

# Review of Victoria's Child Safe Standards

Issues paper

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Where the term 'Aboriginal' is used it refers to both Aboriginal and Torres Strait Islander people.  
Indigenous is retained when it is part of the title of a report, program or quotation.

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# Purpose of this issues paper

This paper seeks the views of organisations providing services or facilities for children and young people, peak associations, regulators, government agencies, and families, children and young people on the implementation and operation of Victoria's child safe standards and associated regulatory framework. The standards were fully operational on 1 January 2017.

The Victorian child safe standards support organisations to be safer for children by requiring organisations to implement policies and procedures to prevent, respond to and report allegations of child abuse.

In December 2017, the Commonwealth *Royal Commission into Institutional Responses to Child Sexual Abuse* (the Royal Commission) handed down its final report recommending ten child safe standards. The Royal Commission's standards differ in some respects from Victoria's child safe standards.

As part of ensuring that Victoria's child safe standards remain as strong as possible, the Victorian Government has committed to review its child safe standards and to consider whether any adjustments are needed to the standards or the regulatory scheme to better align with the recommendations made by the Royal Commission. The review is also an opportunity to assess whether the Victorian child safe standards have been understood and implemented by organisations in their initial period of operation in a way that promotes improvements in the child safe culture in organisations and whether the regulatory scheme that supports compliance with the child safe standards is operating effectively.

The Department of Health and Human Services (the department) invites stakeholders to provide feedback on:

- organisations' experiences with implementing Victoria's child safe standards
- the relative strengths and weaknesses of the child safe standards including your views on whether the standards are helping to develop a child safe culture in organisations
- any features of a high quality regulatory oversight, monitoring and enforcement framework that are not currently captured in Victoria's *Child Wellbeing and Safety Act 2005* (Vic)
- the Royal Commission's recommended child safe standards as incorporated into the National Principles for Child Safe Organisations (the National Principles).

Your ideas will help to inform the Victorian Government's actions regarding the child safe standards. This review will also provide valuable evidence about Victoria's experiences in implementing and regulating mandatory child safe standards and will help to inform ongoing work on the development of a nationally consistent approach to child safe standards in Australia.

This issues paper asks a number of questions in each of the main sections related to your experiences with Victoria's child safe standards and the associated regulatory scheme, as well as your thoughts on any changes that may be required arising from the recommendations of the Royal Commission.

We encourage you to read the background information in each of the main sections prior to completing your responses. **You do not have to respond to every question.** Write as much or as little as you would like. A full list of the questions is set out in **Appendix 1**.

Responses provided to the department for the purposes of this review will not be used for compliance or enforcement activity.

Your submission to this review is not the mechanism to make allegations of child abuse or child-related misconduct. If you suspect that a child is being abused or may be in immediate danger, you should call '000' immediately and report the matter to police. If you hold concerns that a child might be in need of care or protection

you should make a report to Child Protection. Please see: <https://services.dhhs.vic.gov.au/reporting-child-abuse> for more information about making a report to Child Protection<sup>1</sup>.

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<sup>1</sup> If an allegation of child abuse or child-related misconduct is disclosed to the department as part of this review, the department may be obligated to notify other organisations such as Victoria Police, Child Protection and the Commission for Children and Young People and share relevant information concerning the allegation with them.

# Purpose and background of the review

The review seeks to inform the Victorian Government about whether the Victorian child safe standards have been understood and implemented by organisations in their initial period of operation in a way that promotes improvements in the child safe culture in organisations and whether the regulatory scheme that supports compliance with the child safe standards is operating effectively. The review will bring together information about:

- organisations' experience with implementing the child safe standards and their views on whether the standards are helping to develop a child safe culture in their organisations
- the Commission for Children and Young People and relevant authorities' experiences of administering the regulatory scheme
- available data on indicators of how safe children are in organisations in Victoria
- any adjustments that may be needed to Victoria's child safe standards or the regulatory scheme to better align with the Royal Commission's recommendations.

The Victorian Government is continually working to improve the ways we protect children. The information we collect in this review will contribute to ensuring that Victoria's standards and the regulatory scheme are as strong as possible so that the safety of children is promoted, child abuse is prevented and allegations of child abuse are properly responded to.

The standards are a key response to the Victorian Parliamentary *Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations*, often referred to as *Betrayal of Trust*.

*Betrayal of Trust* was tabled in Parliament on 13 November 2013. It found serious incidences of child abuse in some of our most trusted and important institutions and organisations.

The report drew attention to a number of limitations in approaches to preventing and responding to child abuse in 2013, including:

- an over reliance on the Working with Children Check and limited use of other prevention tools
- limited guidance to assist organisations to assess and mitigate risks specific to child abuse
- limited awareness within organisations of how to use regular supervision and performance management to identify concerns with the conduct of personnel
- limited awareness among many leaders and managers about how to create an organisational culture that will ensure children are reasonably protected from abuse
- inconsistencies across sectors in the child safety standards that apply to organisations funded and regulated by government.

An important response by the Victorian Government to *Betrayal of Trust* was the introduction of Victoria's mandatory child safe standards, which apply to organisations providing services or facilities or employing children or young people in Victoria. The standards aim to assist organisations in preventing and improving responses to allegations of child abuse by embedding the protection of children from abuse in everyday thinking and practice.

Between 2013 and 2017 the Royal Commission collected extensive evidence of sexual abuse of children in organisational settings and examined how these organisations responded when reports of abuse were raised with them. The Royal Commission's findings about organisational behaviour and organisational responses build upon the findings of *Betrayal of Trust*.

On 15 December 2017, the Royal Commission handed down its final report. In its report, the Royal Commission examined what makes organisations safe for children, noted the reasons that organisations fail to protect children from harm, and considered what standards could be applied to make them safer places for children.

From this analysis, the Royal Commission recommended that all organisations engaging in child-related work should implement the 10 child safe standards identified by the Royal Commission, which are based on the

strongest evidence available domestically and internationally. This includes ‘core components’ under each standard which are intended to guide organisations in the implementation of each of the standards.

The Royal Commission also made a number of recommendations about which categories of organisations should be subject to a mandatory child safe standards regulatory scheme, and how states and territories should best implement that scheme with the aim of achieving national harmonisation. The Royal Commission recommendations considered by this issues paper are extracted at **Appendix 2**.

On 11 July 2018, the Victorian Government published its formal response to the Royal Commission. The Government **accepts** the following key recommendations of the Royal Commission:

- that an independent oversight body should have the ability to provide advice and information to organisations and the community on the child safe standards and coordinate ongoing information exchange between oversight bodies relating to organisations’ compliance with the child safe standards.

The Victorian Commissioner for Children and Young People (Victoria’s independent oversight body) already fulfils this recommendation.

- that the child safe standards recommended by the Royal Commission should be adopted as part of the new National Statement of Principles for Child Safe Organisations (the National Principles).

Please refer to pages 21 – 25 of this issues paper for further discussion of the National Principles.

The Victorian Government **accepts in principle** the following key recommendations:

- that all institutions must meet ten child safe standards identified by the Royal Commission.
- that all sport and recreation institutions, including arts, culture, community and hobby groups, should implement the ten child safe standards recommended by the Royal Commission.

Victoria already has child safe standards that are mandatory for all organisations delivering services to children. This includes sport and recreation institutions, which have been required to comply with the Victorian child safe standards since 1 January 2017.

As part of ensuring that Victoria’s child safe standards remain as strong as possible, the Victorian Government has committed to review its child safe standards and seek stakeholders’ views on whether Victoria should make any adjustments to its child safe standards to better align with the Royal Commission’s recommendations.<sup>2</sup>

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<sup>2</sup> Victorian Government, [Victorian Government response to the Royal Commission into Institutional Child Sexual Abuse](https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/victorian-government-response-to-the-royal) 11 July 2018 <<https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/victorian-government-response-to-the-royal>>

# Victoria's child safe standards

Victoria's child safe standards are part of a mandatory regulatory scheme that supports organisations to promote the safety of children and young people by requiring them to implement policies and procedures to prevent, respond to and report allegations of child abuse. 'Child abuse' is broader than sexual abuse, also covering grooming offences, physical abuse and serious emotional or psychological harm and serious neglect.<sup>3</sup> Child abuse is also not limited to abusive behaviours or actions carried out by an adult to a child – it may also refer to abusive behaviours or actions carried out by a child to another child.

The child safe standards are made under the *Child Wellbeing and Safety Act 2005* (Vic) (the Act).<sup>4</sup> They are made by the Minister for Child Protection through publication of the standards in the Victorian Government Gazette.<sup>5</sup>

Victoria's child safe standards aim to ensure that all organisations providing services and facilities for children and young people are child safe. A child safe organisation makes sure that the safety of children is promoted, child abuse is prevented, and allegations of child abuse are properly responded to. The standards support child safety by changing the way in which organisations and their staff, volunteers and members work so that protecting children is always considered, taken seriously and acted upon.

The Act identifies the categories of organisations that must comply with the child safe standards. All the identified organisations were required to comply with Victoria's child safe standards by 1 January 2017.<sup>6</sup> Further discussion regarding the organisations required to comply with the child safe standards is included later in this paper at page 12.

Victoria has **seven child safe standards** that focus on governance and leadership; documenting, identifying and managing risk; and promoting the participation of, and empowering, children. Victoria's child safe standards are principle based to allow flexibility in their implementation for the many different types and sizes of organisations required to comply with the standards in Victoria. While the Victorian standards are principle based they are not outcome based. They are better described as output based. This means that they are more focused on the actions to take rather than the outcome sought to be achieved by the standard. An example of an output-based standard is: 'Processes for responding to and reporting suspected abuse of children'. An example of an outcome-based standard is: 'Processes for complaints and concerns are child focused.'

The Victorian child safe standards are:

- Standard 1** – Strategies to embed an organisational culture of child safety, including through effective leadership arrangements
- Standard 2** – A child safe policy or statement of commitment to child safety
- Standard 3** – A code of conduct that establishes clear expectations for appropriate behaviour with children
- Standard 4** – Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel
- Standard 5** – Processes for responding to and reporting suspected child abuse
- Standard 6** – Strategies to identify and reduce or remove risks of child abuse
- Standard 7** – Strategies to promote the participation and empowerment of children.

<sup>3</sup> See the definition of *child abuse* in the *Child Wellbeing and Safety Act 2005*, s. 3.

<sup>4</sup> *Child Wellbeing and Safety Act 2005*, s. 17(1).

<sup>5</sup> Because the child safe standards are made by the Minister by publication in the Government Gazette, it is possible to amend the child safe standards without necessarily making any amendments to the Act itself.

<sup>6</sup> The implementation of Victoria's child safe standards was staggered over two years. Category 1 organisations were required to comply with the standards from 1 January 2016. Category 2 organisations were required to comply with the standards from 1 January 2017.

The Victorian child safe standards also include **three principles** that recognise that while all children are vulnerable some groups of children face additional risks – Aboriginal children; children from culturally and/or linguistically diverse backgrounds; and children with disabilities. In complying with the Victorian child safe standards, organisations must apply the principles in addressing the seven standards. The principles are:

**Principle 1** – promoting the cultural safety<sup>7</sup> of Aboriginal children

**Principle 2** – promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds

**Principle 3** – promoting the safety of children with a disability.

The three principles recognise that children from diverse backgrounds or children with particular support needs have often not been effectively protected by generic child safe policies. For example, the Royal Commission found that ‘Aboriginal children may be less likely to disclose abuse due to a lack of cultural safety and a fear of authorities intruding into their family and community, based on historic experiences of systemic racism and abuse’.<sup>8</sup> Therefore additional attention to cultural safety and close engagement with community are necessary. In the case of children with disabilities, ‘while a policy of providing prevention education may be in place and regularly implemented, this may not be effective for children with certain types of disability unless attention is given to inclusive and individually appropriate delivery of the program’.<sup>9</sup>

The Victorian child safe standards have no interpretative guidance built into the seven child safe standards or the three principles. The Victorian Commission for Children and Young People has published *A Guide for Creating a Child Safe Organisation*<sup>10</sup> to assist organisations to understand how to comply with the Victorian child safe standards. Government departments and peak bodies have also provided guidance materials and training to support organisations to understand how to comply with the standards.

## Questions

1. **How have you found implementing the Victorian child safe standards in your organisation? Have any of the standards been particularly difficult or easy to implement?**
2. **Is there anything that would have made it easier for your organisation to implement and comply with the Victorian child safe standards? Please tell us what would have helped and what you think would help you to comply in future.**
3. **The seven Victorian child safe standards are intended to include the three principles. Please explain how you understand these seven standards and three principles are applied in your organisation.**
4. **Do you think the Victorian child safe standards have made your organisation safer for children? How? Have any of the individual standards been particularly helpful?**
5. **Have Victoria’s three principles resulted in changes to improve the cultural safety of Aboriginal children and culturally and linguistically diverse children and the safety of children with a disability within your organisation? How?**
6. **The three principles recognise that Aboriginal children, culturally and linguistically diverse children and children with a disability are especially vulnerable. Are there any other groups of children that should be recognised as being especially vulnerable? If so, please tell us which groups of children.**

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<sup>7</sup> Cultural safety for Aboriginal people means an environment which is safe for Aboriginal people where there is no assault, challenge or denial of their identity and experience. Connection to culture is a strength and a protective factor for Aboriginal children. The risk of child abuse is heightened if Aboriginal children do not feel culturally safe as it may reduce their willingness to report abuse.

<sup>8</sup> Commonwealth of Australia, *Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Volume 6, Making institutions child safe 2017*, p. 170, <<https://www.childabuseroyalcommission.gov.au/making-institutions-child-safe>>

<sup>9</sup> Ibid.

<sup>10</sup> Commission for Children and Young People, *A Guide for Creating a Child Safe Organisation* (Version four) 2018 <<https://ccyp.vic.gov.au/assets/resources/CSSGuideFinalV4-Web-New.pdf>>

7. **Do you have other suggestions for how Victoria could improve the design of its child safe standards to better protect children and young people?**

# Organisations required to comply with Victoria's child safe standards

*Betrayal of Trust* recommended the Victorian Government consider extending a standard for child-safe environments to organisations or sectors that have direct and regular contact with children.

Extensive consultations in Victoria to establish the child safe standards found very strong support for all organisations providing services for children to be subject to mandatory standards.<sup>11</sup> Stakeholders were concerned that if the child safe standards were only mandatory for organisations with a high degree of responsibility for children and voluntary for other organisations providing services for children:

- it would send an undesirable message that child safety is 'optional'
- perpetrators of abuse may target organisations subject to voluntary standards
- some organisations in the voluntary category are less regulated and might therefore pose a higher risk to children than some organisations in the mandatory group
- it would create an impression that organisations in the voluntary category are 'second class'.<sup>12</sup>

Many types of organisations work with children and young people throughout Victoria. Organisations that are required to comply with the Victorian child safe standards include those that provide any services specifically for children, provide any facilities specifically for use by children who are under the organisation's supervision, or engage a child as a contractor, employee or volunteer to assist the organisation in providing services, facilities or goods.

These organisations may be highly organised and regulated, for example, schools, hospitals, and child protection services. There are also many organisations that are small and community based, for example sports clubs, youth organisations or playgroups where families and community members contribute voluntarily to the delivery of those services. Religious bodies, including churches, are also required to comply with the child safe standards. A list of organisations required to comply with Victoria's child safe standards is set out below.<sup>13</sup>

## Category 1 organisations

Category 1 organisations are organisations that are funded and/or regulated by the Victorian Government (usually under a state contract) and provide services and/or facilities specifically for children.

- Housing services and homeless services funded under a State contract
- Registered schools (government and non-government) within the meaning of the *Education and Training Reform Act 2006* (Vic)
- Approved education and care services (e.g. kindergartens, after hours care services)
- Organisations registered or accredited to provide senior secondary education and training
- Approved organisations operating an overseas student exchange program within the meaning of the Education and Training Reform Act
- Approved education and training organisations providing courses to students from overseas
- Child protection services
- Out-of-home care services

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<sup>11</sup> Department of Health and Human Services, [Consultation report – Betrayal of Trust implementation – Child safe standards and capacity building](https://providers.dhhs.vic.gov.au/sites/dhhsproviders/files/2017-10/Creating-Child-Safe-Organisations-Consultation-Report_0.doc), Victorian Government, Melbourne 2015 <[https://providers.dhhs.vic.gov.au/sites/dhhsproviders/files/2017-10/Creating-Child-Safe-Organisations-Consultation-Report\\_0.doc](https://providers.dhhs.vic.gov.au/sites/dhhsproviders/files/2017-10/Creating-Child-Safe-Organisations-Consultation-Report_0.doc)>

<sup>12</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 265.

<sup>13</sup> The legislation also provides that organisations may be prescribed in regulations as having to comply with the child safe standards or, if they otherwise would have to comply, to not having to comply with the child safe standards. Victoria Police is the only organisation prescribed in the regulations as being exempt from complying with the child safe standards. See *Child Wellbeing and Safety Act 2005*, ss. 19 – 21 and *Child Wellbeing and Safety Regulations 2017*, Reg. 8.

- Disability services providers within the meaning of the *Disability Act 2006* (Vic)
- Organisations providing early therapeutic intervention specifically for children with a disability, additional needs or developmental delay
- Government departments providing services or facilities specifically for children (including youth justice and corrective services)
- Youth services funded under a State contract
- Children's services (e.g. occasional care providers)
- Public and denomination hospitals, public health services, private hospitals, multipurpose services, day procedure centres and registered community health services
- Drug or alcohol treatment services funded under a State contract
- Mental health service providers within the meaning of the *Mental Health Act 2014* (Vic)
- Maternal and Child Health Centres
- Local councils
- Support services for parents and families funded under a State contract
- Family violence or sexual assault services funded under a State contract
- Applicable entities that are constituted by or under an Act that have functions of a public nature.

## Category 2 organisations

Category 2 organisations are organisations that have limited or no funding from government and are not directly regulated by the Victorian government. However, these organisations also provide services and/or facilities specifically for children.

- Residential facilities for boarding schools and student hostels
- Overnight camps for children
- Religious bodies, including churches
- Charities and not-for-profit organisations providing services to children
- Post-secondary school education and training providers, including TAFE institutes and universities within the meaning of the Education and Training Reform Act 2006
- A place where home schooling takes place
- Entertainment or party services for children
- Children's talent or beauty competitions
- Gym or play facilities for children
- Photography services for children
- Disability service providers not registered under the Disability Act 2006 (such as Transport Accident Commission funded providers)
- Cultural, sport or recreation services specifically for children
- Youth organisations (such as Scouts or Girl Guides)
- Professional babysitting services
- Counselling or other support services for children
- Schools other than registered schools (e.g. swimming schools, dance schools)
- Coaching or tuition services specifically for children
- Commercial or publicly funded transport services for children
- Organisations that employ a child for whom a permit is required under the *Child Employment Act 2003* (Vic).

## Types of organisations recommended by the Royal Commission

Consistent with the findings of the *Betrayal of Trust*, experts advising the Royal Commission stated ‘although organisations where the potential risk is greater should be subject to more robust monitoring, all organisations must be ready, willing and able to ensure child safety.’<sup>14</sup> In addition, consultations held by the Royal Commission in Victoria, Queensland and South Australia demonstrated that mandatory child safe approaches were well received.<sup>15</sup>

Nevertheless, the Royal Commission recognised that a proportional approach is required and unnecessarily onerous regulation should be avoided. The cumulative impact of mandating child safe requirements on all organisations involved with children would be significant. The number of organisations affects the costs and practicalities of overseeing implementation of the standards.

The Royal Commission recommended that while all organisations should endeavour to be child safe, only the following categories of organisations should be subject to a mandatory child safe standards regulatory scheme.<sup>16</sup>

### **The Royal Commission recommended the following categories of organisations should be subject to mandatory legislated child safe standards:**

- Accommodation and residential services for children, including overnight excursions or stays
- Activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children
- Education services for children
- Child protection services, including out-of-home care
- Activities or services where clubs and associations have a significant membership of, or involvement by, children
- Commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions
- Services for children with disability
- Health services for children
- Justice and detention services for children, including immigration detention facilities
- Childcare or childminding services
- Coaching or tuition services for children
- Transport services for children, including school crossing services.

This list is broadly aligned with, though narrower than, the organisations currently required by law to comply with the Victorian child safe standards. The following types of Victorian organisations that must comply with the child safe standards do not appear to fall within the Royal Commission’s recommended list: local councils; support services for parents and families funded under a State contract; family violence or sexual assault services funded under a State contract; homelessness services and youth services; and applicable entities that are constituted by or under an Act that have functions of a public nature.<sup>17</sup>

In addition, for some organisation types the Victorian child safe standards appear to have a broader scope of application than the Royal Commission recommends. For example, the Victorian law requires government departments to comply with the child safe standards, rather than the Royal Commission’s recommendation of justice and detention services for children. Similarly, the Victorian child safe standards apply to Victorian health services, hospitals and day procedure centres if they provide services to children, not just health services for children.

<sup>14</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 264.

<sup>15</sup> Ibid, p. 265.

<sup>16</sup> Ibid, Recommendation 6.8.

<sup>17</sup> The Country Fire Authority is an example of an applicable entity that is constituted by or under an Act that has functions of a public nature.

The Royal Commission's recommended list is closely aligned with its recommendations regarding changes to states and territories definition of 'child-related work' for the purposes of Working with Children Checks laws.<sup>18</sup> The Royal Commission considers that only those organisations where its definition of 'child-related work' is being performed should be required by law to implement and meet the child safe standards.

The Royal Commission noted that some organisations that engage with or provide services to children may not fall under its definition of 'child-related work', for example: sports stadiums and theatres where children are audience members, shopping centres, medical centres not providing children's health services. The reasoning provided by the Royal Commission is that:

- children are not in the care of these types of organisations as they typically attend with a parent, carer or, for older children, independently
- children do not spend significant amounts of time in them
- the organisation has less authority over the behaviour of adults and children.<sup>19</sup>

The Victorian *Child Wellbeing and Safety Act 2005* also provides for similar exemptions. It states that an organisation does **not** need to comply with the Victorian child safe standards if it does **not**:

- (a) provide any services specifically for children
- (b) provide any facilities specifically for use by children who are under the organisation's supervision
- (c) engage a child as a contractor, employee or volunteer to assist the organisation in providing services or facilities or in producing or providing goods.<sup>20</sup>

## Questions

8. **What has been your experience with Victoria's exemptions? Do you understand which organisations would be exempted from the child safe standards? Do you think these exemptions are appropriate? Is there a better way to frame the exemptions to provide greater clarity or certainty about which types of organisations are exempt? Please provide reasons for your answer.**
9. **Are there any other types of organisations not identified by the Royal Commission and not currently required to comply with Victoria's child safe standards that you believe should be subject to a mandatory child safe standards regulatory scheme? If so, please tell us which types of organisations and your reasoning.**
10. **Are there any types of organisations currently required to comply with Victoria's child safe standards that you believe should not be subject to a mandatory child safe standards regulatory scheme? If so, please tell us which types of organisations and your reasoning.**

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<sup>18</sup> Commonwealth of Australia, *Royal Commission into Institutional Responses to Child Sexual Abuse, Working with Children Checks Report*, 2015 p. 70 – 81 see recommendation 12.a. <<https://www.childabuseroyalcommission.gov.au/working-children-checks>>.

<sup>19</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 268.

<sup>20</sup> *Child Wellbeing and Safety Act 2005*, s. 22.

# Victorian child safe standards – oversight, monitoring and enforcement

During consultations in 2016 to inform the development of the oversight and enforcement scheme for Victoria's child safe standards, stakeholders stated that:

- Enforcement mechanisms should not duplicate existing regulation for organisations that are already regulated by government.
- If a government funded or regulated organisation fails to meet its obligations under the child safe standards, all existing consequences for non-compliance with government policies should be available, including terminating funding.
- Initial breaches should be approached by assisting organisations to meet the child safe standards through a focus on education and capacity building.
- Repeated or serious breaches should be subject to penalties.

The *Child Wellbeing and Safety Act 2005* sets out the oversight and enforcement model for the Victorian child safe standards. The Act assigns functions to both the Commission for Children and Young People (the Commission) and 'relevant authorities',<sup>21</sup> with some differences.

The Commission has a function to oversee and enforce compliance by organisations with the child safe standards.<sup>22</sup> The Commission's approach to regulation in the first instance involves supporting organisations to comply with the child safe standards. This includes helping organisations understand what they need to do to comply with legislative requirements, as well as what they can do to change the culture within their organisations to improve safety for children. The Commission reports that it took action in relation to 58 organisations in 2017–18 because concerns were identified about potential non-compliance with child safe standards.<sup>23</sup>

The Commission's approach aligns with its important function to educate and provide advice to organisations to ensure that organisations' promote the safety of children, prevent child abuse, and respond properly to allegations of child abuse.<sup>24</sup>

## CCYP approach to regulating organisations



The Commission has some regulatory compliance and enforcement tools available to it under the Act,<sup>25</sup> such as the power to issue notices to request documents<sup>26</sup> and the power to issue compliance notices and seek their enforcement in a court.<sup>27</sup> Upon application for enforcement by the Commission, a court may order a pecuniary penalty (a fine) not exceeding 60 penalty units (currently equivalent to \$9,671.40) against a non-compliant organisation.<sup>28</sup> The Commission may also inspect an organisation's premises if the Commission gives at least seven days' written notice and the head of the organisation consents, or in exceptional circumstances, without

<sup>21</sup> A 'relevant authority' in relation to an in-scope organisation means – a Department that is responsible for regulating the organisation; a Department that provides funding to the organisation; the Victorian Registration and Qualifications Authority; and any other authority that regulates or funds the organisation and that is prescribed (in regulations) to be a relevant authority. See *Child Wellbeing and Safety Act 2005*, s.3 definitions.

<sup>22</sup> *Child Wellbeing and Safety Act 2005*, s. 25(c).

<sup>23</sup> Commission for Children and Young People, [Annual Report 2017–18](https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-AR-2018-P6-FINAL-web.pdf). Victorian Government, 2018 p.7 and p.59 <<https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-AR-2018-P6-FINAL-web.pdf>>

<sup>24</sup> *Child Wellbeing and Safety Act 2005*, s. 25(1)(b).

<sup>25</sup> See generally Part 6, Division 3 of the *Child Wellbeing and Safety Act 2005*.

<sup>26</sup> *Child Wellbeing and Safety Act 2005*, s. 30 (notice to produce).

<sup>27</sup> *Ibid*, ss. 31 – 33.

<sup>28</sup> *Ibid*, s. 34.

written notice but with the consent of the organisation head.<sup>29</sup> An organisation or the organisation head must ensure that the Commission is given any assistance in connection with the reasonable performance of the Commission's functions that the Commission reasonably requires.<sup>30</sup> Before exercising these tools, the Act requires the Commission to consult with each relevant authority for the organisation in question<sup>31</sup>. This is intended to ensure a coordinated approach to compliance activity and minimise duplication. In practice, the Commission often refers a matter about an organisation of concern to the relevant authority and asks the relevant authority to determine whether the organisation is compliant with the standards. This approach is designed to allow the Commission and the relevant authorities to manage overlaps in jurisdiction and work together to share information and enforce compliance. Where there is no relevant authority for an organisation, or if consultation with the relevant authority suggests it is appropriate to do so, the Commission will directly take action.

Compliance activity can be complicated in circumstances where an organisation is funded or regulated by more than one relevant authority. This potentially means that an organisation may be having to engage with several relevant authorities and the Commission in circumstances where non-compliance has been identified. The Commission has responded to this risk by helping relevant authorities to co-ordinate compliance activity so that all the relevant authorities agree who will lead the compliance activity and be the key contact for the organisation in relation to that matter.

Sometimes relevant authorities provide organisations with temporary funding, for example, one-off grants. This can mean that the relevant authority has limited understanding of the organisation that it is funding, which may make it difficult for the relevant authority to determine whether the organisation is compliant with the child safe standards. In addition, there is no provision in the Act for an overriding compliance framework. This means that the Commission and each relevant authority must develop its own framework because the compliance tools available to them are different.

The Commission reports that it has not yet needed to seek enforcement through the courts. Where concerns have been raised with organisations about deficiencies in their compliance with the child safe standards, organisations generally have demonstrated a commitment to child safety and moved voluntarily to address these issues.<sup>32</sup>

The Commission has an important function to educate and provide advice to relevant authorities to promote compliance by organisations with the child safe standards. The Commission reported that relevant authorities have told the Commission of a range of activities they have undertaken to proactively educate, raise awareness and promote compliance with the child safe standards in 2017–18.<sup>33</sup>

The Act also provides that the Commission may request a relevant authority to take any action that is available to the relevant authority under any applicable law, contract or agreement to promote and require compliance by an organisation with the child safe standards.<sup>34</sup>

The Act sets out that relevant authorities have an important role in overseeing and promoting compliance with the child safe standards by organisations that they regulate or fund.<sup>35</sup> The design of the regulatory scheme in the Act assumes that relevant authorities will be able to use existing powers to oversee and promote compliance with the standards. The Act does provide relevant authorities with the power to request an organisation that it funds or regulates to provide any information or document that the relevant authorities reasonably requires to determine whether the organisation is complying with the child safe standards.<sup>36</sup> Relevant authorities do not however have the ability to compel the provision of this information. The Act does not provide relevant authorities with any other compliance and enforcement tools.

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<sup>29</sup> Ibid, s. 29.

<sup>30</sup> Ibid, s. 36.

<sup>31</sup> Ibid, s. 38.

<sup>32</sup> Commission for Children and Young People, *Annual Report*, above n 23, p. 63.

<sup>33</sup> Ibid, p. 67.

<sup>34</sup> *Child Wellbeing and Safety Act 2005*, s. 32(2).

<sup>35</sup> Ibid, s. 5A(1)(b).

<sup>36</sup> Ibid, s 27.

That said, to some extent, existing mechanisms such as state government funding agreements are used to promote and require funded organisations' compliance with the child safe standards. This is particularly the case for the organisations identified as 'category 1 organisations', which are largely funded or regulated by the state government. In addition, in some sectors, existing regulatory mechanisms have also been used to require compliance.<sup>37</sup>

However for the majority of 'category 2 organisations', there are few existing mechanisms which can be used to ensure their compliance with the child safe standards. The Commission is the main oversight and regulatory body in relation to 'category 2 organisations'.

## The Royal Commission's views on best practice regulation for child safe standards

The Royal Commission made a number of comments and recommendations about implementing a mandatory regulatory scheme for child safe standards, many of which Victoria has already implemented through its existing legislation. For example, Victoria already has mandatory child safe standards for organisations providing services or facilities or employing children. In addition, Victoria has already provided the Commission for Children and Young People with regulatory oversight and enforcement functions in relation to the child safe standards, as well as having a function to provide guidance on the child safe standards to organisations, relevant authorities and the community.

The Royal Commission found that mandatory child safe standards were important as organisations were seeking leadership from governments on child safety, and that there was widespread support for a mandatory child safe approach, particularly from less regulated sectors.<sup>38</sup> However, the Royal Commission cautioned against placing an unnecessary burden on organisations that would prevent or hamper their ability to operate and deliver services for children.

Governments must strike the balance between ensuring that child safe standards are implemented effectively and that [organisations] are not overly burdened by the weight of compliance. Government oversight should aim to achieve better safety for children while minimising costs for [organisations].<sup>39</sup> The Royal Commission did note that where organisations are smaller and less centralised and resourced, the requirement to self-regulate child safety could be more demanding on these organisations than direct government regulation.<sup>40</sup>

The Royal Commission recommended that an independent oversight body in each state and territory should be responsible for monitoring and enforcing the child safe standards, for example existing children's commissioners. The independent oversight body should fill the gap for sectors currently not regulated by government and also take a state-wide leadership and capacity building role, which would include performing the following functions:

- oversee and monitor the implementation of the child safe standards in unregulated organisations
- monitor and enforce compliance with the child safe standards
- provide guidance on the child safe standards to organisations and the community. For smaller clubs and local business, such as sport and recreation bodies, this could be through a voluntary email subscription process
- collect, analyse and publish data on the child safe approach in that jurisdiction, and report these to the National Office for Child Safety
- access relevant information about the child safety of individual organisations to help monitor and enforce the child safe standards
- foster cooperative and consultative relationships with organisations and peak bodies

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<sup>37</sup> For example, Ministerial Order No. 870, made under section 4.3.1(6)(d) of the *Education and Training Reform Act 2006*, sets out specific actions that registered schools must take to comply with the child safe standards.

<sup>38</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 258.

<sup>39</sup> *Ibid.*, p.16.

<sup>40</sup> *Ibid.*, p. 259.

- provide, promote or support education and training on the child safe standards to build the capacity of organisations to be child safe
- coordinate ongoing information exchange between oversight bodies on organisations' compliance
- handle or oversee complaints and investigations of allegations of child sexual abuse in organisations<sup>41</sup>; <sup>42</sup>

In Victoria, the Commission already undertakes most of these functions,<sup>43</sup> though it may be desirable to consider clarification of the Commission's powers to share information in order to give full effect to the intentions of the Royal Commission's recommendations. Victoria has recently established a Child Information Sharing (CIS) Scheme,<sup>44</sup> which enables prescribed organisations and services to share information to promote the wellbeing and safety of children. The Commission is prescribed under the CIS Scheme, which means that it can share information with other prescribed organisations and services. Any review of the Commission's information sharing powers would also need to consider the CIS Scheme.

The Royal Commission has stated that the independent oversight body should be able to 'delegate functions'<sup>45</sup> to sector regulators, for example school registration authorities, in order to utilise existing regulatory regimes. However, the Royal Commission does not explain what it means by the term 'delegate functions'. In Victoria, the Commission has no power under the *Child Wellbeing and Safety Act 2005* to delegate its oversight and enforcement functions in relation to the child safe standards to a sector regulator or relevant authorities.

The Royal Commission also considered that wherever possible, the child safe standards should be incorporated into existing regulatory or legislative frameworks.<sup>46</sup> The Royal Commission suggested that this should include commonwealth and state and territory sector frameworks such as:

- state and territory schools registration
- state and territory out-of-home care licensing
- state and territory disability service standards
- National Quality Framework for Children's Education and Care Services
- National Disability Insurance Scheme Quality and Safeguarding Framework
- National Safety and Quality Health Service Standards
- Australian charities and not-for-profit registration.

Victoria has incorporated the child safe standards into schools regulation by way of a Ministerial Order made under section 4.3.1(6)(d) of the *Education and Training Reform Act 2006*. The Ministerial Order sets out specific actions that registered schools must take to comply with the child safe standards. This is the only regulatory scheme in Victoria with a non-legislative mechanism to incorporate the child safe standards.

In relation to enforcement, the Royal Commission stated that 'regulators should take a responsive approach and focus on building the capacity of organisations that are either unwilling or unable to comply'.<sup>47</sup> Regulators should be able to seek information about organisations' implementation and compliance with the child safe standards and should be provided with mechanisms to fulfil their role, including financial penalties or orders to comply, where organisations intentionally and consistently fail to comply<sup>48</sup>. The Victorian Commission already has a number of these powers, though it cannot issue a fine to a non-compliant organisation. It must apply to a court for enforcement of a compliance notice which can involve the non-compliant organisation being issued with a pecuniary penalty.<sup>49</sup>

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<sup>41</sup> Complaints and investigations of allegations of child sexual abuse in organisations are regulated under the reportable conduct scheme in part 5A of the *Child Wellbeing and Safety Act 2005*.

<sup>42</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 282.

<sup>43</sup> Please refer to the 'Functions of the Commission', *Child Wellbeing and Safety Act 2005*, s. 25.

<sup>44</sup> *Children Legislation Amendment (Information Sharing) Act 2018 (Vic)*.

<sup>45</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 240.

<sup>46</sup> *Ibid*.

<sup>47</sup> *Ibid*.

<sup>48</sup> *Ibid*.

<sup>49</sup> *Child Wellbeing and Safety Act 2005*, ss. 33 and 34.

The *Child Wellbeing and Safety Act 2005* does not provide relevant authorities with the same compliance tools as the Commission. Relevant authorities must rely on compliance tools that exist in established regulatory regimes or require compliance with the child safe standards through funding agreements. Without clear legislative mechanisms to incorporate the child safe standards into existing regulatory regimes there may be some uncertainty as to whether those regulatory powers may be validly exercised for the purposes of monitoring and enforcing compliance with the child safe standards.

## Funding mechanisms

Many organisations engaged in child-related work receive government funding. In Victoria, this is especially true of 'category 1 organisations'. The Royal Commission believes that regulating through funding agreements may be more flexible and efficient than through legislation. This is because it can be adapted to the circumstances of each funded organisation, sector and funding program. However, the Royal Commission did not recommend using funding agreements as the only mechanism to implement and enforce the child safe standards because:

- some organisations do not have a funding relationship with governments
- some organisations receive funding from several sources and levels of government which could add multiple and potentially contradictory requirements
- funding arrangements can hide the true level of burden on organisations as the requirements may not be visible to stakeholders, parliaments and administrative review
- only using funding agreements may disproportionately affect community organisations as government tends to be a significant source of funding for this sector.<sup>50</sup>

The Royal Commission noted that during its consultations, some non-government organisations told the Royal Commission that 'there are differences between child safety requirements for funding processes, and those enforced by the sector regulator. While the intended outcomes are similar, meeting two sets of requirements places unnecessary administrative cost on the [organisation]'.<sup>51</sup>

The Royal Commission found that imposing requirements to comply with child safe standards in funding agreements and procurement processes can be a powerful motivator to change organisational practice.<sup>52</sup>

## Questions

11. **What has been your experience of the monitoring, compliance and enforcement scheme for the child safe standards? What, if anything, do you think could be improved?**
12. **What has been your experience working with the Commission for Children and Young People and relevant authorities? Do you consider having two layers of regulatory oversight efficient and appropriate? Are these functions mutually reinforcing or is there duplication?**
13. **What has been your organisation's experience of having compliance with the child safe standards included as a requirement of government funding agreement or contract? Please provide reasons for your answer.**
14. **Are the role and functions of the Victorian Commission for Children and Young People clearly and appropriately defined in relation to the child safe standards? What, if anything, do you think could be improved?**
15. **Do you think that the Victorian Commission for Children and Young People has adequate powers to enforce compliance with the child safe standards? If not, what powers do you think the Victorian Commission for Children and Young People should have?**
16. **Are the role and functions of 'relevant authorities' clearly and appropriately defined in relation to the child safe standards? What, if anything, do you think could be improved?**

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<sup>50</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 296–97.

<sup>51</sup> Ibid, p. 297.

<sup>52</sup> Ibid.

17. **Do you think that relevant authorities have adequate powers to promote and require compliance with the child safe standards? If not, what powers do you think the relevant authorities should have?**

# Towards national harmonisation of child safe standards in Australia

The Royal Commission recommended that its ten child safe standards be incorporated into the *National Principles for Child Safe Organisations* (the National Principles), and recommended that the Council of Australian Governments (COAG) endorse the National Principles<sup>53</sup> with the aim of driving a nationally consistent approach to child safe standards in each state and territory.<sup>54</sup>

The National Principles have been developed through a national consultation process involving key sectors engaging with children and young people, as well as advocacy groups and academics. They embed the child safe standards recommended by the Royal Commission and are intended to be a vehicle for giving effect to recommendations related to the Royal Commission's child safe standards.<sup>55</sup> The National Principles are not mandatory in Victoria or in other states and territories. Each state and territory is considering how they will respond to the Royal Commission's recommendations.

The Royal Commission found that a nationally consistent approach to child safe standards is necessary to prevent, identify and improve responses to physical, sexual, emotional and/or psychological abuse and neglect of children. The Royal Commission outlined that the benefits of a nationally consistent approach include:

- providing equal protection for children across all organisations engaging with or providing services to children, regardless of their location
- reducing opportunities for potential perpetrators to seek out jurisdictions or organisations with less rigorous child safety requirements
- sending clear messages about what it means for an organisation to be child safe
- facilitating national collaboration on capacity building and support, and continuous improvement
- helping organisations working across borders to comply with the child safe standards
- promoting effective responses to the needs of all children regardless of their diverse experiences, circumstances or needs.<sup>56</sup>

The Royal Commission has commented that it experienced overwhelming support for a national approach to child safe organisations.<sup>57</sup> Since the publication of the Royal Commission's final report, the newly created National Office for Child Safety has been tasked with working with state and territory governments, the National Children's Commissioner, and other organisations working with children, to promote and educate organisations working with children about the National Principles. The Victorian Government is committed to working with the Australian Government and other jurisdictions to progress the recommendations that require national cooperation.

This paper primarily focuses on the National Principles as a key comparator with Victoria's child safe standards in the interests of moving closer toward a nationally harmonised approach to child safe standards. The National Principles are not mandatory standards in Victoria or in other states and territories. Each state and territory is considering whether and how they will respond to the Royal Commission's recommendations. A table comparing Victoria's child safe standards, the Royal Commission's ten child safe standards, and the National Principles is at **Appendix 3**.

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<sup>53</sup> Draft National Principles were endorsed by Commonwealth, State and Territory Community Services Ministers in October 2017. For more information please go to the Australian Human Rights Commission, [National Principles for Child Safe Organisations](https://www.humanrights.gov.au/national-principles-child-safe-organisations) <<https://www.humanrights.gov.au/national-principles-child-safe-organisations>>

<sup>54</sup> It is understood that COAG intends to consider the National Principles shortly.

<sup>55</sup> Australian Government, '[National Office for Child Safety -- Key Activities](https://www.dss.gov.au/the-national-office-for-child-safety/key-activities)', Department of Social Services (16 October 2018) <<https://www.dss.gov.au/the-national-office-for-child-safety/key-activities>>

<sup>56</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 253.

<sup>57</sup> *Ibid*, p.15.

## The National Principles for Child Safe Organisations

The National Principles have a broader scope than the Royal Commission's ten child safe standards, which focus primarily on sexual abuse. The National Principles cover child safety and wellbeing more broadly. This is consistent with the Royal Commission commentary in Volume 6 of the final report, *Making institutions child safe*, in which the Commission stated:

While this Royal Commission is focused on sexual abuse of children in institutions, most child safe frameworks have broader application and aim to help institutions prevent, identify and improve responses to physical, sexual, emotional and/or psychological abuse and neglect of children, not just sexual abuse. We have been told by many survivors of child sexual abuse in institutions that they also experienced physical abuse, psychological maltreatment and neglect. It is therefore important for child safe institutions to take a broad approach, recognising that different forms of abuse occur together. Risk strategies and child safe policies should cover all the intentional and unintentional harms that can be reasonably foreseen for children in the institution's care and should include preventive measures.<sup>58</sup>

The broader scope of the National Principles is also more aligned with Victoria's child safe standards, which aim to prevent physical and sexual abuse as well as serious emotional and psychological harm and neglect. The National Principles collectively show that a child safe organisation is one that 'creates a culture, adopts strategies and takes action to promote child wellbeing and prevent harm to children and young people. A child safe organisation consciously and systematically:

- creates an environment where children's safety and wellbeing is the centre of thought, values and actions
- places emphasis on genuine engagement with and valuing of children
- creates conditions that reduce the likelihood of harm to children and young people
- creates conditions that increase the likelihood of identifying any harm
- responds to any concerns, disclosures, allegations or suspicions of harm.<sup>59</sup>

The Royal Commission made a number of comments and recommendations about the design of best-practice child safe standards, which have been reflected in the design of the National Principles. The Royal Commission recommended ten outcome-based child safe standards, which allow flexibility in implementation for the variety of organisational types, sizes and capacities undertaking child-related work across Australia. The National Principles have been developed as ten outcome-based principles that require organisations to consider the matters identified by the Royal Commission in its recommended ten child safe standards.

The Royal Commission also recommended that each of its standards contain 'core components' to guide organisations in the implementation of each standard. The National Principles also provide guidance on how to implement each principle through 'action areas' against each principle. These 'action areas' are equivalent to the Royal Commission's 'core components'. The National Principles including the 'action areas' are at **Appendix 4**. The National Principles are set out in the box below.

**National Principle 1** – Child safety and wellbeing is embedded in organisational leadership, governance and culture.

**National Principle 2** – Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.

**National Principle 3** – Families and communities are informed, and involved in promoting child safety and wellbeing.

**National Principle 4** – Equity is upheld and diverse needs respected in policy and practice.

**National Principle 5** – People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.

**National Principle 6** – Processes to respond to complaints and concerns are child focused.

<sup>58</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 135.

<sup>59</sup> Australian Human Rights Commission, above n 54, Preamble, p.3

- National Principle 7** – Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
- National Principle 8** – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
- National Principle 9** – Implementation of the national child safe principles is regularly reviewed and improved.
- National Principle 10** – Policies and procedures document how the organisation is safe for children and young people.

## Key differences between the National Principles and Victoria's child safe standards

In substance Victoria's child safe standards are closely aligned with the National Principles. As their primary goal they both seek to foster a child safe culture in organisations. Both the National Principles and the Victorian child safe standards do this by focussing on governance and leadership; documenting, identifying and managing risk; and promoting the participation of, and empowering, children.

There are three important differences between the National Principles and Victoria's child safe standards, which are:

- the National Principles are **outcome focused**
- the National Principles contain **three principles for which Victoria has no direct equivalent standard**; and
- the National Principles **protect equity and diversity as equal to all the other ten principles**; not as separate cross-cutting requirements like Victoria's three principles.

These three differences are briefly discussed below.

### Outcome focused

The National Principles are principle-based and outcome-focused.<sup>60</sup> This is consistent with increasing moves internationally towards outcomes-focused regulation.<sup>61</sup> Outcome-focused regulation aims to minimise the need for enforcement by encouraging organisations to understand the values behind the law and change their behaviour accordingly – not because they might get caught out by a regulator, but because they understand why the law exists and what its objectives are. Outcome-focused regulation provides organisations with the flexibility to implement actions that are appropriate for their organisation to achieve the intended outcome.

While Victoria's child safe standards are principle based, they are better described as output focused, rather than outcome focused.<sup>62</sup>

### The three National Principles for which Victoria has no direct equivalent standard

The National Principles include three principles for which Victoria's child safe standards have no direct equivalent standard. The three National Principles are:

#### National Principle 3 – Families and communities are informed, and involved in promoting child safety and wellbeing

In commenting on the importance of family and community involvement in supporting organisations to be child safe, the Royal Commission found that parents and carers are first and foremost responsible for keeping children safe, happy and healthy. As such, a child safe organisation is one that:

<sup>60</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 240.

<sup>61</sup> The OECD, for example, has long held the position that regulatory policy should preference 'goal based regulation' (another name for outcome based regulation) wherever possible. See for example, OECD *Guiding Principles for Regulatory Quality and Performance*, OECD (2012:7) <<https://www.oecd.org/fr/reformereg/34976533.pdf>>

<sup>62</sup> An example of an outcome-based standard is: *Processes for complaints and concerns are child focused*. An example of an output-based standard is: *Processes for responding to and reporting suspected abuse of children*.

partners with parents and carers to collaborate and draw on their expertise to better protect children and identify and respond to harm. Child safe [organisations] also partner with the community. [Organisations] are inseparable from their communities and both need to work together to enhance the safety of children. Community engagement can make it easier for [organisations] to implement and enforce their policies. Communities can put pressure on [organisations] to create a more vigilant environment within which it is harder for perpetrators to groom, commit abuse and avoid detection.<sup>63</sup>

The Royal Commission noted that during consultations it heard that engaging families contributed significantly towards creating child safe organisations and increased openness of accepting problems and issues raised by children and young people.<sup>64</sup>

### **National Principle 8 – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed**

In discussing the risks posed by physical and online environments, the Royal Commission found that organisations aspiring to be child safe can improve safety by analysing and addressing the risks in their physical and online environments, reducing opportunities for harm and increasing the likelihood that perpetrators will be caught.

The Royal Commission acknowledged the growing concern in the community and in organisations about how to keep children safe in online environments. It noted that the use of technology is an emerging theme in recent accounts of child abuse and harmful behaviours.<sup>65</sup> The Royal Commission noted the importance of establishing child safe online environments to minimise the opportunity for abuse to occur and to ensure an effective response when incidents do happen.

The Royal Commission stated that:

... the nature of the online environment and the rapidly evolving ways in which it is being used create risks that need to be identified, considered and minimised to better protect children from harm. A balanced approach is needed that acknowledges the positive role played by online technologies in young people's lives and their advanced digital skills and fluency online.<sup>66</sup>

While there is no direct equivalent standard to National Principle 8 in Victoria, Victorian child safe standard 6 would require that organisations assess the risks arising from both their physical and online environments in developing strategies to identify and reduce or remove risks of child abuse occurring. The importance of assessing the risks arising from both physical and online environments is affirmed by the Victorian Commission for Children and Young People, which advises organisations to: 'Rigorously scan the organisation's service delivery, the children and young people who access it, and the organisation's physical and online environments for risks to child safety.'<sup>67</sup>

### **National Principle 9 – Implementation of the national child safe principles is regularly reviewed and improved**

The Royal Commission discussed the importance of organisations continuously reviewing and improving their implementation of child safety initiatives. It found that its case studies, commissioned research and private sessions highlighted the failure of many organisations to continuously review and improve policies and practices, which affected the organisation's ability to be child safe.<sup>68</sup> The Royal Commission noted:

Ongoing self-review and critical analysis monitors how well a child safe [organisation] is implementing the child safe standards. Child safe [organisations] learn from complaints and failures, continuously improving the safety of children in the [organisation].<sup>69</sup>

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<sup>63</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 164.

<sup>64</sup> Ibid, p. 168.

<sup>65</sup> Ibid, p. 19.

<sup>66</sup> Ibid.

<sup>67</sup> Commission for Children and Young People, above n 10 p. 55.

<sup>68</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 200.

<sup>69</sup> Ibid, p. 201.

The Victorian Commission for Children and Young People has also acknowledged the significance of regularly reviewing and continuously monitoring the implementation of the child safe standards in Victorian organisations:

The work involved in building a child safe organisation is never completed. It is a dynamic, multi-layered and ongoing process of learning, monitoring and reviewing ... reviewing regularly, will reduce opportunities for harm to occur.<sup>70</sup>

## Equity and diversity

In addition to the three National Principles referred to above for which Victoria has no direct equivalent standard, **Principle 4 – Equity is upheld and diverse needs respected in policy and practice**, differs in some respects from how Victoria has sought to promote equity and diversity in its three principles.

National Principle 4 is designed as one of the 10 child safe principles with the same status as the other principles, rather than as separate cross-cutting requirements. Victoria has structured its three principles as cross-cutting requirements separate from, but informing, each of the seven Victorian child safe standards.

In its final report, the Royal Commission decided that the protection of equity and diverse needs should be one of the child safe standards with the same status as the other standards, not separate cross-cutting requirements.<sup>71</sup> This is because it concluded that:

... it would be essential for a child safe [organisation] to have the capability to understand and respond to diverse needs ... this should be a specific organisational skill and one of the 10 core standards, with the same status as all others.<sup>72</sup>

The Royal Commission also concluded that a child safe organisation should pay attention to a broader range of diverse needs or experiences than those currently mandated by Victoria's three principles. The Royal Commission identified: children with gender differences, lesbian, gay, bisexual, transgender and intersex children, and the impact of prior trauma, among other diverse needs. This is broader than the requirements in Victoria's three principles which only require organisations to promote the cultural safety of Aboriginal children and children from culturally and/or linguistically diverse backgrounds and promote the safety of children with disabilities.

## Questions

18. **What would be the advantages and/or the disadvantages (including the benefits and costs) for your organisation if Victoria's child safe standards were amended to more closely align with the National Principles?**
19. **Do you consider that the 'action areas' in the National Principles provide helpful guidance for organisations in relation to the implementation of each principle? If so, why?**
20. **Do you consider that the three additional National Principles would improve your organisation's approach to child safety and wellbeing? If so, to what extent?**
  - Principle 3 – Families and communities are informed, and involved in promoting child safety and wellbeing
  - Principle 8 – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed
  - Principle 9 – Implementation of the national child safe principles is regularly reviewed and improved.
21. **Do you consider that Victoria should replace its three principles with a standard equivalent to National Principle 4 or keep them as separate cross-cutting principles? If so, why?**
22. **Are there risks or issues specific to the Victorian contexts that are not addressed by the National Principles?**

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<sup>70</sup> Ibid p. 10.

<sup>71</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, above n 8, p. 173.

<sup>72</sup> Ibid.

# Appendix 1 – Questions in this issues paper

## Implementing the Victorian child safe standards

1. How have you found implementing the Victorian child safe standards in your organisation? Have any of the standards been particularly difficult or easy to implement?
2. Is there anything that would have made it easier for your organisation to implement and comply with the Victorian child safe standards? Please tell us what would have helped and what you think would help you to comply in future.
3. The seven Victorian child safe standards are intended to include the three principles. Please explain how you understand these seven standards and three principles are applied in your organisation.

## Effectiveness of the Victorian child safe standards

4. Do you think the Victorian child safe standards have made your organisation safer for children? How? Have any of the individual standards been particularly helpful?
5. Have Victoria's three principles resulted in changes to improve the cultural safety of Aboriginal children and culturally and linguistically diverse children and the safety of children with a disability within your organisation? How?
6. The three principles recognise that Aboriginal children, culturally and linguistically diverse children and children with a disability are especially vulnerable. Are there any other groups of children that should be recognised as being especially vulnerable? If so, please tell us which groups of children.
7. Do you have other suggestions for how Victoria could improve the design of its child safe standards to better protect children and young people?

## Compliance with the Victorian child safe standards

8. What has been your experience with Victoria's exemptions? Do you understand which organisations would be exempted from the child safe standards? Do you think these exemptions are appropriate? Is there a better way to frame the exemptions to provide greater clarity or certainty about which types of organisations are exempt? Please provide reasons for your answer.
9. Are there any other types of organisations not identified by the Royal Commission and not currently required to comply with Victoria's child safe standards that you believe should be subject to a mandatory child safe standards regulatory scheme? If so, please tell us which types of organisations and your reasoning.
10. Are there any types of organisations currently required to comply with Victoria's child safe standards that you believe should not be subject to a mandatory child safe standards regulatory scheme? If so, please tell us which types of organisations and your reasoning.

## Regulation of the Victorian child safe standards

11. What has been your experience of the monitoring, compliance and enforcement scheme for the child safe standards? What, if anything, do you think could be improved?
12. What has been your experience working with the Commission for Children and Young People and relevant authorities? Do you consider having two layers of regulatory oversight efficient and appropriate? Are these functions mutually reinforcing or is there duplication?
13. What has been your organisation's experience of having compliance with the child safe standards included as a requirement of government funding agreement or contract? Please provide reasons for your answer.

14. Are the role and functions of the Victorian Commission for Children and Young People clearly and appropriately defined in relation to the child safe standards? What, if anything, do you think could be improved?
15. Do you think that the Victorian Commission for Children and Young People has adequate powers to enforce compliance with the child safe standards? If not, what powers do you think the Victorian Commission for Children and Young People should have?
16. Are the role and functions of 'relevant authorities' clearly and appropriately defined in relation to the child safe standards? What, if anything, do you think could be improved?
17. Do you think that relevant authorities have adequate powers to promote and require compliance with the child safe standards? If not, what powers do you think the relevant authorities should have?

## **Towards national harmonisation of child safe standards in Australia**

18. What would be the advantages and/or the disadvantages (including the benefits and costs) for your organisation if Victoria's child safe standards were amended to more closely align with the National Principles?
19. Do you consider that the 'action areas' in the National Principles provide helpful guidance for organisations in relation to the implementation of each principle? If so, why?
20. Do you consider that the three additional National Principles would improve your organisation's approach to child safety and wellbeing? If so, to what extent?
  - Principle 3 – Families and communities are informed, and involved in promoting child safety and wellbeing
  - Principle 8 – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed
  - Principle 9 – Implementation of the national child safe principles is regularly reviewed and improved.
21. Do you consider that Victoria should replace its three principles with a standard equivalent to National Principle 4 or keep them as separate cross-cutting principles? If so, why?
22. Are there risks or issues specific to the Victorian contexts that are not addressed by the National Principles?

# Appendix 2 – Royal Commission recommendations considered in this issues paper

## Recommendation 6.4

All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration. In order to achieve this, institutions should implement the Child Safe Standards identified by the Royal Commission.

## Recommendation 6.5

The Child Safe Standards are:

1. Child safety is embedded in institutional leadership, governance and culture.
2. Children participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved.
4. Equity is upheld and diverse needs are taken into account.
5. People working with children are suitable and supported.
6. Processes to respond to complaints of child sexual abuse are child focused.
7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
8. Physical and online environments minimise the opportunity for abuse to occur.
9. Implementation of the Child Safe Standards is continuously reviewed and improved.
10. Policies and procedures document how the institution is child safe.

## Recommendation 6.6

Institutions should be guided by the following core components when implementing the Child Safe Standards:

### **Standard 1: Child safety is embedded in institutional leadership, governance and culture**

- a. The institution publicly commits to child safety and leaders champion a child safe culture.
- b. Child safety is a shared responsibility at all levels of the institution.
- c. Risk management strategies focus on preventing, identifying and mitigating risks to children.
- d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children.
- e. Staff and volunteers understand their obligations on information sharing and recordkeeping.

### **Standard 2: Children participate in decisions affecting them and are taken seriously**

- a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives.
- b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated.
- c. Children can access sexual abuse prevention programs and information.
- d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.

### **Standard 3: Families and communities are informed and involved**

- a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child.
- b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible.
- c. Families and communities have a say in the institution's policies and practices.
- d. Families and communities are informed about the institution's operations and governance.

### **Standard 4: Equity is upheld and diverse needs are taken into account**

- a. The institution actively anticipates children's diverse circumstances and responds effectively to those with additional vulnerabilities.
- b. All children have access to information, support and complaints processes.
- c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.

### **Standard 5: People working with children are suitable and supported**

- a. Recruitment, including advertising and screening, emphasises child safety.
- b. Relevant staff and volunteers have Working With Children Checks.
- c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.
- d. Supervision and people management have a child safety focus.

### **Standard 6: Processes to respond to complaints of child sexual abuse are child focused**

- a. The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families.
- b. The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.
- c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.

### **Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training**

- a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.
- b. Staff and volunteers receive training on the institution's child safe practices and child protection.
- c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.

### **Standard 8: Physical and online environments minimise the opportunity for abuse to occur**

- a. Risks in the online and physical environments are identified and mitigated without compromising a child's right to privacy and healthy development.
- b. The online environment is used in accordance with the institution's code of conduct and relevant policies.

## **Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved**

- a. The institution regularly reviews and improves child safe practices.
- b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.

## **Standard 10: Policies and procedures document how the institution is child safe**

- a. Policies and procedures address all Child Safe Standards.
- b. Policies and procedures are accessible and easy to understand.
- c. Best practice models and stakeholder consultation inform the development of policies and procedures.
- d. Leaders champion and model compliance with policies and procedures.
- e. Staff understand and implement the policies and procedures.

## **Recommendation 6.7**

The national Child Safe Standards developed by the Royal Commission and listed at Recommendation 6.5 should be adopted as part of the new National Statement of Principles for Child Safe Organisations described by the Community Services Ministers' Meeting in November 2016. The National Statement of Principles for Child Safe Organisations should be endorsed by the Council of Australian Governments.

## **Recommendation 6.8**

State and territory governments should require all institutions in their jurisdictions that engage in child-related work to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.

## **Recommendation 6.9**

Legislative requirements to comply with the Child Safe Standards should cover institutions that provide:

- a. accommodation and residential services for children, including overnight excursions or stays.
- b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children.
- c. childcare or childminding services.
- d. child protection services, including out-of-home care.
- e. activities or services where clubs and associations have a significant membership of, or involvement by, children.
- f. coaching or tuition services for children.
- g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions.
- h. services for children with disability.
- i. education services for children.
- j. health services for children.
- k. justice and detention services for children, including immigration detention facilities.
- l. transport services for children, including school crossing services.

## Recommendation 6.10

State and territory governments should ensure that:

- a. an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. Where appropriate, this should be an existing body.
- b. the independent oversight body is able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator.
- c. regulators take a responsive and risk-based approach when monitoring compliance with the Child Safe Standards and, where possible, utilise existing regulatory frameworks to monitor and enforce the Child Safe Standards.

## Recommendation 6.11

Each independent state and territory oversight body should have the following additional functions:

- a. provide advice and information on the Child Safe Standards to institutions and the community.
- b. collect, analyse and publish data on the child safe approach in that jurisdiction and provide that data to the proposed National Office for Child Safety.
- c. partner with peak bodies, professional standards bodies and/or sector leaders to work with institutions to enhance the safety of children.
- d. provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe.
- e. coordinate ongoing information exchange between oversight bodies relating to institutions' compliance with the Child Safe Standards.

## Recommendation 14.1

All sport and recreation institutions, including arts, culture, community and hobby groups, that engage with or provide services to children should implement the Child Safe Standards identified by the Royal Commission.

## Appendix 3 – Comparison table

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>Standard 1</b> – Strategies to embed an organisational culture of child safety, including through effective leadership arrangements</p> <p><b>Standard 3</b> – A code of conduct that establishes clear expectations for appropriate behaviour with children</p>	<p><b>Standard 1 – Child safety is embedded in institutional leadership, governance and culture</b></p> <p>1.1 The institution publicly commits to child safety and leaders champion a child safe culture</p> <p>1.2 Child safety is a shared responsibility at all levels of the institution</p> <p>1.3 Risk management strategies focus on preventing, identifying and mitigating risks to children</p> <p>1.4 Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children</p> <p>1.5 Staff and volunteers understand their obligations on information sharing and recordkeeping</p>	<p><b>Principle 1 – Child safety and wellbeing is embedded in organisational leadership, governance and culture</b></p> <p>1.1 The organisation makes a public commitment to child safety</p> <p>1.2 A child safe culture is championed and modelled at all levels of the organisation from the top down and the bottom up</p> <p>1.3 Governance arrangements facilitate implementation of the child safety and wellbeing policy at all levels</p> <p>1.4 A Code of Conduct provides guidelines for staff and volunteers on expected behavioural standards and responsibilities</p> <p>1.5 Risk management strategies focus on preventing, identifying and mitigating risks to children and young people</p> <p>1.6 Staff and volunteers understand their obligations on information sharing and recordkeeping</p>	<ul style="list-style-type: none"> <li>• Vic Standards establish the requirement for a code of conduct as a stand-alone Standard separate to Standard 1. Standard 1 only refers to leadership arrangements, without also referring to governance more broadly</li> <li>• National Principles recognise that a child safe culture should be championed throughout the organisation</li> <li>• RC Standards recognise that child safety is a shared responsibility at all levels of the organisation whereas the National Principles refer to a child safe culture being modelled at all levels of the organisation</li> <li>• RC Standards emphasise staff and volunteer compliance with a Code of Conduct whereas the National Principles emphasise a Code of Conduct that provides guidelines for staff and volunteers (i.e. the obligation is on the organisation to have a Code rather than the staff and volunteers per se)</li> <li>• RC Standards Code of Conduct is meant to set clear behavioural standards whereas the National Principles Code of Conduct should include both behavioural standards and responsibilities</li> <li>• National Principle calls for governance arrangements facilitating implementation of a child and wellbeing policy at all levels</li> </ul>

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>Standard 7</b> – Strategies to promote the participation and empowerment of children</p>	<p><b>Standard 2 – Children participate in decisions affecting them and are taken seriously</b></p> <p>2.1 Children are able to express their views and are provided opportunities to participate in decisions that affect their lives</p> <p>2.2 The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated</p> <p>2.3 Children can access sexual abuse prevention programs and information</p> <p>2.4 Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns</p>	<p><b>Principle 2 – Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously</b></p> <p>2.1 Children and young people are informed about all their rights, including to safety, information and participation</p> <p>2.2 The importance of friendships is recognised and support from peers is encouraged, to help children and young people feel safe and be less isolated</p> <p>2.3 Where relevant to the setting or context, children may be offered access to sexual abuse prevention programs and to relevant related information in an age appropriate way</p> <p>2.4 Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to express their views, participate in decision-making and raise their concerns</p>	<ul style="list-style-type: none"> <li>• National Principles emphasise the importance of children and young people being informed of their rights. No reference to rights in the RC and Vic Standards</li> <li>• National Principles recognise that sexual abuse prevention programs and information may not be appropriate in all settings or contexts</li> <li>• National Principles recognise the importance of communicating information in an age-appropriate way</li> <li>• RC Standards broadly state that children are able to express their views and be provided with opportunities to participate in decisions that affect their lives whereas National Principles 2.4 is drafted in such a way that it appears to narrow the expression of views and participation in decision-making with raising concerns about harm<sup>73</sup></li> <li>• Vic Standard is drafted in a manner that focuses on how to promote the participation and empowerment of children rather than on children in fact participating or being empowered</li> </ul>

<sup>73</sup> Note: This is not reflected in the Principle itself or the indicators which separate out these elements. It appears that the National Principles key action area 2.4 could be clarified by separating out these issues into distinct action areas or add an additional action area to mirror the RC Standard 2.1.

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>No direct equivalent</b></p>	<p><b>Standard 3 – Families and communities are informed and involved</b></p> <p>3.1 Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child</p> <p>3.2 The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible</p> <p>3.3 Families and communities have a say in the institution’s policies and practices</p> <p>3.4 Families and communities are informed about the institution’s operations and governance</p>	<p><b>Principle 3 – Families and communities are informed and involved in promoting child safety and wellbeing</b></p> <p>3.1 Families participate in decisions affecting their child</p> <p>3.2 The organisation engages and openly communicates with families and the community about its child safe approach and relevant information is accessible</p> <p>3.3 Families and communities have a say in the development and review of the organisation’s policies and practices</p> <p>3.4 Parents, caregivers and the community are informed about the organisation’s operations and governance</p>	<ul style="list-style-type: none"> <li>• National Principle links informed and involved with promoting child safety and wellbeing</li> <li>• RC Standard explicitly refers to the primary responsibility of the family</li> <li>• National Principle is more specific about families and communities involvement in the policy lifecycle</li> <li>• National Principle is inconsistent in terminology re: 3.4. It is unclear why ‘families and communities’ are written as ‘parents, caregivers and the community’</li> </ul>

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>Principle 1</b><sup>74</sup> – Promoting the cultural safety of Aboriginal children</p> <p><b>Principle 2</b> – Promoting the cultural safety of culturally and/or linguistically diverse children</p> <p><b>Principle 3</b> – Promoting the safety of children with a disability.</p>	<p><b>Standard 4 – Equity is upheld and diverse needs are taken into account</b></p> <p>4.1 The institution actively anticipates children’s diverse circumstances and responds effectively to those with additional vulnerabilities</p> <p>4.2 All children have access to information, support and complaints processes</p> <p>4.3 The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds</p>	<p><b>Principle 4 – Equity is upheld and diverse needs respected in policy and practice</b></p> <p>4.1 The organisation, including staff and volunteers, anticipates children and young people’s diverse circumstances, and provides support and responds to those who are vulnerable</p> <p>4.2 Children and young people have access to information, support and complaints processes in ways that are culturally safe, accessible and easy to understand</p> <p>4.3 The organisation pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, children from culturally and linguistically diverse backgrounds, those who are unable to live at home, and lesbian, gay, bisexual, transgender and intersex children and young people</p>	<ul style="list-style-type: none"> <li>Victorian Standards have three principles which are broadly equivalent to RC Standard/National Principle. However, the three principles only refer to promoting rather than words like ‘anticipate’ and ‘respond’</li> <li>National Principle is drafted to require diverse needs to be respected in policy and practice, rather than more generally taken into account as per RC Standard</li> <li>National Principle clarifies that staff and volunteers are to anticipate and respond to diversity/vulnerability, not just the organisation as per RC Standard</li> <li>National Principle requires information, support and complaints processes to be culturally safe, accessible and easy to understand</li> <li>National Principle requires organisations to pay particular attention to a range of vulnerabilities and diversities than either the Vic principles or the RC Standard</li> </ul>

<sup>74</sup> While the Victorian Principles are located here in this mapping table, they are meant to be read into and inform each of Victoria’s Standards.

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>Standard 4 –</b> Screening, supervision, training and other human resource practices that reduce the risk of child abuse by new and existing personnel</p>	<p><b>Standard 5 – People working with children are suitable and supported</b></p> <p>5.1 Recruitment, including advertising and screening, emphasises child safety</p> <p>5.2 Relevant staff and volunteers have Working with Children Checks</p> <p>5.3 All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations</p> <p>5.4 Supervision and people management have a child safety focus</p>	<p><b>Principle 5 – People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice</b></p> <p>5.1 Recruitment, including advertising, referee checks and staff and volunteer pre-employment screening, emphasises child safety and wellbeing</p> <p>5.2 Relevant staff and volunteers have current working with children checks or equivalent background checks</p> <p>5.3 All staff and volunteers receive an appropriate induction and are aware of their responsibilities to children and young people, including record keeping, information sharing and reporting obligations</p> <p>5.4 Ongoing supervision and people management is focused on child safety and wellbeing</p>	<ul style="list-style-type: none"> <li>• Vic Standard and RC Standard are more narrowly focused on risk reduction/child safety. National Principle is also focused on these matters but also on wellbeing</li> <li>• National Principle is somewhat more prescriptive re: pre-employment screening</li> <li>• National Principle more explicit about record keeping and information sharing not just reporting. Responsibilities are explicitly to children and young people</li> <li>• National Principle refers to ‘ongoing supervision’ rather than the RC Standard ‘supervision’</li> <li>• National Principle recognises that there may be an equivalent to a Working with Children Check</li> </ul>

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>Standard 5 – Processes for responding to and reporting suspected abuse of children</b></p>	<p><b>Standard 6 – Processes to respond to complaints of child sexual abuse are child focused</b></p> <p>6.1 The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families</p> <p>6.2 The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report</p> <p>6.3 Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met</p>	<p><b>Principle 6 – Processes for complaints and concerns are child focused</b></p> <p>6.1 The organisation has an accessible, child focused complaint handling policy which clearly outlines the roles and responsibilities of leadership, staff and volunteers, approaches to dealing with different types of complaints, breaches of relevant policies or the Code of Conduct and obligations to act and report</p> <p>6.2 Effective complaint handling processes are understood by children and young people, staff, families and volunteers, and are culturally safe</p> <p>6.3 Complaints are taken seriously, and responded to promptly and thoroughly</p> <p>6.4 The organisation has policies and procedures in place that address reporting of complaints and concerns to relevant authorities, whether or not the law requires reporting, and co-operates with law enforcement</p> <p>6.5 Reporting, record keeping, privacy and employment law obligations are met</p>	<ul style="list-style-type: none"> <li>• Vic Standard requires processes but does not require them to be child focused</li> <li>• RC Standard is focused on complaints about sexual abuse. Vic Standard is focused on responding to and reporting suspected abuse. National Principle is broadly focused on complaints and concerns that impact on child safety and wellbeing</li> <li>• RC refers to a ‘complaint handling system’ rather than ‘complaint handling processes’</li> <li>• National Principle complaint handling policy must also be accessible and the Principle is more prescriptive about content</li> <li>• National Principle requires complaints handling processes to be understood by all and be culturally safe</li> <li>• National Principle requires organisations to have policies and procedures that address reporting of complaints and concerns to relevant authorities regardless of a legal obligation</li> <li>• National Principle requires cooperation with law enforcement</li> <li>• National Principle indicators expect that organisations will have a timely feedback loop where complaints and concerns are raised, including providing timely feedback to children and young people, families, staff and volunteers</li> </ul>

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>Standard 6 –</b> Strategies to identify and reduce or remove the risk of abuse</p>	<p><b>Standard 7 – Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training</b></p> <p>7.1 Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse</p> <p>7.2 Staff and volunteers receive training on the institution’s child safe practices and child protection</p> <p>7.3 Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures</p>	<p><b>Principle 7 – Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training</b></p> <p>7.1 Staff and volunteers are trained and supported to effectively implement the organisation’s child safety and wellbeing policy</p> <p>7.2 Staff and volunteers receive training to recognise indicators of child harm, including child sexual abuse, and harm caused by other children and young people</p> <p>7.3 Staff and volunteers receive training to respond effectively to issues of child safety and wellbeing, respond to disclosures and support colleagues who disclose harm</p> <p>7.4 Staff and volunteers receive training and information on how to build culturally safe environments for children and young people</p>	<ul style="list-style-type: none"> <li>• Vic Standard requires organisations to have strategies to identify and reduce/remove risk of abuse. RC Standard and National Principle are more prescriptive. RC Standard 1.3 requires the implementation of broad risk management strategies</li> <li>• RC Standard refers only to staff whereas National Principle also refers to volunteers</li> <li>• National Principle requires staff and volunteers to be trained and supported to implement the child safety and wellbeing policy</li> <li>• National Principle requires staff and volunteers to be trained to recognise indicators of child harm, including sexual abuse and harm caused by other children and young people. This is perhaps clearer in its broader intent than the term ‘child maltreatment’</li> <li>• National Principle is more specific about disclosures coming also from colleagues</li> <li>• National Principle also has a requirement for staff and volunteers to receive training and information on building a culturally safe environment</li> </ul>

Vic Child Safe Standards	Royal Commission's Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>No direct equivalent<sup>75</sup></b></p>	<p><b>Standard 8 – Physical and online environments minimise the opportunity for abuse to occur</b></p> <p>8.1 Risks in the online and physical environments are identified and mitigated without compromising a child's right to privacy and healthy development</p> <p>8.2 The online environment is used in accordance with the institution's code of conduct and relevant policies</p>	<p><b>Principle 8 – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed</b></p> <p>8.1 Staff and volunteers identify and mitigate risks in the online and physical environments without compromising a child's right to privacy, access to information, social connections and learning opportunities</p> <p>8.2 The online environment is used in accordance with the organisation's Code of Conduct and child safety and wellbeing policy and practices</p> <p>8.3 Risk management plans consider risks posed by organisational settings, activities, and the physical environment</p> <p>8.4 Organisations that contract facilities and services from third parties have procurement policies that ensure the safety of children and young people</p>	<ul style="list-style-type: none"> <li>• National Principle recognises that physical and online environments should also promote safety and wellbeing as well as minimising risks of harm</li> <li>• National Principle places obligation on staff and volunteers to mitigate risks in online and physical environments</li> <li>• National Principle balances mitigation of risks with privacy and access to information, social connections and learning. RC Standard only calls out privacy and healthy development</li> <li>• National Principle is more specific about the use and management of the online and physical environments in organisational settings, including child safety and wellbeing practices, the inclusion of these risks being documented in risk management plans, and where third parties are providing facilities and services</li> </ul>

<sup>75</sup> While there is no direct equivalent standard, Victorian *child safe standard 6 – strategies to identify and reduce or remove the risk of abuse* would require organisations to identify and reduce or remove risks arising in both their physical and online environments.

Vic Child Safe Standards	Royal Commission’s Child Safe Standards	National Principles for Child Safe Organisations	Comments – Key differences
<p><b>No direct equivalent</b></p>	<p><b>Standard 9 – Implementation of the child safe standards is continuously reviewed and improved</b></p> <p>9.1 The institution regularly reviews and improves child safe practices.</p> <p>9.2 The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.</p>	<p><b>Principle 9 – Implementation of the national child safe principles is regularly reviewed and improved</b></p> <p>9.1 The organisation regularly reviews, evaluates and improves child safe practices</p> <p>9.2 Complaints, concerns and safety incidents are analysed to identify causes and systemic failures to inform continuous improvement</p> <p>9.3 The organisation reports on the findings of relevant reviews to staff and volunteers, community and families and children and young people</p>	<ul style="list-style-type: none"> <li>• National Principle requires ‘evaluation’ as well as ‘reviews’ of child safe practices</li> <li>• National Principles requires that complaints, concerns and safety incidents are analysed rather than just the RC Standards ‘complaints’</li> <li>• National Principles contains a transparency requirement in that relevant reviews are communicated broadly to staff, volunteers, community, families and children and young people</li> </ul>
<p><b>Standard 2 – A child safe policy or statement of commitment to child safety</b></p>	<p><b>Standard 10 – Policies and procedures document how the institution is child safe</b></p> <p>10.1 Policies and procedures address all Child Safe Standards</p> <p>10.2 Policies and procedures are accessible and easy to understand</p> <p>10.3 Best practice models and stakeholder consultation inform the development of policies and procedures</p> <p>10.4 Leaders champion and model compliance with policies and procedures</p> <p>10.5 Staff understand and implement the policies and procedures</p>	<p><b>Principle 10 – Policies and procedures document how the organisation is safe for children and young people</b></p> <p>10.1 Policies and procedures address all national child safe principles</p> <p>10.2 Policies and procedures are documented and easy to understand</p> <p>10.3 Best practice models and stakeholder consultation informs the development of policies and procedures</p> <p>10.4 Leaders champion and model compliance with policies and procedures</p> <p>10.5 Staff and volunteers understand and implement policies and procedures</p>	<ul style="list-style-type: none"> <li>• Victorian Standard implies a singular child safe policy / commitment. RC Standard and National Principle envision all relevant policies and procedures address child safety matters</li> <li>• RC Standard requires policies and procedures are ‘accessible’. National Principle requires policies and procedures to be ‘documented’</li> <li>• National Principle refers to staff and volunteers. RC Standard only refers to staff</li> </ul>

# Appendix 4 – The National Principles for Child Safe Organisations

## Principle 1 – Child safety and wellbeing is embedded in organisational leadership, governance and culture

### Principle 1 action areas

- 1.1 The organisation makes a public commitment to child safety
- 1.2 A child safe culture is championed and modelled at all levels of the organisation from the top down and the bottom up
- 1.3 Governance arrangements facilitate implementation of the child safety and wellbeing policy at all levels
- 1.4 A Code of Conduct provides guidelines for staff and volunteers on expected behavioural standards and responsibilities
- 1.5 Risk management strategies focus on preventing, identifying and mitigating risks to children and young people
- 1.6 Staff and volunteers understand their obligations on information sharing and recordkeeping.

## Principle 2 – Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously

### Principle 2 action areas

- 2.1 Children and young people are informed about all their rights, including to safety, information and participation.
- 2.2 The importance of friendships is recognised and support from peers is encouraged, to help children and young people feel safe and be less isolated.
- 2.3 Where relevant to the setting or context, children may be offered access to sexual abuse prevention programs and to relevant related information in an age appropriate way.
- 2.4 Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to express their views, participate in decision-making and raise their concerns.

## Principle 3 – Families and communities are informed and involved in promoting child safety and wellbeing

### Principle 3 action areas

- 3.1 Families participate in decisions affecting their child.
- 3.2 The organisation engages and openly communicates with families and the community about its child safe approach and relevant information is accessible.
- 3.3 Families and communities have a say in the development and review of the organisation's policies and practices.
- 3.4 Parents, caregivers and the community are informed about the organisation's operations and governance.

## **Principle 4 – Equity is upheld and diverse needs respected in policy and practice**

### **Principle 4 action areas**

- 4.1 The organisation, including staff and volunteers, anticipates children and young people's diverse circumstances, and provides support and responds to those who are vulnerable.
- 4.2 Children and young people have access to information, support and complaints processes in ways that are culturally safe, accessible and easy to understand.
- 4.3 The organisation pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, children from culturally and linguistically diverse backgrounds, those who are unable to live at home, and lesbian, gay, bisexual, transgender and intersex children and young people.

## **Principle 5 – People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice**

### **Principle 5 action areas**

- 5.1 Recruitment, including advertising, referee checks and staff and volunteer pre-employment screening, emphasises child safety and wellbeing.
- 5.2 Relevant staff and volunteers have current working with children checks or equivalent background checks.
- 5.3 All staff and volunteers receive an appropriate induction and are aware of their responsibilities to children and young people, including record keeping, information sharing and reporting obligations.
- 5.4 Ongoing supervision and people management is focused on child safety and wellbeing.

## **Principle 6 – Processes for complaints and concerns are child focused**

### **Principle 6 action areas**

- 6.1 The organisation has an accessible, child focused complaint handling policy which clearly outlines the roles and responsibilities of leadership, staff and volunteers, approaches to dealing with different types of complaints, breaches of relevant policies or the Code of Conduct and obligations to act and report.
- 6.2 Effective complaint handling processes are understood by children and young people, staff, families and volunteers, and are culturally safe.
- 6.3 Complaints are taken seriously, and responded to promptly and thoroughly.
- 6.4 The organisation has policies and procedures in place that address reporting of complaints and concerns to relevant authorities, whether or not the law requires reporting, and co-operates with law enforcement.
- 6.5 Reporting, record keeping, privacy and employment law obligations are met.

## **Principle 7 – Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training**

### **Principle 7 action areas**

- 7.1 Staff and volunteers are trained and supported to effectively implement the organisation's child safety and wellbeing policy.
- 7.2 Staff and volunteers receive training to recognise indicators of child harm, including child sexual abuse, and harm caused by other children and young people.

- 7.3 Staff and volunteers receive training to respond effectively to issues of child safety and wellbeing, respond to disclosures and support colleagues who disclose harm.
- 7.4 Staff and volunteers receive training and information on how to build culturally safe environments for children and young people.

## **Principle 8 – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed**

### **Principle 8 action areas**

- 8.1 Staff and volunteers identify and mitigate risks in the online and physical environments without compromising a child's right to privacy, access to information, social connections and learning opportunities.
- 8.2 The online environment is used in accordance with the organisation's Code of Conduct and child safety and wellbeing policy and practices.
- 8.3 Risk management plans consider risks posed by organisational settings, activities, and the physical environment.
- 8.4 Organisations that contract facilities and services from third parties have procurement policies that ensure the safety of children and young people.

## **Principle 9 – Implementation of the national child safe principles is regularly reviewed and improved**

### **Principle 9 action areas**

- 9.1 The organisation regularly reviews, evaluates and improves child safe practices.
- 9.2 Complaints, concerns and safety incidents are analysed to identify causes and systemic failures to inform continuous improvement.
- 9.3 The organisation reports on the findings of relevant reviews to staff and volunteers, community and families and children and young people.

## **Principle 10 – Policies and procedures document how the organisation is safe for children and young people**

### **Principle 10 action areas**

- 10.1 Policies and procedures address all national child safe principles.
- 10.2 Policies and procedures are documented and easy to understand.
- 10.3 Best practice models and stakeholder consultation informs the development of policies and procedures.
- 10.4 Leaders champion and model compliance with policies and procedures.
- 10.5 Staff and volunteers understand and implement policies and procedures.