

A comparative review of child sexual abuse definitions

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ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the palawa/pakana of lutruwita, the traditional owners of the land upon which we live and work. We pay respects to Elders past and present as the knowledge holders and sharers. We honour their strong culture and knowledge as vital to the self-determination, wellbeing and resilience of their communities. We stand for a future that profoundly respects and acknowledges Aboriginal perspectives, culture, language and history.

ABOUT THE TASMANIAN POLICY EXCHANGE

The Tasmanian Policy Exchange (TPE) was established in 2020 to enhance the University's capacity to make timely and informed contributions to policy issues and debates which will shape Tasmania's future.

The TPE works with government and community partners to identify and address significant issues where the University can make a positive impact on Tasmania's future. It also works with staff from across the University of Tasmania to develop evidence-based policy options and longer-term collaborations.

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Any mistakes are those of the authors.

HELP AND SUPPORT

This report discusses sensitive topics related to child sexual abuse, which may bring up strong feelings or cause distress for some readers. Please prioritise your emotional well-being and seek support – from family and friends, a counsellor, or a doctor – if needed.

The following services can also give you help and support:

Crisis and Suicide Prevention	If you or someone else is in immediate danger, call Triple Zero: 000 Lifeline: 13 11 14, https://www.lifeline.org.au/
Mental health support	Kids Helpline: 1800 55 1800, https://kidshelpline.com.au/ Beyond Blue: 1300 22 4636, https://www.beyondblue.org.au/
Child sexual abuse support and advice	Blue Knot Foundation: 1300 657 380, https://blueknot.org.au/ Bravehearts: 1800 272 831, https://bravehearts.org.au/ National Redress Scheme: 1800 737 377, https://www.nationalredress.gov.au/ Survivors & Mates Support Network: 1800 472 676, https://www.samsn.org.au/ National Office for Child Safety: https://www.childsafety.gov.au/

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1. BACKGROUND

The independent 'Commission of Inquiry into the Tasmanian Government's responses to Child Sexual Abuse in Institutional Settings' (the Col) was established on 15 March 2021. The Col's final report was released on 31 August 2023, and featured 191 recommendations. Recommendation 19.1 was that:

The Tasmanian Government should develop a whole of government child sexual abuse reform strategy for preventing, identifying and responding to child sexual abuse, including child sexual abuse in institutions and harmful sexual behaviours.¹

The Col stated that the strategy "should include agreed definitions of child sexual abuse, institutional child sexual abuse and harmful sexual behaviours that can be used across government and beyond".²

In December 2023, the Tasmanian

Government released its response to the Col, *Keeping Children Safe and Rebuilding Trust*. The Tasmanian Government accepted all of the Col recommendations, including the development of a Tasmania-specific strategy featuring definitions of the terms listed above.

This report summarises research into the definitions of 'child sexual abuse', 'institutional child sexual abuse' and 'harmful sexual behaviours' used in relevant strategies and frameworks in Australia and globally to help inform the development of Tasmania's strategy.

Scope and Methodology

The Tasmanian Policy Exchange (TPE) conducted a comprehensive desktop review of domestic and international strategies and frameworks related to child sexual abuse (CSA), as well as relevant academic literature. The relevant policy documents and papers that feature a definition of at least one of the key terms are provided in Table 1 below.

¹ Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023), Final Report, August 2023, <https://www.commissionofinquiry.tas.gov.au/report/listing>, vol. 1, 105

² Ibid., 12

Table 1: Relevant strategies, plans and policy documents addressing child sexual abuse

Australia	National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030 (2021) Australian Child Maltreatment Study Report (2023) Royal Commission into Institutional Responses to Child Sexual Abuse Final Report (2017)
New Zealand	To Aorerekura: The National Strategy to Eliminate Family Violence and Sexual Violence (2021)
United Kingdom (UK)	Tackling Child Sexual Abuse Strategy 2021 (2021)
Wales	National Action Plan: Preventing and Responding to Child Sexual Abuse (2019)
European Union (EU)	EU strategy for a more effective fight against child sexual abuse (n.d.)
United Nations (UN)	UN Convention on the Rights of the Child – General comment no. 13 (2011)
World Health Organisation (WHO)	INSPIRE Handbook: Action for implementing the seven strategies for ending violence against children (2018) Preventing Child Maltreatment: a guide to taking action and generating evidence (2006) Responding to child maltreatment: a clinical handbook for health professionals (2022) Handbook on developing national action plans to prevent child maltreatment (2018)

2. DEFINITIONS

Definitions matter, particularly in relation to complex, difficult topics. The *Royal Commission into Institutional Responses to Child Sexual Abuse* (2017) noted that using the right words and terms when discussing CSA can ‘empower and educate’, while inappropriate wording can have ‘silencing, stigmatising and other harmful effects’.³ Moreover, language reflects the attitudes of policymakers, practitioners, and broader society, and therefore influences how CSA and related concepts are recorded and reported.⁴ In the international context, inconsistent definitions across countries make it more difficult to understand the international prevalence of CSA, and create challenges for inter-jurisdictional investigation and prosecution.⁵ This is particularly concerning given the rise of online CSA (see Section 2.1.3), which operates across borders.

Child sexual exploitation

It is important to note that CSA is recognised as distinct from ‘child sexual exploitation’ (CSE). CSE is a form of sexual abuse characterised by some form of exchange or perceived ‘trade’, whereby the child or young person is coerced, manipulated or deceived into a sexual interaction for tangible and/or intangible goods. However, there is significant overlap between the concepts of CSA and CSE, given that exploitation and abuse are often interlinked (Alderson and Ireland 2020).

2.1 Defining ‘child sexual abuse’

There is currently no shared global definition of CSA. This reflects that “systematic and sophisticated policy and public health efforts to prevent, identify, and respond to CSA remain in their relative infancy”.⁶ The lack of a shared definition can “distort or limit the

capacity of researchers, clinicians, legislators, policy makers and communities to measure, treat, prevent, interrupt, and respond to CSA”.⁷ A selection of definitions used by different countries and international organisations is provided in Table 2.

³ Royal Commission into Institutional Responses to Child Sexual Abuse (2017) Final Report, <https://www.royalcommission.gov.au/child-abuse/final-report>, Final Report, vol. 2, 24

⁴ Alderson, K., and Ireland, C. A., (2020). Child Sexual Exploitation: Definition and the importance of language. *Abuse: An International Impact Journal*, 1 (1). <https://researchonline.ljmu.ac.uk/id/eprint/15703/1/Child%20Sexual%20Exploitation%20Definition%20and%20the%20importance%20of%20language.pdf>, 57

⁵ Ignite Philanthropy and Economist Impact (2022). Out of the Shadows Index 2022 https://cdn.outoftheshadows.global/uploads/documents/OOS_Index_Global_Report_2022_EN_V2_2023-02-08-174957_kmfz.pdf, 39

⁶ Mathews, B. and Collin-Vézina, D., (2019) Child Sexual Abuse: Toward a Conceptual Model and Definition, *Trauma, Violence & ABUSE*, Volume 20, Issue 2. <https://journals.sagepub.com/doi/pdf/10.1177/1524838017738726>, 131

⁷ Ibid., 132

Table 2: Summary of CSA definitions from various countries and international organisations

Country	Document	Definition
Australia	Australia's National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030	<p>The Strategy includes two definitions:</p> <p><u>Definition 1</u> (in 'Terminology', p. 17)</p> <p>We use the terms:</p> <ul style="list-style-type: none"> • child sexual abuse for any act that exposes a child or young person to, or involves a child or young person in, sexual activities that: <ul style="list-style-type: none"> ◦ they do not understand ◦ they do not or cannot consent to ◦ are not accepted by the community ◦ are unlawful. • children and young people for people under the age of 18. <p><u>Definition 2</u> (in 'Glossary', p. 57)</p> <p>We use the Royal Commission's definition of child sexual abuse, which is: 'any act that exposes a child to, or involves a child in, sexual processes that are beyond their understanding, are contrary to accepted community standards, or are outside what is permitted by law'. Sexually abusive behaviours can include:</p> <ul style="list-style-type: none"> • the sexual touching of genitals • masturbation • oral sex • vaginal or anal penetration by a penis, finger or any other object • sexual touching of breasts • voyeurism – spying on or watching another person doing something private without their permission • exhibitionism – exposing yourself in public • exposing the child or young person to pornography • grooming <p>Children and young people are people under the age of 18</p>
	Royal Commission	<p>We consider child sexual abuse to be:</p> <p>Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity with the child.</p> <p>We considered the production, consumption, dissemination and exchange of child sexual exploitation material to be child sexual abuse.</p>

Country	Document	Definition
Australia (cont.)	Australian Maltreatment Study	<i>Sexual abuse includes any sexual act inflicted on a child by any adult or other person, including contact and non-contact acts, for the purpose of sexual gratification, where true consent by the child is not present. True consent will not be present where the child either lacks capacity to give consent, or has capacity but does not give full, free, and voluntary consent. Operationally, acts of sexual abuse include forced intercourse; attempted forced intercourse; other acts of contact sexual abuse (e.g., touching, fondling); and non-contact sexual acts (e.g., voyeurism, exhibitionism).</i>
New Zealand	Te Aorerekura - The National Strategy to Eliminate Family Violence and Sexual Violence	<i>Child sexual abuse includes any exposure of a child under 16 to sexual acts or sexual material. Child sexual abuse and harmful sexual behaviour can also occur within families, at school, and online</i>
Wales	National Action Plan: Preventing and Responding to Child Sexual Abuse	<i>Child sexual abuse involves forcing or enticing a child to take part in sexual activities, whether or not the child is aware of what is happening, including: physical contact, including penetrative or non-penetrative acts; non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities or encouraging children to behave in sexually inappropriate ways.</i>
UK	Tackling Child Sexual Abuse Strategy	<i>Child sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse. Sexual abuse can take place online, and technology can be used to facilitate offline abuse. Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.</i>
UN	Convention on the Rights of the Child (General Comment 13)	<i>[Child] sexual abuse and exploitation includes:</i> <ol style="list-style-type: none"> <i>The inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity;</i> <i>The use of children in commercial sexual exploitation; and</i> <i>The use of children in audio or visual images of child sexual abuse;</i> <i>Child prostitution, sexual slavery, sexual exploitation in travel and tourism, trafficking (within and between countries) and sale of children for sexual purposes and forced marriage. Many children experience sexual victimization which is not accompanied by physical force or restraint but which is nonetheless psychologically intrusive, exploitive and traumatic.</i>

Country	Document	Definition
EU	EU Strategy for a more effective fight against child sexual abuse	<i>[Child] sexual abuse and sexual exploitation of children can take multiple forms and they can occur both online (e.g. forcing a child to engage in sexual activities via live streaming or exchanging child sexual abuse material online) and offline (e.g. engaging in sexual activities with a child or causing a child to participate in child prostitution).</i>
WHO	Responding to child maltreatment: a clinical handbook for health professionals	<p>... the involvement of a child or an adolescent in sexual activity into which he or she has been forced or tricked; which they may not understand is wrong; and about which they may be afraid to tell someone. Sexual abuse involves the intent to gratify or satisfy the needs of the perpetrator or another third party, including that of seeking power over the child. It includes:</p> <ul style="list-style-type: none"> • non-contact sexual abuse (e.g. threats of sexual abuse, verbal sexual harassment, sexual solicitation, indecent exposure, exposing the child to pornography); • contact sexual abuse involving sexual intercourse (i.e. sexual assault or rape); • contact sexual abuse excluding sexual intercourse but involving other acts such as inappropriate touching, fondling and kissing. <p>Child sexual abuse is often carried out without physical force, but rather with some type of emotional manipulation. Children can be sexually abused by both adults and other children who are – by virtue of their age or stage of development – in a position of responsibility or trust or power over the survivor.</p>
	Preventing Child Maltreatment: a guide to taking action and generating evidence	... the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared, or else that violates the laws or social taboos of society. Children can be sexually abused by both adults and other children who are – by virtue of their age or stage of development – in a position of responsibility, trust or power over the victim.
	Handbook on developing national action plans to prevent child maltreatment	<i>[Child] sexual abuse is defined as the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared, or else violates the laws or norms of society. Children can be sexually abused by adults and other children who are – by virtue of their age (five or more years older) or stage of development – in a position of responsibility, trust or power over the victim. This may include, but is not limited to: pimping or forcing the child to indulge in an unlawful sexual activity; using the child for exploitation in prostitution or other unlawful sexual practices; and exploiting the child for pornographic performances and materials.</i>
	INSPIRE Handbook	Sexual violence [against children] includes non-consensual completed or attempted sexual contact; non-consensual acts of a sexual nature not involving contact (such as voyeurism or sexual harassment); acts of sexual trafficking committed against someone who is unable to consent or refuse, and online exploitation.

2.1.1 Common themes and differences

Although there are several commonalities across the definitions listed above, there are also important differences. Table 3 provides a summary of these similarities and differences across seven definitional components, which are:

- **Age** – While all definitions refer to children, some add ‘young people’ and/or define an age range.
- **List of sexual activities** – Several definitions provide lists (of varying lengths) of activities that constitute CSA, although this is sometimes omitted from high-level definitions for national strategies (e.g. New Zealand).
- **Penetrative and non-penetrative abuse** – The Welsh and UK Strategies specify that CSA can include both penetrative and non-penetrative abuse, and the second Australian National Strategy and Royal Commission’s definitions both refer to sexual activities that are penetrative and non-penetrative. The other definitions do not include this element.
- **Power imbalances** – While most definitions do not include references to power imbalances between perpetrator and victim, some of the WHO definitions do refer to actions by adults or children ‘in a position of responsibility, trust or power over the victim’ due to their age or stage of development.⁸
- **Community norms** – The World Health Organisation (WHO) typically includes reference to actions that violate the ‘laws or social taboos of society’, and Australia appears to have followed this approach by referring to actions that are not accepted by the community.
- **Sexual gratification** – Only one definition (WHO, Responding to Child Maltreatment) refers to the proscribed activities being for the purpose of sexual gratification of the perpetrator or of a third party.
- **Contact vs non-contact activities** – This difference is sometimes made explicit (e.g. in the definition from Wales) and sometimes expressed through the provision of examples (e.g. the Royal Commission definition).
- **Consent** – Some definitions (e.g. WHO, INSPIRE Handbook) focus on non-consensual activities, whereas most refer to activities that a child ‘cannot consent to’ or ‘cannot give informed consent to’. Similarly, several definitions frame CSA as involving sexual activity that the child does not understand or comprehend.
- **Perpetrators** – Several definitions note that children can be sexually abused by adults or by other children, with the WHO usually specifying that CSA by other children requires the perpetrator to be in a position of power over the victim/survivor.

⁸ Power imbalances in CSA, even in cases of CSA perpetrated by a child on another child, may be present as a result of factors such as age, gender, cultural background and level of physical, psychological and/or cognitive development - see Mathews & Collin-Vezina 2019, op cit.

Table 3: Overview of components in various CSA definitions

	Age	List of sexual activities	Penetrative and non-penetrative abuse	Community norms	Power imbalance	Sexual gratification	Contact and non-contact [^]	Consent	Perpetrators
Australia: National Strategy – Definition 1	✓	✗	✗	✓	✗	✗	✗	✓	✗
Australia: National Strategy – Definition 2	✓	✓	✓ [¥]	✓	✗	✗	✗	✗	✗
Australia: Royal Commission	✗	✓	✓ [¥]	✓	✗	✗	✗	✗	✗
Australia: Australian Child Maltreatment Study	✗	✓	✗	✗	✗	✓	✓	✓	✗
New Zealand	✓	✗	✗	✗	✗	✗	✗	✗	✗
Wales	✗	✓	✓	✗	✗	✗	✓	✓	✗
UK	✗	✓	✓	✗	✗	✗	✓	✓	✓
EU	✗	✓	✗	✗	✗	✗	✓	✗	✗
UN	✗	✗	✗	✗	✗	✗	✗	✗	✗

[^] Here we are only including more explicit references to contact and non-contact CSA, rather than, for example, lists of sexual activities which may fall under either category.

[¥] Here there is no explicit mention of penetrative and non-penetrative acts, but rather lists of sexual activity are provided that include such acts.

	Age	List of sexual activities	Penetrative and non-penetrative abuse	Community norms	Power imbalance	Sexual gratification	Contact and non-contact [^]	Consent	Perpetrators
WHO: Responding to child maltreatment	×	✓	×	×	✓	✓	✓	×	✓
WHO: Preventing Child Maltreatment	×	×	×	✓	✓	×	×	✓	✓
WHO: Handbook on developing national action plans	×	✓	×	✓	✓	×	×	✓	✓
WHO: INSPIRE Handbook	×	✓*	×	×	×	×	✓	✓	×

* Provides two examples of non-contact abuse.

2.1.2 Analysis

Challenges

Developing a clear and practical definition of CSA involves several challenges, which may include the following:

1. **Applicability across different use cases** – The term ‘CSA’ is ‘used in many contexts and by professionals from many fields, who may have different mandates and goals’.⁹ For example, legal professionals are likely to prefer specific definitions that facilitate effective prosecution and the protection of defendant rights; whereas clinicians may prefer broad definitions that enable them to provide support to the widest possible range of victims.
2. **Legal definitions** – Charges of CSA, and the defences against such charges, may depend on legal definitions of what constitutes abuse and also the age of consent in the particular jurisdiction. We also see that legislative provisions change over time in line with societal standards and recommended reform.¹⁰ For example, previously in Tasmania, the *Criminal Code Act 1924* (Tas) under s 125A established the crime of ‘Maintaining a sexual relationship with young person’¹¹ which has been subsequently amended to now be ‘Persistent sexual abuse of a child or young person’.

Indeed, the Col recommended that the Tasmanian Government should introduce legislation to provide that the acquiescence or apparent consent of the victim should never be considered a mitigating circumstance. It also recommended that professional education for judicial officers include challenging the myths and misconceptions about consent in relation to CSA (Recommendation 16.18).

Age of consent in Tasmania

The age at which a person can consent (defined as ‘free agreement’) to sex with any other person in Tasmania is 17. Tasmania’s laws provide a legal defence when a mutually consensual sexual interaction is between two young people close in age:

- If a person is of or above the age of 15 years and the accused person was not more than 5 years older than that person; or
- If a person is of or above the age of 12 years and the accused person was not more than 3 years older than that person.

(Child Family Community Australia Resource Sheet 2021)

⁹ Haugaard, J.J., (2000). The challenge of defining child sexual abuse. *American Psychologist*, 55(9), 1036–1039. <https://doi.org/10.1037/0003-066X.55.9.1036.1037>

¹⁰ For more information see S. Ring, K. Gleeson, & K. Stevenson (2022). *Child Sexual Abuse Reported by Adult Survivors: Legal Responses in England and Wales, Ireland and Australia*, Routledge

¹¹ For more information see Tasmania Law Reform Institute (2012). *Sexual Offences Against Young People, Final Report No. 18*, October 2012, https://www.utas.edu.au/_data/assets/pdf_file/0008/319814/YoungPeopleSexualOffencesFR.pdf

3. **Cross-cultural comparability** – Although a range of studies have found that CSA is considered morally wrong across a wide range of societies, ‘subtle aspects of cultural variance may present challenges’.¹² For example, the age at which a person is considered to be an adult may vary across the cultures that coexist within a country, and may also vary within each of those cultures depending on personal attitudes.
4. **Defining consent** – It is usually considered that either children are coerced – e.g. physically, emotionally, psychologically or economically – into consenting and/or are unable to give true consent due to their developmental stage and the fact that they are under the age of consent.
5. **Specifying sexual acts** – For CSA to occur, it must involve a sexual act. But what constitutes a sexual act? For example, ‘some acts may not clearly be related to obtaining sexual gratification, but they may be inherently related to sex and may be legitimately perceived by the child as a sexual act, whether at the time or retrospectively’.¹³ Grooming could fit into this category, whether it leads to a sexual act or not.¹⁴ Similarly, acts that constitute sexual harassment do not always involve gratification for

the perpetrator, but can sometimes also be classed as CSA.¹⁵

Elements often included in CSA definitions

Some definitions define the age range within which one is considered a child. For example, New Zealand’s definition of CSA applies to anyone under the age of 16, whereas Australia’s includes children and young people under the age of 18 (see Table 2).

Many definitions include lists of activities which are considered to be CSA (e.g. Australia’s definitions in Table 2). These are never exhaustive but are often used to give an indication of what is included. In our age of increasing online connectivity, it is common that definitions clearly state that non-contact activities can be CSA, e.g. the Wales and United Kingdom definitions (see Table 2).

Another common inclusion in definitions is a clarification that children can also be perpetrators of CSA. This seems especially significant as sexually harmful behaviour against children by other children constitutes a significant and increasing portion of allegations of CSA.¹⁶ While accepting the Royal Commission’s definition of CSA, Palmer and Feldman (2017) note that they understand the definition to include both the abuse of children by adults and the perpetration of sexually harmful behaviour against children by other children.¹⁷

¹² Mathews & Collin-Vezina 2019, op cit., 135

¹³ Ibid., 143

¹⁴ M. Salter, & S. Dagistanli (2015). Cultures of abuse: ‘Sex grooming’, organised abuse and race in Rochdale, UK. International Journal for Crime, Justice and Social Democracy

¹⁵ Hunt, G. R., Higgins, D. J., Willis, M. L., Mathews, B., Lawrence, D., Meinck, F., Pacella, R., Thomas, H. J., Scott, J. G., Erskine, H. E., Malacova, E., & Haslam, D. M. (2024). The prevalence of peer sexual harassment during childhood in Australia. Journal of Interpersonal Violence.

¹⁶ L. Bromfield, C. Hirte, O. Octoman, & I. Katz (2017). Child sexual abuse in Australian institutional contexts 2008-13: Findings from administrative data. Sydney, Australia: Royal Commission into Institutional Responses to Child Sexual Abuse; B. Mathews, D. Finkelhor, R. Pacella, J.G. Scott, D.J. Higgins, F. Meinck, H. E. Erskine, H.J. Thomas, D. Lawrence, E. Malacova, D.M. Haslam, D. Collin-Vézina (2024) Child sexual abuse by different classes and types of perpetrator: Prevalence and trends from an Australian national survey, Child Abuse & Neglect vol. 147, 2024, 106562,

Other elements included in definitions

There are several elements present in some of the definitions above that are worthy of discussion in relation to CSA, but seemingly not fundamental to understanding the concept or may even be potentially unhelpful. An example of this is narrowing the motivations of the perpetrator down to a desire for sexual gratification (as is the case in the Australian Child Maltreatment Study (ACMS)). The goal of sexual gratification on behalf of the perpetrator is not essential, given that CSA could be committed for other purposes, such as establishing dominance or intimidation (as is articulated in the WHO *Responding to child maltreatment: a clinical handbook for health professionals*). Another example is the inclusion of 'he or she' in two of the WHO definitions, which ignores the potential for gender diverse and non-binary children and young people to be recognised as victims – despite their higher likelihood of experiencing CSA.¹⁸

"... vague wording may prevent parents, guardians, educators and those working with children from understanding and identifying exactly what constitutes CSEA [child sexual exploitation and abuse]."

(Out of the Shadows Index 2022)

Aligning CSA with acts that contravene community norms and societal taboos

may ensure that definitions of CSA are comprehensive and not constrained only to acts which are technically illegal in a given jurisdiction. However, it may also open up difficult questions relating to which community's norms take precedence, and whether all members of a community share the same norms.

Lastly, the presence of a power imbalance between the perpetrator and victim/survivor is inherently a component of CSA, but is not necessary to defining and understanding CSA, except perhaps for understanding CSA perpetrated by another child.

2.1.3 Online child sexual abuse

In line with the increasing adoption of technology, the incidence of online CSE and CSA is increasing and evolving. Key trends in online CSA and exploitation include online grooming and solicitation (including sexual extortion), the live streaming of CSA, and the spread of self-generated sexual material through social media.¹⁹

The Australian Centre to Counter Child Exploitation (n.d.) defines 'online child sexual exploitation' as 'the use of technology or the internet to facilitate the sexual abuse of a child, including the production and sharing of child sexual abuse material online'. It continues:

Online child sexual exploitation includes a wide range of behaviours and situations. Most commonly this includes grooming, live streaming,

¹⁷ D. Palmer & V. Feldman (2017) Toward a more comprehensive analysis of the role of organizational culture in child sexual abuse in institutional contexts, *Child Abuse & Neglect* vol. 74, December 2017, 23-34

¹⁸ Higgins, D. J., Lawrence, D., Haslam, D. M., Mathews, B., Malacova, E., Erskine, H. E., Finkelhor, D., Pacella, R., Meinck, F., Thomas, H. J., & Scott, J. G. (2024). Prevalence of diverse genders and sexualities in Australia and associations with five forms of child maltreatment and multi-type maltreatment. *Child Maltreatment*, 00, 1226331, 1–21

¹⁹ Virtual Global Taskforce (2015) *Virtual Global Taskforce Child Sexual Exploitation: Environmental Scan 2015*, The Hague: Europol, https://www.europol.europa.eu/sites/default/files/publications/vgt_cse_public_version_final.pdf

consuming child sexual abuse material, and coercing and blackmailing children for sexual purposes.

This could include:

- *An adult engaging a child in a chat about sexual acts*
- *An adult sending nude or pornographic images of themselves to a child or exposing themselves via live streaming*
- *Asking a child to view pornographic images/videos*
- *Asking a child to perform sexual acts, expose themselves or share a sexual image*
- *Taking or making and sharing or showing indecent images of children*

Online child sexual exploitation is often thought of as adults abusing children, however, research indicates that more and more child exploitation material is being shared via social media, and is being produced by children themselves. This is sometimes called self-generated sexual content and often takes the form of 'sexting' which is requesting, capturing and sharing of explicit material.

Key Points

A Tasmanian definition of CSA could include the following elements:

- A definition of 'child or young person', e.g. providing an age, or referring to a definition in legislation.
- Reference to consent and understanding, e.g. stating that CSA occurs where the child or young person cannot give informed consent because they are under the age of consent, or if they are at the age of consent, has undertaken acts due to factors that absent consent under the Tasmanian Criminal Code (such as coercion, manipulation, or lack of understanding).
- A list of activities that are considered to constitute CSA, to increase precision and assist with estimating the scope of CSA, identifying the contexts within which it occurs, and recognising the factors that contribute to its occurrence.²⁰ This list does not have to be exhaustive, but would specify that it includes online CSA and grooming.
- Specifying that CSA covers both contact and non-contact activities.
- A recognition that CSA can be perpetrated by children and young people, as well as adults.
- An acknowledgement that CSA can include not only perpetrators but third parties too, for example in the context of CSE material.

²⁰ Simon, J., Luetzow, A., & Conte, J.R., (2020) Thirty years of the convention on the rights of the child: Developments in child sexual abuse and exploitation. <https://www.sciencedirect.com/science/article/abs/pii/S0145213420300545>, 2

2.2 Defining ‘institutional child sexual abuse’

No definitions of ‘institutional child sexual abuse’ per se were offered in any of the policy documents we analysed for this review.

However, it is useful to define what we mean by ‘institutions’ in the context of CSA. This is especially true as the Col was tasked by the Order of the Governor with investigating CSA within ‘institutional settings’ in Tasmania. The Order of the Governor provided more detail, explaining that CSA occurs in an institutional context, for example, if it happens on the premises of government or non-government institutions, if it is engaged in by an official of a government or non-government institution or its activities have in any way contributed to CSA, or it happens where an institution is responsible for adults having contact with children.²¹

The Order of the Governor defined a ‘non-government institution’ for the Col as an entity “that undertakes, or has undertaken, activities on behalf of the Tasmanian Government to provide services for children”.²² Therefore, the Col determined that it would focus on non-government institutions that undertake activities on behalf of the Tasmanian Government, or are funded by the Tasmanian Government, to provide services for children. Further, the Col decided that non-government institutions must meet three criteria to be included in the inquiry’s scope:

- The activities are an out-sourced government service, and are contracted rather than funded by grants.

- The Tasmanian Government is the principal funder or it is a substantial amount of funding.
- The public could reasonably assume that the Tasmanian Government is responsible for the provided services, either directly or indirectly.²³

The Col in its final report explained that for government institutions, it focused on the then Department of Education, the Tasmanian Health Service and Department of Health, and the Department of Communities, particularly in relation to the Ashley Juvenile Detention Centre and out of home care.²⁴

The Royal Commission categorised institutions where it was told CSA occurred according to management type. These were:

1. Government organisations (including schools, youth detention centres, hospitals);
2. Non-government religious organisations (including places of worship, non-government schools, private hospitals); and
3. Non-government non-religious organisations (this means private companies, not-for-profits, and small businesses, such as sports clubs, dance studios, welfare services and children’s residential facilities).²⁵

²¹ Commission of Inquiry, op cit., Appendix A, vol. 8

²² Ibid.

²³ Commission of Inquiry, op cit., vol. 2, 7

²⁴ Ibid.

²⁵ Commission of Inquiry, op cit., vol. 2, 56

Key Points

A Tasmanian definition of 'institutional child sexual abuse' could include the following elements:

- An understanding that CSA (as defined above) that has transpired within an organisation, both on an organisation's premises or at other locations where the operations of the organisation are taking place (e.g. a field trip), constitutes 'institutional child sexual abuse'.
- Specification that relevant government or non-government organisations are those that offer services for children or interact with children as part of their operations.
- Institutional child sexual abuse may be undertaken by an employee or volunteer of that organisation, or on the premises by a third-party (for instance another child).
- Institutional child sexual abuse occurs during the course of a volunteer or employee's duties, or whilst executing the authority of their office (e.g. whilst driving a child home).
- Acts of sexual abuse that do not occur on an organisation's premises (including online) but were facilitated by a child's engagement with the organisation should also be considered institutional CSA.
- The recognition that the failure of organisations to appropriately respond to allegations and known instances of CSA is also an example of institutional child sexual abuse.

2.3 Defining ‘harmful sexual behaviours’

‘Harmful sexual behaviours’ (HSB) include a wide range of behaviours that are committed by children and young people, ranging from behaviours which are inappropriate for their age through to serious sexual assault. A selection of definitions used in key strategies are included in the table below. Therefore, while all CSA committed by children or

young people can be defined as HSB, not all acts classified as HSB can be considered CSA. HSB can be divided into a range of ‘subsets’, including sibling sexual abuse and technology-assisted HSB, although there is no consensus on definitions of these in the academic literature.²⁶

Table 4: Strategies with definitions of ‘harmful sexual behaviours’

Country	Document	Definition
Australia	Australia’s National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030	<p>The Strategy includes two definitions:</p> <p><u>Definition 1</u> (in ‘Terminology’, p. 17) <i>A broad range of sexual behaviours in children and young people. This includes behaviours that affect their own development, as well as behaviours that are coercive, sexually aggressive or predatory to others.</i></p> <p><u>Definition 2</u> (in ‘Glossary’, p. 57) <i>Children with harmful sexual behaviours are children or young people under 18 years old who have behaviours that fall across a range of sexual behaviour problems. These include behaviours that are problematic to the child’s own development, as well as those that are coercive, sexually aggressive or predatory towards others.</i></p> <p><i>The term ‘harmful sexual behaviours’ recognises the seriousness of these behaviours and the significant impact they can have on the child or any victims and survivors. It also recognises that the age or capacity of a child who displays harmful sexual behaviours does not determine the harm those behaviours can cause to victims and survivors.</i></p> <p><i>Terms such as ‘child paedophile’ or ‘child perpetrator’ are not accurate. They are harmful and cause stigma. We do not use them in the National Strategy.</i></p>
	Royal Commission	<p><i>We use the term ‘children with harmful sexual behaviours’ to refer to children under 18 years 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. The term ‘harmful sexual behaviours’ recognises the seriousness of these behaviours and the significant impact they have on victims, but is not contingent on the age or capacity of a child.</i></p>
Wales	National Action Plan: Preventing and Responding to Child Sexual Abuse	<p><i>Harmful sexual behaviours (HSB) can be defined as: sexual behaviours expressed by children under the age of 18 years that are developmentally inappropriate, may be harmful towards themselves or others, or be abusive towards another child, young person or adult. This definition of HSB includes both contact and non-contact behaviours (grooming, exhibitionism, voyeurism and sexting or recording images of sexual acts via smart phones or social media applications).</i></p>

²⁶ Hunt, G. R., Higgins, D. J., Willis, M. L., & Harris, L. (2023). Scoping Review of the Definitions Used to Describe and Understand Harmful Sexual Behaviors in Children and Young People. Trauma, Violence, & Abuse.

Country	Document	Definition
United Kingdom	Tackling Child Sexual Abuse Strategy	<i>Harmful Sexual Behaviour is understood as sexual behaviours expressed by children under the age of 18 years old that are developmentally inappropriate, may be harmful towards themselves or others, and can in some cases be abusive (Derived from Hackett, 2014). Children’s sexual behaviour exists on a wide continuum and when a child’s sexual behaviour is problematic, abusive or violent, this can be developmentally damaging for the child displaying the behaviour and victimising others. Harmful sexual behaviours can take place both offline and online and, in some cases, may be classified as peer-on-peer abuse. Harmful sexual behaviours in children may also be a symptom of either their own abuse or exposure to abusive practices and/or materials.</i>

The Royal Commission, the Australian National Strategy, and the UK Strategy all note that ‘HSB’ covers a broad range, continuum, or spectrum of behaviours. All the definitions we have considered point out that HSB may refer to behaviour that affects the child’s own development or that of others. In the Australian National Strategy, HSB directed at others is specified as including behaviours that are ‘coercive, sexually aggressive or predatory’; in the UK Strategy it is defined as including behaviours that are ‘harmful’ or ‘abusive’.

All definitions of HSB we have examined refer to the behaviours of children, which makes sense as it is a term developed to specifically refer to inappropriate sexual behaviour of children. A key difference between definitions is the emphasis placed on the developmental stage or capacity of the child or young person. The UK Strategy and the Welsh Plan state that HSB may comprise ‘developmentally inappropriate’ sexual behaviours. The Royal Commission and the Australian National

Strategy’s definitions, however, state that HSB are not contingent on the ‘age or capacity’ of a child.

Not only has HSB become an important and widely used term because there is a need to adequately describe inappropriate and exploitative sexual behaviours perpetrated by children and young people, but also because HSB makes up a considerable proportion of instances of CSA. According to the ACMS, in recent years, the prevalence of CSA by other adolescents (especially by those who are or were in a romantic relationship) has increased.²⁷ This is demonstrated in ACMS data which showed that while there has been a decline in adult perpetration of CSA, there is what the authors term a ‘significant increase’ in offending by adolescents, with those aged 45+ indicating that 12.1% experienced CSA as an adolescent by an adolescent peer, 14.1% of those aged 25-44, and 18.2% of those aged 16-24.²⁸

²⁷ Haslam, D., Mathews, B., Pacella, R., Scott, J.G., Finkelhor, D., Higgins, D.J., Meinck, F., Erskine, H.E., Thomas, H.J., Lawrence, D., & Malacova, E., (2023) The prevalence and impact of child maltreatment in Australia: Findings from the Australian Child Maltreatment Study: Brief Report. Australian Child Maltreatment Study, Queensland University of Technology. DOI: <http://doi.org/10.5204/rep.eprints.239397>

²⁸ Mathews et al., op cit., 2024, 5

In recent years, 'HSB' has replaced terms that were previously used to describe inappropriate sexual behaviour in children, such as 'problem sexual behaviours' or 'sexually abusive behaviours'. The terminology used is important – while serious behaviour should not be minimised, certain terms may lead to children or young people being labelled and internalising these labels as part of their identity. This may also result in social exclusion and a lack of community support leading to further disconnection and alienation.²⁹ Similarly and for these reasons, the definition in the Australian National Strategy states that "terms such as 'child paedophile' or 'child

perpetrator' are not accurate. They are harmful and cause stigma".³⁰ Again, this leads us back to the idea of HSB as being on a continuum.

An important distinction needs to be made between 'normal' or even 'experimental' adolescent sexual behaviours which are considered harmless behaviours, as not all sexual behaviour between adolescent peers is harmful, exploitative, or problematic. Agnew and McAlinden argue that distinguishing between experimental and exploitative behaviour involves going beyond the actual behaviour itself to reflect on the perpetrator's motivation but also to consider factors of coercion, power and age differences.³¹

Key Points

A Tasmanian definition of 'harmful sexual behaviours' could include the following elements:

- A statement that HSB refers to children and young people (under 18 years of age).
- A recognition that HSB refers to a broad spectrum of sexual behaviours.
- Provide an indication of the sorts of behaviours that are classified as HSB, such as those that are 'coercive, sexually aggressive or predatory', as in the Australian National Strategy.
- An indication that HSB includes those behaviours that are harmful to the one undertaking those behaviours, and those that are directed at others.
- An acknowledgment that HSB encompasses both contact and non-contact behaviours (such as grooming, and the making and dissemination of child exploitation material).

²⁹ Paton, A., & Bromfield, L., (2022) Continuum for Understanding Harmful Sexual Behaviours, Australian Centre for Child Protection, May 2022, https://www.unisa.edu.au/siteassets/research/accp/paton-bromfield-may-2022-hsb-continuum_.pdf

³⁰ Nonetheless, under the DSM-V a minor is still able to receive a diagnosis of paedophilia – see, for example, Psychology Today (2022), 'Paedophilia', <https://www.psychologytoday.com/au/conditions/pedophilia#:~:text=The%20person%20is%20at%20least,or%2013%2Dyear%2Dold>

³¹ Agnew, E., & McAlinden, A.M., (2023). Addressing Harmful Sexual Behaviours Among Children and Young People: Definitional and Regulatory Tensions. In: Gill, A.K., Begum, H. (eds) Child Sexual Abuse in Black and Minoritised Communities. Palgrave Macmillan, Cham; See also G.N. Woodley. & L. Green (2024) We teach school kids about safe sex. We need to teach safe sexting too, The Conversation, 15 March 2024, <https://theconversation.com/we-teach-school-kids-about-safe-sex-we-need-to-teach-safe-sexting-too-224748> for a discussion about sexting and young people.

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