglect and of the long-term negative impact on the individual and society.

In 1997 the Ministerial Council on Employment, Education, Training and Youth Affairs (MCEETYA) committed to the *National Strategy in Schooling to Prevent Paedophilia and Other Forms of Child Abuse*.<sup>iv</sup>

This move reflected a growing community understanding that institutions involved in child-related business had a responsibility to ensure that their policies and practices promoted the safety and wellbeing of children.

Organisations involved in child-related business also began to acknowledge that they should be equipped to respond appropriately

to children who disclosed incidences of harm occurring either within the organisation or at home.

The current commitment of education authorities to creating supportive school environments reflects an understanding that schools should be places in which children are both safe, and safe to 'tell'.

***[INSERT Slide Three: Child Protection Act 1999]***

The *Child Protection Act 1999* was a response on the part of the Queensland State government to this increased community awareness of issues related to abuse and neglect.

This Act replaced the outdated *Children's Services Act 1965* and acknowledged "*increasing community expectation that:*

- *children be protected from abuse and neglect;*
- *children who are removed from home receive safe alternative care; and*

- *children who suffer abuse and neglect receive quality services which promote their emotional, physical, social and educational development<sup>10</sup>.*

**[INSERT Slide Four: Child Protection Act 1999]**

Acts proclaimed by State Parliament define the law as it is to be enacted and upheld in Queensland.

The current Child Protection Act has a strong focus on family support. This means that the Act acknowledges the primary role of the family in child protection and seeks to support them in the least intrusive way possible to perform their functions adequately.

It aims, wherever possible, to preserve family units rather than dismantle them. The Act seeks to balance the rights of parents as individuals with those of children to be protected from harm.

There are situations, however, where the rights of children can come into conflict with those of their parents.

At present, there is nothing in the Child Protection Act to specify that in such cases, the rights of children must take precedence over those of parents.

One of the recommendations of the recent CMC Inquiry was the Act should be amended to include the principle that in respect of decisions made under the Act the best interests of the child come first.<sup>vi</sup>

The same should apply to decisions made in schools related to the protection of students.

***[INSERT Slide Five: A child in need of protection]***

Under the current Act, a “child in need of protection” is one who:

- a) *“has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm; and*
- b) *does not have a parent able and willing to protect the child from harm.”<sup>vii</sup>*

However, because the Act enables Government to intervene only when a child has no parent who may do so, harm occurring outside the family does not generally fall under its jurisdiction.

In other words, while the Act states that all children should be protected from harm, it does not deal with risks of harm which are situated outside the family unit.

Guidance about how to go about minimising risks to children involved in out of home activities is provided within other legislation which directs the operations of child-related services such as education.

***[INSERT Slide Six: Other legislation]***

The *Education (Accreditation of Non-State Schools) Regulation 2001* states that non-State schools must have “written processes about the appropriate conduct of [their] staff and students, that accord with legislation applying in the State about the care or protection of children.”<sup>viii</sup>

These must include additional processes for responding to staff or student reports of inappropriate staff behaviour as well as to incidences of actual or suspected harm to students.

These directives make it a requirement of accreditation for non-State schools to have written student protection policies, and to make these accessible and well-known to staff and students.

Such policies act to systematise education authorities' management of risks to the children and young people for whom they have a duty of care.

They respond to organisational contexts and provide staff members with guidance on how to respond appropriately to disclosures of abuse or neglect.

So, legislation outlines '*what*' the law requires an organisation to do at a systems level, while organisational policies and procedures fill in the details about '*how*' members of an organisation should enact their responsibilities in practice.

Legislation, policies and procedures each form a part of a coordinated school and community approach to the development of safe environments.

Effective student protection policies identify the potential risks within the school environment and provide guidance to staff about how to manage these risks.

Such policies are an integral part of good management and help “define boundaries in complex organisational environments”.<sup>ix</sup>

A Code of Conduct outlining the standards of behaviour expected of staff can act to maintain consistency for employees entering and leaving the organisation. It also acts to reinforce organisational values.

Part of any risk management process includes consideration of the context within which the risk management is to occur.

Because Student Protection Policies are designed for schools, they need to specifically address the types of risks inherent in the processes of schooling<sup>x</sup>.

One of the aspects of schooling which is most influential in terms of student safety is the quality of interpersonal interactions experienced at school.

Students can be placed at risk of harm within their relationships with teachers and other students. Inappropriate teacher-student interactions, sexual harassment among students and school bullying are examples of situations in which students might come to harm.

Organisations have a duty to ensure that staff members involved in child-related business are suitable to work with children and young people.

In Queensland, there are several mechanisms available to evaluate the character of people working in schools, or who intend to do so,

and determine that they do not present an identifiable risk to children or young people.

These are:

***[INSERT Slide Seven: Criminal history checks]***

- Criminal history checks conducted by the Board of Teacher Registration; and the
- The Commission for Children and Young People's *Working with Children Check*

Usage of these mechanisms is required under legislation, and should be written into Student Protection Policies and school Codes of Conduct.

Since the *Education (Teacher Registration) Act 1988* was passed, teachers in Queensland have been subject to professional regulation by the Board of Teacher Registration.<sup>xi</sup>

***[INSERT Slide Eight: Board of Teacher Registration]***

Amendments to the Act made in 1997 required the Board to give regard to an applicant's criminal history when considering whether or not to award teacher registration.

Since that time, the Board has been responsible for conducting criminal history checks on individuals applying for initial or restored teacher registration.

In accordance with its responsibility to “keep teacher registration in Queensland under continuous review”<sup>xii</sup> the Board of Teacher Registration is also currently engaged in a check of all registered teachers in Queensland.

By the time school resumes for 2004, the criminal histories of all registered teachers currently working in schools will have been assessed. The histories of other registered teachers will then be checked.

***[INSERT Slide Nine: Board of Teacher Registration]***

*The Education and Other Legislation (Student Protection)*

*Amendment Act 2003* recently allocated increased powers to the Board.

This legislation allows the Board improved access to information to help them determine whether teachers already awarded registration continue to be of 'good character.' This information can be collected from teachers, teacher employers or police authorities.<sup>xiii</sup>

The new legislation also requires teachers to advise the Board if they are charged with, or convicted of, a serious offence. In the past, teachers were only required to inform the board if found guilty of an offence.

The law now requires police authorities to inform the Board of Teacher Registration should a teacher be charged with a serious offence.

Further, should the Board have reason to believe that a teacher is unsuitable to work with children, the law enables the Board to ask

police authorities for information about any investigations of allegations that the teacher may have committed a serious criminal offence.

Should a teacher be dismissed or resign as a consequence of investigations or allegations related to child harm, the law states that the teacher's employer must inform the Board of Teacher Registration.

The Board will then use this information to make a judgment about whether or not the teacher concerned can continue to be considered of sufficiently 'good character' to maintain teacher registration, and may suspend a teacher's registration or initiate a disciplinary inquiry.

From the start of Term 1, 2004, should the Board make a disciplinary decision or order in respect to a teacher, it must communicate that decision to teacher registration authorities in all other states and in New Zealand.

The Board may also communicate their decision to me as Commissioner for Children and Young People if they believe it to be relevant to determinations about the individual's suitability to hold a 'blue card'.

Schools should already be familiar with the Commission for Children and Young People's *Working with Children Check*.

This check is conducted to determine the suitability of persons wishing to work in certain categories of child-related paid and voluntary work.

***[INSERT Slide Ten: CCYP Working with Children Check]***

Since May 1, 2001 the check has been mandatory for new paid employees or volunteers engaged in the following types of child-related employment:

- out of home residential facilities;
- schools;
- school boarding facilities;
- churches, clubs and associations involving children;

- counselling and support services;
- private teaching, coaching or tutoring; and
- child care.<sup>xiv</sup>

The *Working with Children Check* is a “comprehensive assessment of a person’s suitability to work with children based on their criminal history, if any.

Those found suitable to work with children and young people following this comprehensive criminal history check are issued with a blue card, which they must produce to be able to work with children in Queensland.”<sup>xv</sup>

Non-teaching staff who have been employed in Catholic schools since May 1, 2001 should already hold a blue card.

Recent amendments to the *Commission for Children and Young People Act*, however, empower the Commissioner to reassess a person’s suitability to work with children on the basis of new information.

This information could include advice from the police that a person has been charged with an offence, or notice from the Board of Teacher Registration that a teacher has been dismissed from the register.

Should this person be involved in non-teaching work in a school, their ability to remain employed in a non-teaching capacity would be dependent on the Commissioner's decision in relation to their 'blue card'.

Later in the year, the Commission for Children and Young People will be conducting retrospective screening of non-teaching staff.

Another way in which students can be protected from individuals who might harm them is the involvement of school personnel in mandatory reporting.

Individuals employed in schools also have a responsibility to maintain vigilance and respond appropriately should they become aware of

new risks of harm, or incidences in which harm has been perpetrated on a child or young person by another staff member.

***[INSERT Slide Eleven: Mandatory reporting]***

***[INSERT Slide Twelve: Mandatory reporting]***

Changes made to the *Education (General Provisions) Act 1989* require that from the start of Term 2, 2004, if

*“a staff member of a non-State school (the “first person”)  
becomes aware, or*

*reasonably suspects, that a student under 18 years attending  
the school has been abused by someone else who is an  
employee of the school” then*

*“The first person must give a written report of the abuse, or  
suspected abuse, to the school’s principal or the school’s  
governing body.*

*The principal is then required, under law, to give a copy of the  
written report to a police officer.”<sup>xvi</sup>*

This amendment applies to all school staff, and makes the reporting of sexual abuse by any other staff member mandatory.

It also makes it mandatory for principals or representatives of school governing bodies to report incidences of suspected abuse to the police. Failure to report carries strict penalties under the law.

In 1996, the Australian Catholic Bishops Conference published *Towards Healing*, a document outlining the principles that should underpin the Church's response to complaints of abuse and the procedures to be followed in responding to individual complainants.

***[INSERT Slide Thirteen: Towards healing]***

This document, which was revised in December 2000, supports the involvement of Church personnel in mandatory reporting when it states

*“All church personnel shall comply with the requirements for mandatory reporting of child abuse that exist in some States/Territories,*

*and State or Territory law regarding the reporting of knowledge of a criminal offence must be observed.*<sup>xvii</sup>

Ensuring that students are safe from being harmed by one another is also an important part of developing a safe and supportive school community.

Schools which engage students in teaching and learning to promote positive social behaviour and develop conflict resolution skills are acting in a proactive way to protect their student group.

Having effective behaviour management policies in place to manage incidences of harassment and bullying among students, communicating these to students and ensuring that they are consistently and fairly applied is also part of effective child protection practice at school.

Adhering to student protection policies and codes of conduct and developing effective behaviour management policies are examples of

ways in which teachers, students and other members of a school community can participate in child protection.

However, there is another very important thing that can be done by all members of a school staff to create a school environment safer for children and young people.

This is to contribute to the development of a school community which shares common values, supportive and co-operative social networks and relationships of trust.

Such communities are often described as rich in 'social capital'.

Communities rich in social capital are safer places for children to grow up in because the connections children enjoy with family, friends, neighbours and community members can influence how well they cope when things become difficult.<sup>xviii</sup>

Children with a high level of connectedness to friends, school staff or community members have somewhere and someone else to turn to should their families not provide safe and nurturing environments.<sup>xix</sup>

Communities with high levels of social capital also act to protect children by developing shared 'codes of conduct' for community members.

That is, sets of expectations about child and adult behaviour are formed and communicated by the community as a whole.

Provided the community values in respect to children are positive and empowering ones, social capital can act to guide families in how they should behave towards children and provide a disincentive to act in harmful ways toward children.<sup>xx</sup>

A range of factors have contributed to what some view as a decrease in the amount of social capital circulating within our communities.

These include the demise of the extended family; reduced community support of parents and families; the prevalence of single parent and blended families; high levels of economic uncertainty and unemployment; and a loss of confidence by parents in their ability to parent.

These social conditions have meant that schools are now one of only a very few sites at which the lives of all families in a community will intersect.

Schools are now almost uniquely positioned to provide students with the systems of social capital which were once provided by neighbourhoods and extended families.

The relationships that students form at school can support them when in trouble, and equip them with resilience to manage life's challenges.

Schools can also model healthy and helpful ways to interact with children, developing those community 'codes of conduct' I mentioned

before which act as templates guiding how community members respond to children and young people.

In other words, the pastoral care provided at school is one of the most powerful child protection activities you can be involved in.

Today, as you consider the Student Protection Policies and Codes of Conduct designed to support more effective child protection practice in Catholic schools, it would be easy to focus on rules and regulations. We have talked about them a lot today.

I would like to leave you, however, with a reminder that child protection is not really about rules but about children.

We are charged with working together to build a community in which children are more highly valued, better protected and listened to carefully.

We need rules to do this, but more than that, we need understanding and commitment. Rules are just the 'tools'.

I encourage each of you to take an active role in child protection. You can do this by enacting the principles of your organisation's Student Protection Policies and Codes of Conduct.

However, an understanding of issues related to child protection, and a commitment to participating in efforts to create safer communities for children and young people, is not something that needs to be left at the school gate.

Maintain vigilance as a community member and citizen. Should you believe that a service being provided to children and young people places them at risk of harm, you may make a complaint to that service or to the Commission for Children and Young People.

The Commission's Complaints and Investigations Unit monitors, investigates and seeks to resolve complaints about services provided to children and young people by government and non-government agencies.<sup>xxi</sup>

## **[INSERT Slide Fourteen: Commission contact details]**

The Commission is one of your partners in the business of child protection.

I hope my presentation today has helped you understand some of the legislative and policy responses to issues related to abuse and neglect, but has also highlighted to each one of you your own role in building stronger, safer communities.

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<sup>i</sup> Commission for Children and Young People (2003). *Annual report 2002-2003*. Brisbane: Queensland Government, Commission for Children and Young People, p. 2.

<sup>ii</sup> <http://www.chatabox.com.au/cfc/camp.htm>, 23.04.99

<sup>iii</sup> National Catholic Education Commission. *Vision statement*. Retrieved January 12, 2004 from <http://www.ncec.catholic.edu.au/welcome2.htm>

<sup>iv</sup> Ministerial Council on Education, Employment, Training and Youth Affairs (1999). *The Adelaide Declaration on National Goals for Schooling in the Twenty-First Century*. Retrieved December 23, 2003 from <http://www.curriculum.edu.au/mceetya/nationalgoals/index.htm>

<sup>v</sup> *Child Protection Bill 1998*. Queensland Parliament, p. 1.

<sup>vi</sup> Crime and Misconduct Commission (2004). *Protecting children: An inquiry into abuse of children foster care*. Brisbane: Crime and Misconduct Commission.

<sup>vii</sup> *Child Protection Act 1999*. Queensland Parliament, s. 10.

<sup>viii</sup> *Education (Accreditation of Non-State Schools) Regulation 2001*. Queensland Parliament, s. 10

<sup>ix</sup> Commission for Children and Young People (2003). *Working with children kit: Your policies and conduct*. Brisbane, Queensland: Queensland Government, p. 5.

<sup>x</sup> Commission for Children and Young People (2003). *Working with children kit: Your policies and Code of Conduct*. Brisbane: Queensland Government, Commission for Children and Young People.

<sup>xi</sup> Education Queensland (2003). *Education and Other Legislation (Student Protection) Amendment Act 2003: What it means for registered teachers at non-state schools*. Brisbane: Queensland Government, Department of Education. Retrieved December 19, 2003 from <http://education.qld.gov.au/publication/production/reports/studentprotection.html>

<sup>xii</sup> *Education (Teacher Registration Act) 1988*. Queensland Parliament, s. 5.

<sup>xiii</sup> Education Queensland (2003). *Education information: Education and Other Legislation (Student Protection) Amendment Act 2003: What it means for registered teachers at non-state schools*. Brisbane: Queensland Government, Department of Education. Retrieved December 19,

<sup>xiv</sup> *Commission for Children and Young People Act 2000*. Queensland Government.

<sup>xv</sup> Commission for Children and Young People (2003). *Annual report 2002-2003*. Brisbane: Queensland Government, Commission for Children and Young People, p. 37.

<sup>xvi</sup> *Education and Other Legislation (Student Protection) Amendment Act 2003*. Queensland Government, s. 146b.

<sup>xvii</sup> **Australian Catholic Bishops Conference (2000). *Towards healing*. Retrieved 19 December, 2003 from [http://www.catholic.org.au/statements/sexual\\_abuse\\_th\\_3.htm](http://www.catholic.org.au/statements/sexual_abuse_th_3.htm).**

<sup>xviii</sup> Tomison, A.M. (1999). *Creating the vision: Communities and connectedness*. Invited address to the OzChild Child Expo, 22 April 1999, Melbourne.

<sup>xix</sup> Fegan, M. & Bowes, J. (1999). Isolation in rural, remote and urban communities. In J.B. Bowes, & A. Hayes (Eds.), *Children, families and communities* (pp115-132). Melbourne: Oxford University Press.

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<sup>xx</sup> Fegan, M. & Bowes, J. (1999). Isolation in rural, remote and urban communities. In J.B. Bowes, & A. Hayes (Eds.), *Children, families and communities* (pp115-132). Melbourne: Oxford University Press.

<sup>xxi</sup> Commission for Children and Young People (2003). *Annual report 2002-2003*. Brisbane: Queensland Government, Commission for Children and Young People.