

# Where Child Protection Systems and Schools Meet<sup>1</sup>

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## **Introduction**

The time has long passed, if it ever existed, since anyone has suggested that child protection issues are not the province of educational institutions. It is true that many years ago in New South Wales, the child welfare agency and schools only worked together because all instances of truancy were automatically classified as child protection matters.<sup>3</sup> However, this has not been the case for many years. Inter-departmental policies and procedures in child protection have existed in NSW since at least 1982. In more recent times the interrelationship has become both more sophisticated and more complex.

There are three broad areas where the confluence of child protection and educational systems takes place and I would like briefly to discuss each of these in turn. These areas are where the school becomes aware that a child may be in need of care and protection (wherever the abuse may have occurred), where a child is being abused by other children, and where a child is being abused by a teacher.

## **Awareness that a Child is in Need of Care and Protection**

Discussion about the duty of care that a school owes to its students in order to prevent students from being injured, is a topic that has been explored in many places.<sup>4</sup> Generally it can be said that a school has a duty to take such steps as are reasonably practicable to prevent one of its students being injured in a way which the school should have foreseen might take place. The NSW Supreme Court<sup>5</sup> has recently explicitly said that a school cannot avoid liability by relying upon a delegation of its responsibilities to another. As a result, the school must carry the responsibility for the discharge of its duty to its students – even where there was intentional wrongdoing by a teacher.

As this case has shown, the precise limits of this duty may not yet be absolutely clear. What is clear is that the duty exists when the school is exercising responsibility for its student to the exclusion of the child's carers or, as was said in an Australian Capital Territory case 'during the time that he was subject to the [school authority's] supervision'.<sup>6</sup> What this means in practical terms will be determined on a case by case basis. For example, there is authority to say that this responsibility extends to students who are on their way to or away from school.<sup>7</sup> Does this really mean that the responsibility of the school commences for no other reason but because a student steps away from the closed door of their home each morning? It probably does not. Does it mean that it includes school activities and excursions which occur outside of normal school hours and

during those times when the school has arranged to have students delivered near or at their homes? It probably does.

There are activities associated with schooling, but which may not be activities of the school. These could include participation in work experience, collecting funds for a charity or cause, or participation in the Duke of Edinburgh Award programme. In these cases where is the line for responsibility to be drawn? If the test is whether it can reasonably be said that the school is exercising responsibility in place of the student's parent or carer, then to the extent of the school's involvement, there could be cases where the school may be found to have responsibility. Did the school select the work placement or hold out that it had checked that the employer was suitable for this or any student? Was there any implication that the school would be supervising an activity? Where there is any doubt, then schools now check that they have adequate procedures in place to minimise risk to the student and beyond that to have suitable insurances in place. These insurances may be effected by the school, student or by the organising body. For work placement, many non-government schools will require the student to take out insurance – except in States like Victoria which have coverage within their workers' compensation statutory scheme.<sup>8</sup> The Duke of Edinburgh Award, by way of another example, has a policy of insurance that indemnifies participating schools and permits payment to students.

If a school is aware that a student is at risk of abuse and fails to take those steps available to the school to prevent future abuse then there is an argument that this injury to the student cannot be distinguished from other omissions by the school to prevent injury to a student. If the abuse does not occur while the student is within the responsibility of the school it is arguable that a failure by the school to take any action did not cause any subsequent abuse and so the school should not be liable. However a counter argument is that if the school is aware of a possible risk, and the school is aware that there are statutory bodies in place who upon receipt of that information will investigate the matter and take steps to protect the child then the school has contributed to the student continuing to be abused.

In saying that the school will become aware of information I am not suggesting that anyone expects the school to become an investigating agency in its own right. Instead, it recognises that schooling is one of the few compulsory activities that brings most children in Australia together under the supervision of professional adults. These professional adults will automatically gather information while they are carrying out tasks within their educational institution. Teachers do recognise when there are uncharacteristic mood swings, when students are absent without good reason or when a student is unaccountably bruised. Teachers are good at doing this. They know their students and know when there is something unusual. In response to a student whose work is suffering, a teacher will try to identify how to work with that student to correct the change. Teachers do have other resources upon which they can also call depending upon where they think the reason for the change may lie. One such resource is the relevant statutory child protection agency.

Where the information becomes known because of a school carrying out educational activities and the school may report the abuse to a known agency then in this instance the school has a responsibility in place of a parent or carer. Failure to call upon the resources available may amount to a breach of duty towards a student. There is no unambiguous authority in case law

supporting this view, in an unreported Victorian case in which a school made a financial payment as a result of a teacher failing to report known possible abuse of a student – at a time when there was no legislative regime in place which made such reporting mandatory. In the United States, the Supreme Court of Montana found in the context of civil litigation that a social worker should have reported information concerning sexual abuse that had occurred 16 years earlier as there was a present threat of harm to the man’s grandchildren.<sup>9</sup>

Despite mandatory reporting of child abuse being a significant legal issue for schools, this is treated first in this paper because it is necessary to place mandatory reporting within the broader context of a school’s responsibilities to its students. To do otherwise can permit the mistaken impression that mandatory reporting is about being punitive towards teachers and that without mandatory reporting teachers and schools would have no liability. The object of mandatory reporting is not to create punitive provisions where none previously existed. Even without mandatory reporting, common law actions may be brought against those who fail to report.

What mandatory reporting does do is to establish a regime where independent professionals can assess risk to a child. It sends a clear message that it is important for all information about a child being at risk to be assessed independently. Assessment undertaken solely by a person working closely with the child who considers that their skills alone will assist that child is not always the best way to help the child. The ability of statutory child protection bodies to piece together information from a range of sources will invariably produce a better result – but only if they have received the information in the first place.

Mandatory reporting does not exist in all States.<sup>10</sup> It does not exist in New Zealand. The Government in Western Australia has said that it will not introduce mandatory reporting.<sup>11</sup> There are a number of reasons why mandatory reporting is not introduced<sup>12</sup> but the primary reason advanced is also the most frequent criticism of mandatory reporting. This is, that it results in such a flood of reports being made that scarce resources are diverted from undertaking care and protection to investigating spurious allegations. In NSW, where since December 2000 the extent of mandatory reporting was clarified, extended and publicised at the same time as technology was introduced to increase the ease with which a report could be made, it is certainly the case that there has also been a significant increase in the number of reports being received. Based upon this experience, mandatory reporting does lead to increased levels of reporting.<sup>13</sup> Indeed, as that is a reason for mandatory reporting, it would be surprising if this were not the case.

Studies of the acceptance by professionals of mandatory reporting have indicated that a significant reason why they fail to report is a belief that child protection agencies do not properly respond.<sup>14</sup> Stories of child protection agencies being unable to respond to any matter because they are swamped by insignificant allegations can therefore result in professionals failing to report. This important criticism can therefore become self-fulfilling, leading to non-compliance amongst mandatory reporting professionals.

The criticism also diverts attention from the need to do five other things. Firstly, for child protection agencies to introduce improved risk assessment when dealing with reports and thereby more efficiently to deal with the bulk of information being received. Secondly, there is a need for child protection agencies and professional reporters to work more closely in the best interests of

the child instead of each professional responding to the needs of the child in isolation from others. Thirdly, it ignores another significant reason advanced by professionals for not reporting which is to avoid the angst and time associated with litigation associated with care and protection matters.<sup>15</sup> This can rarely be a valid reason. Fourthly, the criticism ignores the fact that mandatory reporting is usually restricted to certain categories of professionals who work with children. These professionals should be encouraged to learn of avenues available to assist the children with whom they work. Mandatory reporting can assist in clarifying these responsibilities and in generating the resources needed to provide training. Fifthly, it removes supports from professionals, like teachers, who are not specialist child protection workers.

Most of these consequences are self evident, but some explanation may be required for the last. Where the law establishes parameters for professional behaviour then those parameters can inform and guide practice. If a professional is told something in confidence there is always the perennial question of how can that confidence be broken for the good of another while still maintaining a professional working relationship? If the rules of the professional relationship are made clear at the beginning, and it is clear that this is an obligation with which the professional must comply, then this will assist in that professional making it clear that certain information must be passed on and that this is a matter outside any professional relationship.

This is supported by case law which states that ‘in neglect proceedings confidentiality must give way to the best interests of the child’<sup>16</sup> It was held in this case that a medical practitioner involved in a drug rehabilitation program which involved confidentiality concerning a mother’s substance abuse in contravention of criminal laws did not override the obligation to report where a child was at risk of harm. Likewise in a Canadian case, the obligation of a police officer to report abuse was held to be paramount notwithstanding competing obligations of confidentiality and privilege.<sup>17</sup> Finally, from a personal perspective, where on-going abuse is eventually identified and it is clear that this was known quite early in the cycle of abuse to a professional who works with children, I often find it difficult to justify in my mind the failure to have shared that information.

Where mandatory reporting does exist then consequences arising from it should also be recognised and addressed. The concurrent need to improve information handling has already been referred to. There are also other consequences. One of these is a reaction that says that once a report has been made then this resolves the child protection issues from the perspective of the school. The impression is given that the matter is with the child protection specialists and so the school need do nothing further. This impression can be given by either the child protection agency or the school, or by both. It is the case that sometimes the child protection agency cannot release information because of privacy requirements or because they do not want to impair a criminal investigation – but sometimes it is also because of a dysfunctional relationship between the professionals involved. Inter-agency child protection guidelines such as those which exist in NSW can assist in addressing this issue. However, it must also be recognised that there is a responsibility of the school towards its student that is ongoing. This continuity in the school’s responsibility needs to be recognised by all.

Another consequence is reliance on the fact of reporting before there is any evidence of validity. The mere making, investigation or assessment of a report does not automatically confer

validity. The mere making of a report does not require a special response merely because it is about child abuse and need not inform attitude towards a child the subject or the report.

In all our professional lives we bring our skills and talents to bear in striking balances between competing needs. Balances must be struck in determining when to release or retain information, in dealing with the competing demands of being a good teacher while also not impairing investigation by others into a child's protection needs and in protecting children while being just to those accused. It is these balances that must inform behaviour when there has been a report of child abuse.

Where reporting of reasonable suspicions is mandatory then a breach of a statutory obligation will incur a penalty. This penalty may well be less than moneys paid under a common law claim for damages in negligence, but the penalty still exists. Where a penalty has been defined by statute there may also be other ancillary consequences for the professional involved. This ancillary action could include disciplinary action or the imposition of restrictions on practising rights. It is also possible that, even where there is no common law obligation to report, where there is a statutory obligation to report then a failure to do so may justify a claim in damages.<sup>18</sup>

In Australia I am only aware of two successful prosecutions for failure to report. In a NSW case the facts were that a general medical practitioner identified that a young girl may have been sexually abused. The doctor appropriately treated the girl and handed the girl's mother literature on sexual abuse. The medical practitioner did not report the matter to anyone else nor recommend that the mother do so. In assessing the penalty to be imposed the Magistrate held that a relevant factor was the extent to which the child might continue to suffer abuse<sup>19</sup> and the continued access of any alleged perpetrator to the child.<sup>20</sup>

In a South Australian case the general practitioner admitted failing to keep notes, to conduct an adequate examination, to give adequate consideration to the possibility of non-accidental injury and to report. The 2 year old boy had bruises to his groin and forehead. He died 3 days after being seen by the doctor.<sup>21</sup>

In view of the paucity of Australian precedent, cases in other jurisdictions are informative. In a Canadian decision was held that an obligation to report 'suspected abuse' does not oblige or even give rise to an expectation that the professional will conduct a full investigation before making a report.<sup>22</sup> There is certainly no obligation to determine the source of the abuse.<sup>23</sup>

What is reasonable for a particular person<sup>24</sup> to report has been said to be determined by what can be expected of the particular profession to which they belong. Thus, the information which might lead a paediatrician to suspect abuse will be different from the information which a general practitioner, public health nurse, social worker or teacher might have. 'The relevant standard must vary in accordance with the professional capacity of the person or persons involved in the particular case'.<sup>25</sup> This can be contrasted with a United States decision that a requirement to report a 'reasonable cause to suspect' meant that there had to be a 'belief based on evidence, but short of proof, that an ordinary person should reach as to the existence of child abuse'.<sup>26</sup> Where there is an obligation to report 'immediately', then a delay of five weeks will be too long.<sup>27</sup>

If the obligation to report is imposed upon particular professionals, the obligation to report should not be extended to others who perform similar functions. For example, because a minister

of religion can perform a service similar to a counsellor, this does not mean that the minister assumes a professional responsibility to report child abuse.<sup>28</sup>

### **Abuse of Students by other Students**

When striking the right balance between protection and justice, the issues are often most acute where the alleged perpetrator of the abuse is one or more of the other students at the school. There are international studies that demonstrate a high rate of children and adolescents being sexual abuse perpetrators.<sup>29</sup> The existence of abuse of students by students should not therefore be discounted.

Where this situation exists, the teacher often faces difficult competing obligations because of the needs not just of the victim but also of the perpetrator – who also may in some cases be a victim. Behavioural problems at school, learning difficulties and poor academic achievement may have led to social isolation or poor self esteem and these factors may be linked with a child being a perpetrator of abuse.<sup>30</sup> Likewise, there are suggestions of a causal link between early victimisation and later abusive behaviour<sup>31</sup> – although it certainly is not the case that everyone who has been abused early in life will become a perpetrator.<sup>32</sup> While I am not arguing against the need for personal responsibility, even of some child adolescent offenders, for teachers these factors can raise difficult issues. Some of these factors which lead to a student being a perpetrator are also issues with which these very same teachers will be grappling to overcome.

Where a decision is made to request that a child be kept at home, or to exclude or suspend a child from school pending an investigation, that is a decision (subject to the rules of natural justice) to be made by the school. A child protection agency cannot require that this be done. A child protection agency can only recommend and advise. This advice should be sought but, once given, it needs to be assessed and a decision independently made by the school. If a child protection agency disagrees with the decision made it does have some limited options. For example, in certain circumstances it can remove the abused child and seek relevant care orders, or it can assist in the child victim in obtaining apprehended violence orders.

As well as seeking advice, the school may consider requesting particular briefings or inclusion of staff in case planning meetings of the child protection agency. The agency may decline some or all of these requests but it is likely that most reasonable requests will be complied with. The responsibility of the school to its students remains and this must not be forgotten by the school.

In pursuing its responsibilities the school might consider a number of actions to help a student and the student's family. These might include:

- establishing a single point of contact for inquiries;
- keeping lines of communication open and letting people know, where this is possible, about the progress of the matter;
- encouraging and maintaining confidentiality;
- preventing harassment or victimisation of those who supply information;

- facilitating anyone accused having a support person that they can turn to and providing information on counselling and support (including union services where this is relevant);
- maintaining contact with other investigating agencies;
- keeping a checklist of statutory obligations and ensure that these are complied with promptly;
- in all things, encouraging timeliness but deprecating cold punctiliousness.

The on-going responsibilities of the child protection agency, or the police, must also be acknowledged and accepted. These roles are not the same. The primary function of a child welfare agency is the care and protection of children. As has recently been stated by the Court of Appeal in NSW ‘YACS’ proper concern was the current welfare of the child. YACS was not a detective agency set up to hunt down and prosecute past misconduct. True, the past could be an indicator of the present, but there were matters of degree’.<sup>33</sup> During the investigation phase the child protection agency and the police will be seeking the best evidence which is available to them. To achieve this they will be seeking to avoid such matters as:

- any implication that the child has given a less than accurate report because of suggestibility,<sup>34</sup> or
- the child having difficulties distinguishing between information held and information received,<sup>35</sup> or
- contextual issues of the child wishing to please the adult asking the questions.<sup>36</sup>

These situations will often be exacerbated by a child tending to recall less information than an adult in an equivalent situation<sup>37</sup> and thereby inducing the questioner to cross the line into unacceptable practices. To achieve these goals there is often an anxiety to avoid questioning of children by those who are not trained in this art and to avoid multiple questioning. These anxieties can (usually wrongly) be considered by teachers as an intent to exclude them from the process rather than as an attempt to merely attain the best possible evidence.

### **Abuse of Students by Teachers**

This is a particular issue that was identified by Justice Wood in his final report of the Royal Commission into the NSW Police Service in 1997. Amongst some 140 recommendations, two key areas relating to paedophilia which Mr Justice Wood identified as needing resolution were the employment of staff (when there was no knowledge by employers of the existence elsewhere of records of inappropriate conduct with children) and the conflicts of interest found by employers when dealing with allegations of abuse by their own staff.

To address these key issues NSW passed legislation to introduce employment screening<sup>38</sup> and the oversight by the Ombudsman of investigations into child abuse allegations by staff. These matters are clearly complementary to the work of the statutory child protection agency but remain discrete and separate activities. Practice is directed by bodies entirely separate from the child protection agency. The separate nature of this complementary role has not always been recognised by organisations and this lack of recognition has caused some confusion. Because these issues

arose in NSW and have been addressed in NSW the following comments must of necessity be limited to that State. How they have been addressed can influence and guide other jurisdictions or employers.

Because the NSW Ombudsman has traditionally only been involved with government agencies some non-government schools were initially surprised by the extent of the new powers. Indeed the fact that the Ombudsman's powers extended to all schools in NSW was one of the biggest surprises. In addition to this the powers extend to the conduct not just of people who have traditionally been regarded as staff but also to volunteers, clergy and work placements.<sup>39</sup>

The need for the employer to investigate allegations against its own employees is in addition to the investigations by the child protection agency or the police. This can lead to concerns by these agencies of the contamination of evidence, but these concerns cannot be permitted to deflect the school from performing its own obligations. Independent assessment does not necessarily require the school to duplicate the efforts of others. It is reasonable to accept the results of the investigation of others provided that this has been done after independently assessing the conclusions and without blindly following what is proposed. Once again a delicate balance is to be struck.

Furthermore in NSW the school must investigate and report to the Ombudsman all allegations. This is a much broader obligation than exists under the care legislation in NSW where mandatory reporting only exists where there are reasonable grounds to suspect that there are current concerns for the safety, welfare and well-being of a child or children.<sup>40</sup> A school may therefore find itself reporting what it considers to be a groundless and vexatious allegation to the Ombudsman but not making any report to the child protection agency. For the child protection agency the distinction is important. A consequence of mandatory reporting is that it may increase the difficulty of identifying real risks to children through swamping an agency with information. This should be contrasted with the regime under the Ombudsman legislation where the first investigatory process is undertaken by each employer rather than by a central agency. For the child protection agency it is important that professional judgments are brought to bear to make an initial consideration of risk and properly to gather available evidence.<sup>41</sup>

In addition to monitoring the investigation undertaken by the school the Ombudsman has a separate power to conduct its own investigation.<sup>42</sup> This power to conduct its own investigation is not restricted by other investigations which might be on foot.<sup>43</sup> My experience has been that the NSW Ombudsman is very mindful of the need to avoid duplication, and the associated waste of resources, and so does not unnecessarily embark on separate and repetitive processes.

The final issue is the application of employment screening. While I am aware that there have been some issues concerning the duplication of screening, the time taken in completing the screening process and the consequences for a small school, in particular, where an existing employee can no longer work with children, these are issues which invariably raise industrial relations issues rather than child protection issues and so are not within the ambit of this paper.

## Conclusion

Of necessity a paper such as this can only provide an overview. While doing this some of the intricacies and complexities have been explored. Clearly there is much still to be learnt, but this should not cloud the significant advances which have been made over the last few years in better caring for and protecting our children. As I have repeatedly stated, what we are all trying to achieve is a better balance of the competing needs of education and care and protection. This balance can only be achieved by all interested parties making sure that there is in fact a meeting of child protection systems and the schools.

## Keywords

Child protection; child abuse; professional responsibility of teachers; duty of care.

## Endnotes

1. A paper originally presented to the Australia & New Zealand Education Law Association Conference, Melbourne, 3-5 October 2001.
2. The opinions expressed in this paper are those of the author and do not necessarily, or at all, represent those of the Minister or Director-General of Community Services.
3. s 72 (o) Child Welfare Act (1939) NSW
4. for example: Ramsay IM & Shorten AR (1996) *Education and the Law*, Sydney: Butterworths; Kohn A (1997) 'An outline of the law of negligence as it applies to school accident cases' in J Edwards, A Knott and D Riley (eds) *Australian Schools and the Law*, North Ryde: LBC Information Services; S Varnham (2000) 'Just a harmless pat on the bottom? – when may a school be held liable in respect of peer to peer or teacher to student sexual harassment' 5 *ANZJLE* 34
5. *Lepore v State of NSW* (2001) Aust Torts R 81-609
6. *El-Sheik v Australian Capital Territory Schools Authority* (1999) Aust Torts R 81-522 affirmed on this aspect on appeal in *Australian Capital Territory Schools Authority v El Sheik* [2000] FCA 931.
7. *Geyer v Downs* (1977) 138 CLR 91; *Trustees of the Roman Catholic Church for the Diocese of Bathurst v Koffman* (1996) Aust Torts R 81-399.
8. For example see: *Vocational Education and Training Act 1990* (VIC) or *Vocational Education and Training (Industry Placement) Act 1992* (QLD).
9. *Gross v Myers* (1987) 748 P2d 459. There is also United States authority that there is no common law duty to report information that may be held about a student being abused. See for example *Doe A v Special School District of St Louis County* (1986) 637 F Supp 1138; *Thelma D v Board of Education of the City of St Louis* (1987) 669 F Supp 947.
10. It does exist as follows:

ACT	<i>Children and Young People Act 1999</i>
NSW	<i>Children and Young Persons (Care and Protection) Act 1998</i>
NT	<i>Community Welfare Act 1983</i>
QLD	<i>Health Act 1937</i>

- SA                    *Children's Protection Act 1993*  
TAS                   *Children Young persons and Their Families Act 1997*  
VIC                   *Children and Young Persons Act 1989*
11. *West Australian*, 5 February 2001
  12. See for example: Bell and Tooman, (1994) 'Mandatory Reporting Laws: A Critical Overview'. 8 *International Journal of Law and the Family* 337.
  13. Also see: B Murray (1997) 'Failing to report: potential action for breach of the statutory duty to report child abuse in Victoria' 2 *ANZJLE* 89 at 89
  14. A R van Haeringen anors (1988) 'The child abuse lottery-will the doctor suspect and report? Physician attitudes towards and reporting of suspected child abuse and neglect' 22 *Child Abuse & Neglect* 159; A P Vulliamy anors (2000) 'Reporting child abuse: paediatricians' experiences with the child protection system' 22 *Child Abuse & Neglect* 1461; R Bessner (2000) 'The duty to report child abuse' 17 *Canadian Family Law Quarterly* 277
  15. G L Zelman (1990) 'Child abuse reporting and failure to report among mandatory reporters: prevalence, incidence and reasons' 5 *Journal of Interpersonal Violence* 3
  16. *Matter of Baby X* (1980) 293 NW2d 736 per Court of Appeals Michigan.
  17. *Ontario (Police Complaints Commissioner) v Dunlop* (1995) 26 OR(3d) 582.
  18. Cases which have found that there is a claim for private damages for breach of a statutory obligation to take certain action include: *Vesely v Sager* (1971) 486 P2d 152; *Landeros v Flood* (1976) 551 P2d 389; *Cade v Mid-City Hospital Corporation* (1975) 119 CalR 571. For the view that any duty does not ground an action in private damages see for example: *Doe A v Special School District of St Louis County* (1986) 637 F Supp 1138; *Borne v NorthWest Allen County School Corporation* (1989) 532 NS2d 1196. Also see B Murray (1997) 'Failing to report: potential action for breach of the statutory duty to report child abuse in Victoria' 2 *ANZJLE* 89.
  19. The lack of any evidence of on-going abuse was also a relevant factor in *R v Cook* (1985) 46 RFL (2d) 174.
  20. *Department of Community services v K* unreported per Magistrate Murray 1 December 1998 Local Court Albury.
  21. (SA) *Advertiser* 20 January 2000.
  22. *S(P) v B(SK)* (1997) 40 OTC 236.
  23. *Capaldi v State* (1988) 763 P2d 117.
  24. Care needs to be taken in applying cases from other jurisdictions to the Australian context. For example in Victoria the test is not one of 'reasonable belief' but instead of 'belief on reasonable grounds'. This change in wording can, according to an unreported Victorian decision, make the test a subjective one ie that this particular professional considered that there was abuse. Evidence of such a subjectively held belief can be established by means other than an admission: *Landeros v Flood* (1976) 551 P 2d 389 at 398.
  25. *R v Strachula* (1984) 40 RFL (2d) 184.
  26. *State v Hurd* (1986) 400 NW2d 42 per Myse J, Court of Appeals Wisconsin
  27. *Matter of Schroeder* (1987) 415 NW2d 436.
  28. *Wilson v Darr* (1996) 553 NW2d 579.

29. For example: 36% of perpetrators were found to be under the age of 18 years amongst child sexual assault abuse investigations in Liverpool (UK) between 1989 and 1990: L Horne anor 'Sexual abuse of children by children' (1991) 3 *Journal of Child Law* 147. Also see: T C Johnson (1988) 'Child perpetrators: children who molest other children' 12 *Child Abuse & Neglect* 219; T J Kahn anor (1988) 'Treatment of the adolescent sexual offender' 5 *Child & Adolescent Social Work* 135.
30. C M Lonczynski (1991) 'Adolescent sexual offenders: social isolation, social competency skills and identified problem behaviours' 51 *Dissertation Abstracts International* 5040 ; K Epps (1991) 'The residential treatment of adolescent sex offenders' 1 *Issues in Criminology and Legal Psychology* 58.
31. B Watkins & A Bentovim (1992) 'The sexual abuse of male children and adolescents: a review of current research' 33 *Journal of Child Psychology and Psychiatry* 197; Seghorn anors (1987) 'Child sexual abuse in the lives of sexually aggressive offenders' 26 *Journal of the American Academy of Child and Adolescent Psychiatry* 262; G Awad & E Saunders (1991) 'Male adolescent sexual assaulters: clinical observations' 6 *Journal of Interpersonal Violence* 446
32. J V Becker (1998) 'The effects of child sexual abuse on adolescent sexual offenders' in G E Wyatt & G J Powell (eds) *Lasting Effects of child sexual abuse* (Newbury Park) at 195
33. *TC v State of NSW* [2001] NSWCA 380 unreported 31 October 2001.
34. Leichtman anor (1995) 'The effects of stereotypes and suggestions on preschoolers reports' 31 *Developmental Psychology* 568
35. M Bruck anor (1995) 'I hardly cried when I got my shot: influencing children's reports about a visit to their paediatrician' 66 *Child Development* 193; Lindsay anor (1995) 'Aware and unaware uses of memories of post event suggestions' in M S Zaragoza anors (eds) *Memory and testimony in the child witness* (Thousand Oaks)
36. S J Ceci & M Bruck (1993) 'Suggestibility of the child witness: a historical review and analysis' 113 *Psychological Bulletin* 403; J M Batterman-Faunce anor (1993) 'Effects of context on the accuracy and suggestibility of child witnesses' in G S Goodman & B L Bottoms (eds) *Child victims, child witnesses: understanding and improving testimony* (New York).
37. S Moston & J Taplin (nd) *The contamination of children's testimony* (NSW Child Protection Council Monograph)
38. Child Protection (Prohibited Employment) Act 1998
39. *NSW Ombudsman Act 1974 s 25*
40. cf 25A *NSW Ombudsman Act 1974 s* and ss23, 27 *Children and Young Persons (Care and Protection) Act 1998*
41. T Foreman anor (2000) 'A misunderstanding regarding the duty to report suspected abuse' 5 *Child maltreatment* 190
42. *NSW Ombudsman Act 1974 s 25G*
43. *K v NSW Ombudsman*, unreported 1 August 2000 per Whealy J (NSW Supreme Court).