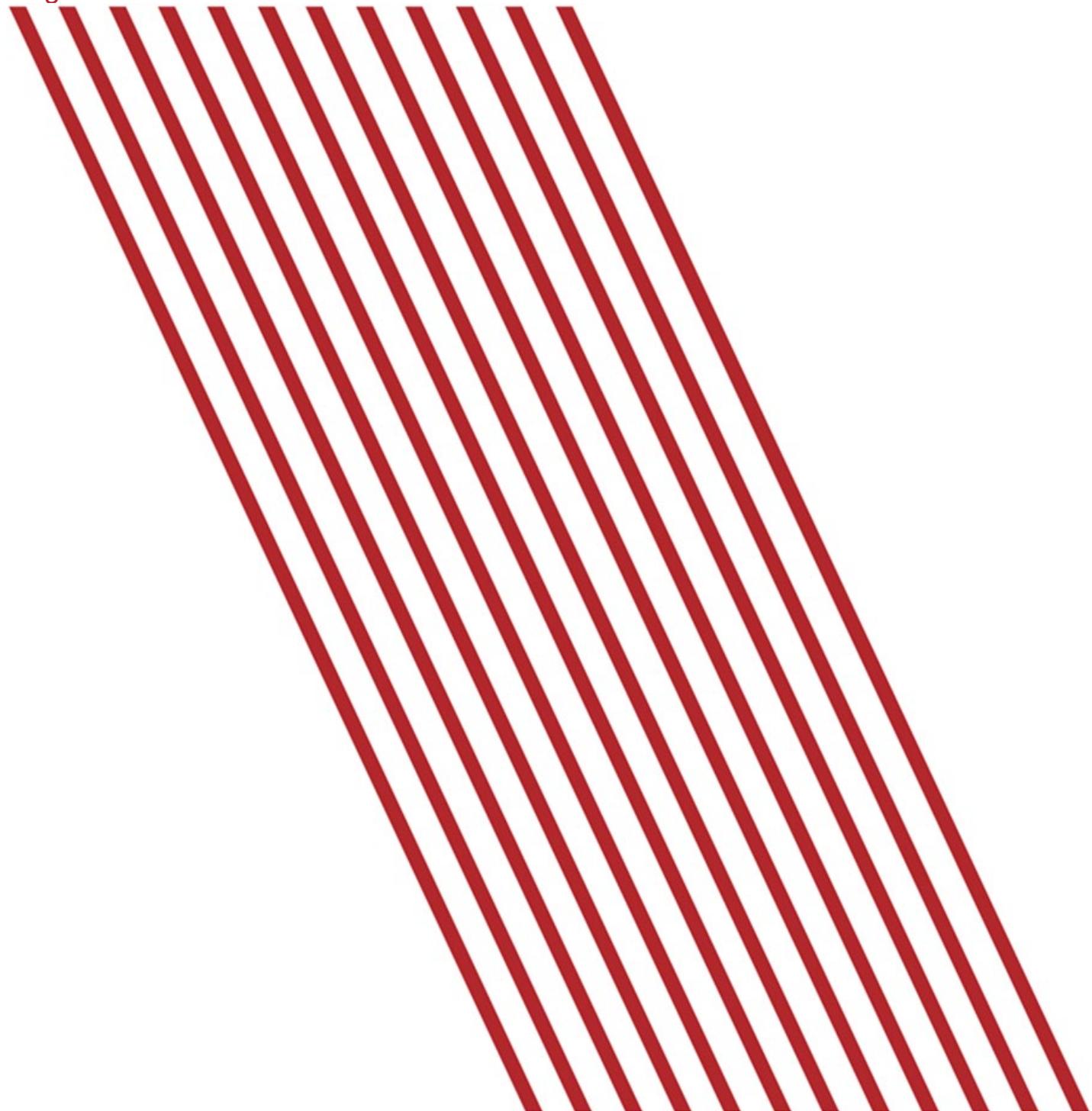


# Regulatory Impact Statement

Education and Training Reform (Regulation of Student Accommodation) Amendment Regulations 2020



## Contents

Executive Summary.....	4
1. Background .....	11
1.1. The need for reform.....	11
1.2. The policy landscape.....	14
1.3. School boarding premises and non-government schools in Victoria .....	15
1.4. Regulation of school boarding premises across Australia .....	19
2. Problem analysis .....	22
3. Objectives.....	24
4. Options .....	25
4.1. Consideration of the base case .....	25
4.1. Consideration of non-regulatory options .....	25
4.3. Feasible options .....	26
5. Determining the preferred option .....	31
5.1. Approach to analysis .....	31
5.2. Criteria.....	32
5.3. Weightings and scale.....	32
5.4. Assessing the options.....	33
5.5. Summary of outcome of MCA.....	42
6. Preferred option.....	43
6.1. Summary of preferred option .....	43
6.2. Assessing the costs of the preferred option .....	45
6.3. Costs of the base case .....	46
6.4. Costs of Amendment Regulations to the sector .....	49
6.4. Costs of Amendment Regulations to government.....	51
6.5. Total cost of Amendment Regulations .....	52
6.6. Impact on competition and small businesses.....	52
7. Implementation .....	54
7.1. Approach to implementation .....	54
7.2. Implementation support - training and guidelines.....	54
7.3. Managing complaints.....	55
8. Consultation and Review .....	56
8.1. Consultation .....	56
8.2. Review.....	56
References .....	57
Appendices.....	59

Appendix 1: Cost analysis and assumptions .....59  
Appendix 2: VRQA cost estimates.....62

## Executive Summary

In Victoria, current legislation does not enable a school registration authority to provide regulatory oversight of school boarding premises. The need for appropriate government oversight and monitoring, specifically by school registration authorities, was highlighted in various reports and inquiries into child safety in boarding schools. In particular, the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) described the heightened risk of young people in boarding facilities due to the residential nature of these settings. It also outlined the severe, long-term consequences of abuse on young people and their wider communities.<sup>1</sup>

While the Victorian Registration and Qualifications Authority (VRQA) already provides regulatory oversight of schools in Victoria, there is a compliance and enforcement gap in relation to school boarding premises. The current legislation does not provide the VRQA with regulatory oversight of school boarding premises. The *Education and Training Reform (Regulation of Student Accommodation) Act 2020* (the Amendment Act), which amended the *Education and Training Reform Act 2006* (ETR Act), received Royal Assent on 4 November 2020. The Amendment Act:

- requires school boarding premises to be registered with the VRQA
- provides the VRQA with powers to monitor the compliance of school boarding premises with prescribed minimum standards for registration and other requirements. It sets out procedures for this, including for both periodic and specific reviews of school boarding premises
- provides the VRQA with the necessary compliance and enforcement powers to ensure school boarding premises satisfy minimum standards and other requirements
- amends the Child Wellbeing and Safety Act to apply the Child Safe Standards and the reportable conduct scheme to operators of registered school boarding premises.

The Amendment Act also provides for the making of regulations.

This Regulatory Impact Statement (RIS) considers options for prescribing minimum standards for registration of school boarding premises (and other matters related to registration), in regulations that will amend the Education and Training Reform Regulations 2017 (ETR Regulations). It evaluates the options against four key criteria and provides a justification for the preferred option. The primary purpose of the RIS is to explain the reasons for the proposed Education and Training Reform Amendment Regulations 2020 (Amendment Regulations) and to invite interested parties to provide feedback before the Amendment Regulations commence by 28 June 2021.

In addition to providing for the making of regulations, the Amendment Act provides for Ministerial Orders to be made to apply to school boarding premises in a similar way to the application of the following existing Ministerial Orders to schools:

- Ministerial Order 706 – Anaphylaxis Management in Victorian Schools
- Ministerial Order 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools.

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<sup>1</sup> Commonwealth of Australia, *Final Report of The Royal Commission into Institutional Responses to Child Sexual Abuse*, ACT: Attorney-General's Department, 2017 accessed November 16, 2020, <https://www.royalcommission.gov.au/sites/default/files/2019-01/carc-final-report-volume-13-schools.pdf>

The Amendment Act also provides for the VRQA to issue guidelines that provide detail regarding compliance with the minimum standards and other requirements for providers of school boarding services at school boarding premises (providers). In this RIS, the combined requirements comprising the Amendment Act, the Amendment Regulations, Ministerial Orders and the VRQA Guidelines – are referred to as the regulatory scheme for school boarding premises.

This RIS considers only the impact of one element of the regulatory scheme for school boarding premises, that is, the Amendment Regulations. The costs and benefits of the Amendment Act are the impact of primary legislation (legislative impact) rather than the impact of regulations (regulatory impact) and are not within scope of this RIS. The legislative impact is considered in section 4.1 – consideration of the base case, as the Amendment Act will commence by 28 June 2021.

### Objectives of the Amendment Regulations

The objectives of the Amendment Regulations are to:

- prescribe minimum standards for the registration of school boarding premises
- prescribe procedures and requirements for the registration of school boarding premises.

The Amendment Regulations support the effective implementation of the Amendment Act by providing further detail regarding regulatory requirements.

The Department of Education and Training (DET) recognises that the prescribed minimum standards and other requirements for the registration of school boarding premises should reflect the importance of regulating not only child safety, but also the broader quality of the boarding school sector (for instance, the governance of school boarding premises). Both are conceptually distinct, though interconnected in practical terms in providing a safe, healthy and productive environment for boarders.

### Options

The RIS considers three options for the Amendment Regulations:

- **Option 1:** Prescribe minimum standards that closely align with existing standards for schools.
- **Option 2:** Prescribe minimum standards that are significantly more detailed than existing standards for schools.
- **Option 3:** Prescribe requirements in the Boarding Standard for Australian Schools and Residences AS5725:2015 as minimum standards.

While the RIS seeks to assess the impact of implementing the totality of the Amendment Regulations, the key difference between the three options is *what* the prescribed minimum standards for registration are and their level of detail.

The procedures for applications for registration or amendment of registration (for instance, the timing of such applications), and any *other* requirements beyond the prescribed minimum standards, would be broadly similar across the three feasible options.

This includes the requirement regarding a school boarding premises' not-for-profit status. A prescribed minimum standard for school registration is that it must be a not-for-profit school. The Amendment Regulations amend the existing not-for-profit standard for schools to permit the proprietor of a registered school to use school money (other than government funding) and property to conduct a school boarding premises if the school boarding services at the premises are not provided for the purposes of profit or gain. This requirement would apply to all three options.

## Preferred option

A multi-criteria analysis (MCA) was selected as the most appropriate analytical approach for the purposes of this RIS, because it allows the systematic consideration of a wide range of impacts – including social impacts such as the improved safety of young people, which cannot be easily quantified in monetary terms.<sup>2</sup>

Based on the outcome of the MCA, **Option 1** was determined to be the preferred option. Requirements under Option 1 minimise compliance costs, and draw on existing resources, processes and knowledge to provide a more rigorous regulatory environment for students in boarding schools. The outcome of the MCA is shown in Table ES1.

**Table ES1. Outcome of MCA**

Criterion	Weighting	Option 1		Option 2		Option 3	
		Assigned score	Weighted score	Assigned score	Weighted score	Assigned score	Weighted score
Child safety	35%	6.50	2.28	7.00	2.45	6.50	2.28
Broader quality of sector	15%	6.00	0.90	6.00	0.90	7.00	1.05
Costs to sector	25%	-3.00	-0.75	-3.43	-0.86	-3.72	-0.93
Costs to government	25%	-5.45	-1.36	-6.273	-1.57	-7.63	-1.91
<b>Total</b>	<b>100%</b>	-	<b>1.06</b>	-	<b>0.903</b>	-	<b>0.49</b>

## Impact of preferred option

The total estimated cost of implementing the Amendment Regulations is estimated to be **\$1.563m** over seven years in Net Present Value (NPV)<sup>3</sup> terms. The timeframe of seven years was selected, because this RIS assesses the cost of the Amendment Regulations during the ‘life’ of the ETR Regulations, which are due to sunset in June 2027. While the majority of estimated cost impacts occur between July 2021 and June 2027, a six-year period, preparation costs for the VRQA in the 2020-21 financial year have been included, bringing the total period to seven years.

The costings assume that, of the combined impact of the entire regulatory scheme (the Amendment Act, Amendment Regulations, Ministerial Orders and VRQA guidelines), two-thirds of both the costs and benefits are accounted for by the Amendment Act, and the remaining one-third, by the Amendment Regulations. This ratio was estimated on the basis that the Amendment Act comprises

<sup>2</sup> The Victorian Auditor-General’s Office, *School Compliance with Victoria’s Child Safe Standards*, 2019, Accessed November 16, 2020, [audit.vic.gov.au/report/school-compliance-victorias-child-safe-standards?section=33288--2-the-regulator-s-support-and-guidance-to-schools&show-sections=1#33288--2-the-regulator-s-support-and-guidance-to-schools](https://audit.vic.gov.au/report/school-compliance-victorias-child-safe-standards?section=33288--2-the-regulator-s-support-and-guidance-to-schools&show-sections=1#33288--2-the-regulator-s-support-and-guidance-to-schools).

<sup>3</sup> NPV is a measure of costs of future investments in today’s money. \$110 due in 12 months can have a net present value of \$100, for example.

a higher proportion of overall requirements (such as requiring the registration of school boarding premises) than the proposed Amendment Regulations which provide details that support the effective implementation of the Amendment Act.

The total cost of the Amendment Regulations can be broken down to an estimated six-year cost of:

- \$554,092 to the sector (to providers, based on the current total of 30 boarding schools in Victoria, and to the CECV as the anticipated VRQA-approved school review body)
- \$1.008m to the government (to the VRQA and to DET as the anticipated VRQA-approved school review body).

### **Costs to the sector**

Aligning regulatory requirements with existing requirements for schools wherever possible provides a consistent and uniform approach for school boarding premises, schools, the VRQA and the CECV. Schools with boarding premises will be reviewed at the same time as their associated boarding premises. The close alignment of the minimum standards and processes for reviewing compliance with the minimum standards will minimise the compliance burden on the sector.

The main cost to providers will be labour costs to cover the time staff to ensure policies, procedures and systems are in place to support the provider to comply with the prescribed minimum standards, and to demonstrate compliance to the VRQA or school review body.

Upfront costs (incurred in 2021-22, the first year after commencement of the regulatory scheme) for registered school boarding premises include costs to update policies, procedures and systems, and to provide a self-assessment against the prescribed minimum standards and a statutory declaration attesting to the veracity of this assessment, within three months of commencement of the Amendment Act.<sup>4</sup> There are no cost impacts estimated for the 2020-21 financial year.

Ongoing costs include costs to maintain policies, procedures and systems to comply with registration requirements and prepare documents to demonstrate compliance as part of general or specific reviews and to train staff and monitor compliance against the standards.

While the VRQA will have regulatory oversight of all Victorian boarding premises under the Amendment Act, it is anticipated that the VRQA will approve review bodies to conduct general reviews of boarding premises. CECV and DET currently engage external contractors to review schools. It is anticipated that CECV and DET will conduct reviews of Catholic and government school boarding premises respectively.

Total costs to the sector are shown in Table ES2.

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<sup>4</sup> Providers who apply for registration of new school boarding premises *after* commencement will have a similar workload but a different process for applying for initial registration. This application must be made within the times specified in the Amendment Regulations.

**Table ES2. Costs of Amendment Regulations to the sector**

	Upfront cost	Ongoing cost/year	Total cost until June 2027 (NPV)
<b>Cost to one provider</b>	\$6,933	\$2,794	\$17,366
<b>Cost to 30 providers</b>	\$207,990	\$83,820	\$520,995
<b>Cost to CECV</b>		\$20,000 (for first three years then every 4-5 years)	\$33,907
<b>Total cost</b>			<b>\$554,092</b>

**Costs to government**

The main cost to government is to the regulator, the VRQA.

Upfront and ongoing costs to the VRQA include costs related to:

- engaging VRQA staff
- engaging external contractors to conduct school reviews
- developing guidelines, and other materials and communications
- upgrading and maintaining the IT system to accommodate expanded regulatory responsibility.

While the VRQA and its contracted reviewers have existing tools and organisational procedures that they can draw on in reviewing school boarding premises, the VRQA will require additional resources.

There is currently only one government boarding premises in Victoria. DET is anticipated to be the VRQA-approved review body that will review this boarding premises.

Total costs to the government are shown in Table ES3 below.

**Table ES3. Costs of Amendment Regulations to government**

	Upfront cost	Ongoing cost/year	Total cost until June 2027 (NPV)
<b>Cost to VRQA</b>	\$350,744*	\$150,744**	\$1,006,227
<b>Cost to DET</b>	\$1,320 (first three years)	\$1,320 (every four years)	\$2,261
<b>Total cost</b>			<b>\$1,008,488</b>

**Implementation and evaluation**

To minimise the upfront regulatory burden for the boarding school sector, there will be transitional arrangements for existing school boarding premises. On commencement of the regulatory scheme, which is anticipated in June 2021, existing school boarding premises will be automatically registered with the VRQA and will remain registered once the provider (irrespective of the sector) provides to the VRQA within three months of commencement:

- 1) a self-assessment as to the compliance of the boarding services and premises with each of the prescribed minimum standards for registration consistent with the Amendment Act; and
- 2) a statutory declaration of the veracity of the self-assessment.

If the abovementioned self-assessment process is not completed, the boarding premises will cease to be registered six months after commencement, unless the VRQA decides to conduct a review and evaluation of the operation of the premises during this period.

Providers who apply for registration of new school boarding premises *after* commencement will be required to make an application to the VRQA in the prescribed manner and contain the prescribed particulars and information (including compliance with prescribed minimum standards and requirements), and be accompanied by any fee fixed by the Minister.

The VRQA or school review body (CECV or DET) will review all existing school boarding premises within three years of commencement of the Amendment Act – and subsequently, at least every five years. Schools are currently reviewed on a four to five-year cyclical basis to ensure that they comply with the prescribed minimum standards for registration, and it is intended that school boarding premises will also be reviewed every five years.

Scheduled reviews of school boarding premises for compliance with the prescribed minimum standards for registration will take place concurrently with reviews of schools (that the boarding premises are associated with), to minimise the number of times a school (which also operates a boarding premises) will be required to participate in a review. For existing school boarding premises, where associated schools do not have a review scheduled within three years of commencement, the school review will be brought forward to occur within this timeframe.<sup>5</sup>

As part of the new regulatory scheme, the VRQA will issue guidelines about how providers can demonstrate compliance with the prescribed minimum standards for registration. The VRQA will also conduct information sessions, both for existing school boarding premises, and if required, providers considering applying for the registration of school boarding premises.

## Consultation

The following bodies were consulted during the development of the RIS in November 2020:

- VRQA
- The Australian Boarding School Association (ABSA)
- Independent Schools Victoria (ISV)
- CECV.

During the development of the Bill (which subsequently became the Amendment Act), DET sent a survey to all schools with school boarding premises. In July 2019, DET invited all schools with school boarding premises to workshops for further consultation and feedback.

ABSA, CECV and ISV were consulted in July and December 2019 about the proposal for the VRQA to register and regulate school boarding premises. Stakeholders were largely supportive of the proposal to enable VRQA oversight of school boarding premises.

During the development of the Bill and associated communications for schools, DET also consulted the VRQA, the Commission for Children and Young People and ABSA. These stakeholders expressed in-principle support for the proposal to regulate school boarding premises.

The RIS aims to support interested members of the public to provide input into the development of the Amendment Regulations. DET invites public comments or submissions to consider before it

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<sup>5</sup> There may be potential coordination of this review of school boarding premises, with the periodic review of CRICOS registration where international students are boarding at the registered premises.

finalises the Amendment Regulations for making and commencement, likely in June 2021. Information on how to lodge submissions can be found on the Engage Victoria Consultations website at: <https://engage.vic.gov.au/consultations>

Submissions on this RIS are to be received via the Engage Victoria website by 5pm on Friday 5 February 2021.

### Review

The ETR Regulations are due to sunset in June 2027, at which time the regulations for school boarding premises, along with regulations for schools and other education institutions, will be remade.

The Amendment Regulations, along with a Ministerial Order for managing the risk of child abuse under the ETR Act, will help implement recommendation 13.3 of the Royal Commission. An effectiveness review will be part of the Australian Government progress review of the implementation of the Royal Commission's recommendations. This Royal Commission recommended this review and the Australian Government accepted it, and the review is to be conducted in 2027, ten years after the tabling of the Royal Commission's Final Report.

Where possible, both review processes (the ETR Regulations review and the Royal Commission review) will be drawn on to inform the other, to make the best-informed changes, going forward.

# 1. Background

## 1.1. The need for reform

In Victoria, the current regulatory environment does not enable government oversight of school boarding premises. The need for appropriate government oversight and monitoring, specifically by school registration authorities, was strongly highlighted through various reports and inquiries into child safety in boarding schools. In particular, the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) described the heightened risk of students in boarding facilities, due to the residential nature of these settings. It also outlined the inadequacy of existing procedures to address the problem of abuse in institutional settings, and the severe, long-term consequences of abuse on children, young people, their families and wider communities.<sup>6</sup>

### The Royal Commission into Institutional Responses to Child Sexual Abuse

A key impetus for legislative reform was the findings of the Royal Commission. The Royal Commission was established in 2012 to address the problem of child sexual abuse in Australia. It represented a nation-wide effort to systematically examine the problem of child sexual abuse, and to provide recommendations to government that can underpin reforms in child safety.<sup>7</sup> A broad range of people, groups, community organisations and institutions across Australia were engaged to attend a public hearing, meet with the Commissioners or provide a written submission. Drawing on personal accounts of around 8,000 individuals in private sessions, 992 written accounts and hearings to review 134 institutional responses, the Royal Commission's Final Report, published in 2017, comprised 17 volumes addressing different dimensions of child sexual abuse in institutional settings.<sup>8</sup>

Volume 13 of the Final Report examines what the Royal Commission learned about institutional responses to child sexual abuse in schools including the nature, contributing factors and adequacy of responses to child sexual abuse in schools.<sup>9</sup> It makes recommendations to prevent child sexual abuse from occurring in schools and, where it does occur, to help ensure effective responses to that abuse.<sup>10</sup>

A key finding of the Final Report was the heightened risk of sexual abuse in school boarding premises. At Royal Commission hearings or private sessions, which were open to members of the public, nearly a third of the survivors who described abuse in a school said that the abuse occurred in a boarding school – although less than one per cent of Australian school students are boarders.<sup>11</sup>

Reasons for the heightened risk of child abuse include the limited regulatory oversight of these institutions by the government<sup>12</sup> - as well as the residential nature of these settings which provides

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<sup>6</sup> Commonwealth of Australia, *Final Report of The Royal Commission into Institutional Responses to Child Sexual Abuse*, ACT: Attorney-General's Department, 2017, Accessed November 16, 2020, <https://www.royalcommission.gov.au/sites/default/files/2019-01/carc-final-report-volume-13-schools.pdf>

<sup>7</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Final Report", *Royal Commission into Institutional Responses to Child Sexual Abuse* accessed November 16, 2020, <https://www.royalcommission.gov.au/final-report>

<sup>8</sup> Ibid.

<sup>9</sup> Commonwealth of Australia, *Final Report of The Royal Commission into Institutional Responses to Child Sexual Abuse*, ACT: Attorney-General's Department, 2017 Accessed November 16, 2020, <https://www.royalcommission.gov.au/sites/default/files/2019-01/carc-final-report-volume-13-schools.pdf>

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> The regulatory settings of the boarding school sector are further described in Section 1.3.

more opportunity for perpetrators to be close to young people and reduces opportunity for young people to turn to parents for protection.<sup>13</sup>

Recommendation 13.3 of the Royal Commission was that all schools, including school boarding premises, implement the Royal Commission's 10 national Child Safe Standards intended to make institutions safer for children. Recommendation 13.3 states:

'[s]chool registration authorities should place particular emphasis on monitoring government and non-government boarding schools to ensure they meet the Child Safe Standards. Policy guidance and practical support should be provided to all boarding schools to meet these standards, including advice on complaint handling.'<sup>14</sup>

Along with all Australian states and territories, the Victorian Government either accepted, accepted in principle, or noted all relevant recommendations. Recommendation 13.3 was accepted in principle, which means the Victorian Government supported the intents or merit of the recommendation, but did not necessarily support the method for achieving the policy.<sup>15</sup> The Victorian Government has taken a series of actions to acquit the recommendations, which are captured in Victorian Government Annual Reports for 2018 and 2019.<sup>16</sup>

### Legislative reform

In response to the Royal Commission's recommendations, the Amendment Act amended the *Education and Training Reform Act 2006* (the ETR Act) to enable the Victorian Government to acquit recommendation 13.3 of the Royal Commission.

The Amendment Act, the bulk of which will commence in June 2021, expands the regulatory remit of the current regulator of schools in Victoria, the VRQA.<sup>17</sup> Specifically, the Amendment Act:

- 1) requires school boarding premises to be registered with the VRQA.<sup>18</sup> To be registered with the VRQA, providers of boarding services at school boarding premises (providers) must demonstrate compliance with any prescribed minimum standards for registration (minimum standards) and other requirements for registration.
- 2) provides the VRQA with powers to monitor the compliance of school boarding premises with prescribed minimum standards for registration and other requirements. It sets out procedures for this, including both periodic reviews of school boarding premises and specific reviews at any time the VRQA concludes that there are reasonable grounds to do so. Authorised officers may enter a boarding school premises between 7am and 9pm to make enquiries, and inspect records and documents related to the prescribed minimum standards for registration. The Amendment Act also empowers the VRQA to require providers or others involved in management, to provide information and records relevant to the prescribed minimum standards.

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Victoria State Government, "Victorian Government Response to the Royal Commission into Institutional Responses to Child Sexual Abuse", Victoria State Government, March 21, 2020 accessed November 16, 2020, [Victorian Government Response to the Royal Commission into Institutional Responses to Child Sexual Abuse | Victorian Government \(www.vic.gov.au\)](https://www.vic.gov.au/victorian-government-response-to-the-royal-commission-into-institutional-responses-to-child-sexual-abuse)

<sup>16</sup> Ibid

<sup>17</sup> *Education and Training Reform (Regulation of Student Accommodation) Act 2020 (Vic)* (Amendment Act), [legislation.vic.gov.au/bills/education-and-training-reform-amendment-regulation-student-accommodation-bill-2020](https://legislation.vic.gov.au/bills/education-and-training-reform-amendment-regulation-student-accommodation-bill-2020) – see in particular section 7

<sup>18</sup> It is an offence for a person to operate unregistered school boarding premises under section 4.7.1A of the Amendment Act.

- 3) provides the VRQA with the necessary compliance and enforcement powers to ensure school boarding premises satisfy the prescribed minimum standards for registration and other requirements. The VRQA is empowered to take actions in the interests of boarders if they deem that school boarding premises do not comply with the prescribed minimum standards – such as requiring providers to report non-compliance to parents.
- 4) enables regulations to be made which prescribe minimum standards for registration of a school boarding premises and other matters relating to registration.

Under the Amendment Act, existing providers of school boarding premises will be deemed to be registered on commencement and will remain registered provided they submit to the VRQA a self-assessment as to the compliance of their boarding services and premises with each of the prescribed minimum standards, and a statutory declaration within three months of commencement.<sup>19</sup>

If the abovementioned self-assessment process is not completed, the boarding premises will cease to be registered six months after commencement, unless the VRQA decides to conduct a review and evaluation of the operation of the premises during this period. As primary legislation, an Act deals with important substantial or procedural matters that affect the rights and liberties of individuals, and can have substantial policy implications. Primary legislation often provides for the creation of subordinate legislation to support the implementation of the Act. The Amendment Act includes provision the following:

- 1) Regulations can be made by the Governor in Council with respect to specific matters that the ETR Act requires to be prescribed, or generally prescribing any other matter required or permitted by the ETR Act to be prescribed or necessary to be prescribed to give effect to the Act.<sup>20</sup> The Amendment Regulations provide further detail to help implement the ETR Act.
- 2) Other key elements to support the implementation of the Amendment Act:
  - Ministerial Order 706 – Anaphylaxis Management in Victorian Schools
  - Ministerial Order 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools
  - guidelines to be produced by the VRQA, which detail the requirements of the minimum standards and other requirements under the Act, for the registration of boarding premises.

In this RIS, the combined requirements under the Amendment Act – including those of the Amendment Regulations, Ministerial Orders and the VRQA guidelines, are referred to as the regulatory scheme for registered boarding school premises.

This RIS considers the impact of the Amendment Regulations that will amend the ETR Regulations – not the impact of the Amendment Act, the Ministerial Orders or the VRQA guidelines.

It is conceptually and practically challenging to separate out the impact of the Amendment Act and Amendment Regulations, given that the Amendment Regulations are intended to support the implementation of the Amendment Act. The approach to separating out the impacts to only capture regulatory impact in assessing the different options, is elaborated on in Section 5.1.

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<sup>19</sup> Amendment Act, section 4.3.8N

<sup>20</sup> Amendment Act, section 5.10.1(1)

## 1.2. The policy landscape

This section describes the broader policy landscape beyond the Royal Commission's findings and recommendation, to demonstrate the imperatives of the Australian and Victorian Governments to regulate the boarding school sector.

### The Education State ambitions

The Education State reforms, launched in 2015, aim to develop the Victorian education system to produce excellence in outcomes, regardless of young people's start in life. The Education State reforms relate to four ambitions, one of which is: 'Happy, Healthy and Resilient Kids: Building the resilience of our children and encouraging them to be more physically active.'<sup>21</sup>

The Amendment Act and Amendment Regulations are in line with the objectives of the Education State ambitions, by providing a regulatory environment that will further the wellbeing of young people. Both government and non-government school sectors have committed to achieving the four Education State ambitions.

### Child safety policy and legislation

There are a range of legislative and policy instruments in place to increase the protection of students from abuse in school settings in Victoria. This includes the Victorian Child Safe Standards, duty of care obligations, school and teacher registration, Working with Children Checks (WWCCs), mandatory reporting requirements, failure to protect and failure to disclose offences, and the Reportable Conduct Scheme.

The Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations (Betrayal of Trust) examined the responses of religious and non-government organisations to child abuse within their organisations. In response to this inquiry's recommendations, the *Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015* was passed by Victorian Government.

This led to the progressive introduction of the Victorian Child Safe Standards in Victorian schools over 2016 and 2017, delivering a key policy reform to establish principles for the wellbeing and safety of children.<sup>22</sup> The CWS Act specifies entities that are required to comply with these Standards, including providers of early childhood services, schools and post-secondary institutions, and entities that operate residential facilities for boarding schools<sup>23</sup>.

The Victorian Child Safe Standards comprise seven standards requiring organisations to have child safe policies and procedures, human resources practices and strategies to identify risks of abuse and embed child safe cultures.

The Royal Commission's Final Report recommended adoption of the ten national Child Safe Standards, which are similar but not identical to Victoria's Child Safe Standards. For instance, the National Principles focus more on child and family participation in decision-making. The Victorian Government has committed to align Victoria's Standards with the National Principles for Child Safe Organisations (which embed the Royal Commission's standards) in coming years.<sup>24</sup>

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<sup>21</sup> Victoria State Government, "About the Education State", *Victoria State Government*, April 16, 2019, Accessed November 16, 2020 [education.vic.gov.au/about/educationstate/Pages/vision.aspx](https://www.education.vic.gov.au/about/educationstate/Pages/vision.aspx)

<sup>22</sup> *Child Wellbeing and Safety Act 2005 (Vic)*, section 1

<sup>23</sup> See clause 7 of Schedule 2 to the *Child Wellbeing and Safety Act 2005*, [www.legislation.vic.gov.au/in-force/acts/child-wellbeing-and-safety-act-2005/030](https://www.legislation.vic.gov.au/in-force/acts/child-wellbeing-and-safety-act-2005/030)

<sup>24</sup> Victoria State Government, "Review of the Victorian Child Safe Standards", *Victoria State Government*, December 11, 2019, Accessed November 16, 2020 [www.dhhs.vic.gov.au/publications/review-victorian-child-safe-standards](https://www.dhhs.vic.gov.au/publications/review-victorian-child-safe-standards)

While schools, including their associated boarding premises, are already required to comply with the Victorian Child Safe Standards, there is an enforcement gap in relation to school boarding premises. While school boarding premises' compliance with the Standards is technically regulated by the Commission for Children and Young People (as are all organisations subject to the Standards in Victoria), they do not receive the same level of oversight as schools, which are regulated by VRQA. As the Royal Commission's Final Report indicated, training and guidance for staff is not enough; government oversight is required to mitigate risks and improve child safety. As such, the child safety in boarding schools regulatory scheme seek to bridge the compliance and enforcement gap in relation to child safety in the boarding school sector.

### **The Charter of Human Rights and Responsibilities**

The *Charter of Human Rights and Responsibilities Act 2006* (the Charter) requires public authorities in Australia, including the Victorian Government departments and agencies, to act consistently with the rights in the Charter.<sup>25</sup> The human rights in the Charter include the right to protection of young people in section 17(2), and the right to protection from torture and cruel, inhuman or degrading treatment in section 10.

The Charter also includes the right to privacy in section 13(a), which includes protection from interference with a person's education and place of residence. Interferences with privacy are deemed compatible with the Charter if there are clear provisions in the law for it, and if it is reasonable and proportionate to a legitimate objective. The Minister for Education considered the Amendment Act compatible with the rights in the Charter, including the right to privacy.<sup>26</sup>

### **International human rights treaties**

The Australian Government has ratified various international human rights treaties which recognise the rights of a child to protection from abuse – including the United Nations International Covenant on Economic, Social and Cultural Rights in 1975 and the Convention on the Rights of the Child in 1990.<sup>27</sup> These treaties point to the rights of children to develop in a safe environment, and to the value of educational, legislative and administrative measures that will develop a child's personality to its fullest potential and protect children from negligent treatment and abuse.

### **1.3. School boarding premises and non-government schools in Victoria**

The Amendment Act defines a 'school boarding premises' as 'a premises at which school boarding services are provided or intended to be provided by a person for a fee or reward'. These accommodation services must be provided for the primary purpose of enabling or facilitating a person to enrol at or attend a registered school.<sup>28</sup>

The definition excludes homestay arrangements, short-term camps and similar accommodation services that are only intended to facilitate attendance at premises as part of instruction in a key learning area or an extracurricular activity.<sup>29</sup>

There are currently 30 school boarding premises in Victoria, most of which are owned by non-government providers. While this is the number of school boarding premises as of November 2020,

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<sup>25</sup> *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, section 1(c)

<sup>26</sup> Victorian Parliamentary Debates, Legislative Assembly, 4 March 2020, pg. 675

<sup>27</sup> Australian Human Rights Commission, "Human Rights in Australia", *Australian Human Rights Commission*, April 1, 2016, Accessed November 16, 2020 [www.humanrights.gov.au/our-work/education/human-rights-australia](http://www.humanrights.gov.au/our-work/education/human-rights-australia)

<sup>28</sup> See Section 5 of the Amendment Act for the full definition.

<sup>29</sup> *Ibid.*

this number may change over the ‘life’ of the ETR Regulations (between 2021 and 2027). There are currently approximately 3,000 young people living at school boarding premises.

Currently, all Victorian school boarding premises are operated by or on behalf of a registered school. While ‘non-government’ schools are owned and governed by a non-government entity, they are financed from three broad sources: the Australian Government, the Victorian Government and private income (primarily tuition fees and boarding fees if applicable).

There are significant differences in the level of contributions from each source across the three sectors (government, Catholic and Independent). The approximate average school income per student (as a percentage of total income per student) by sector, based on 2018 *My School* data on the Australian Curriculum, Assessment and Reporting Authority website, is shown in Table 1.1 below.<sup>30</sup>

**Table 1.1. Funding sources of government and non-government schools – 2018**

Source	Government	Catholic	Independent
Australian government recurrent funding	18%	57%	29%
State/territory government funding	75%	15%	7%
Private income (fees, charges, parent contributions and other private sources)	8%	28%	64%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### School registration

Non-government schools are provided a high degree of autonomy in how they operate. However, like government schools, to be registered and to continue to operate, they must demonstrate compliance with the minimum standards and requirements of the ETR Act<sup>31</sup>, the ETR Regulations<sup>32</sup> and any guidelines made by the VRQA. Current legislative requirements include that schools must register with the VRQA and remain registered by demonstrating compliance with the prescribed minimum standards and other requirements.

The VRQA Guidelines to the Minimum Standards and Requirements for School Registration (the Guidelines) provide detail regarding the registration requirements in the ETR Act and Regulations.<sup>33</sup> While minimum standards are prescribed in the ETR Act and ETR Regulations, the Guidelines provide detail about the evidence that entities must produce when applying to register a school or when a school is being reviewed.

<sup>30</sup> Australian Curriculum, Assessment and Reporting Authority (ACARA), “School income and capital expenditure for government and non-government schools (calendar year)”, ACARA, Accessed November 16, 2020 [www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/school-funding/school-income-and-capital-expenditure-for-government-and-non-government-schools-\(calendar-year\)](http://www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/school-funding/school-income-and-capital-expenditure-for-government-and-non-government-schools-(calendar-year))

<sup>31</sup> *Education and Training Reform Act 2006 (Vic)* (ETR Act), Available at [legislation.vic.gov.au/in-force/acts/education-and-training-reform-act-2006/081](http://legislation.vic.gov.au/in-force/acts/education-and-training-reform-act-2006/081)

<sup>32</sup> *Education and Training Reform Regulations 2017 (Vic)* (ETR Regulations), Available at [legislation.vic.gov.au/in-force/statutory-rules/education-and-training-reform-regulations-2017/003](http://legislation.vic.gov.au/in-force/statutory-rules/education-and-training-reform-regulations-2017/003)

<sup>33</sup> Victorian Registration and Qualifications Authority (VRQA), *Guidelines to the Minimum Standards and Requirements for School Registration*, Melbourne: VRQA, 2018, Accessed November 16, 2020 [www.vrqa.vic.gov.au/schools/Pages/standards-guidelines-requirements-for-schools.aspx](http://www.vrqa.vic.gov.au/schools/Pages/standards-guidelines-requirements-for-schools.aspx)

The requirements for registration that **schools** must currently demonstrate compliance with, include the minimum standards for school registration, as well as other requirements for school registration. Both are delineated below.

The minimum standards as outlined in Schedule 4 of the ETR Regulations relate to:

- 1) Programs and teaching to promote principles underlying the Act
- 2) Student learning outcomes
- 3) Monitoring and reporting on students' performance
- 4) Teachers' requirements
- 5) Compliance with working with Children Act 2005
- 6) Curriculum framework for school
- 7) Student enrolment numbers
- 8) Enrolment policy
- 9) Register of enrolments
- 10) Monitoring of attendance
- 11) Attendance register
- 12) Care, safety and welfare of students
- 13) Buildings, facilities and grounds
- 14) Educational facilities
- 15) School governance
- 16) School's philosophy
- 17) School must be not-for-profit
- 18) Information on school's performance to be available
- 19) Schools must comply with Act and Regulations
- 20) Schools must comply with conditions of registration
- 21) Schools must have policies, procedures and suitable arrangements in place
- 22) Schools must be conducted in accordance with scope of registration.<sup>34</sup>

Separate from the minimum standards, other requirements for school registration relate to a school's student engagement policy,<sup>35</sup> specific requirements in the ETR Act in relation to anaphylaxis management (Ministerial Order 760) and managing the risk of child abuse (Ministerial Order 870)<sup>36</sup> as well as compliance with the VRQA guidelines.

Reviewing and monitoring arrangements for school compliance vary across sectors and are outlined in Table 1.2 below. While the VRQA reviews independent schools, it has approved the CECV and DET as school review bodies for Catholic and government schools respectively. The Schools and Regional Services (SRS) group is the authorised body within DET to manage the review of government schools.

While the VRQA has approved school review bodies to undertake reviews of Catholic and government schools, the VRQA can review any registered school at any time.

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<sup>34</sup> ETR Regulations, Schedule 4

<sup>35</sup> ETR Act, 4.3.1(6)(a)

<sup>36</sup> ETR Act, 4.3.1(6)(c)

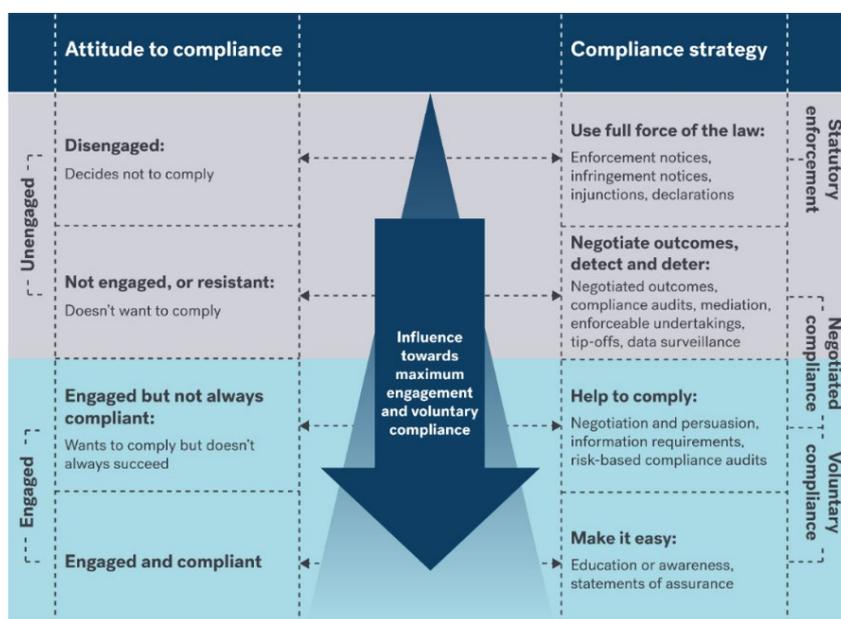
**Table 1.2. Reviewing and monitoring arrangements for school compliance**

	Government	Catholic	Independent
<b>General reviews</b>			
Frequency	Every 4-5 years		
Nature	All prescribed minimum standards and requirements		
Reviews conducted by	DET	CECV	VRQA
<b>Specific reviews</b>			
Frequency	The VRQA may at any time arrange for a review and evaluation of the operation of a school. The VRQA may review the operations of a school to determine whether having regard to the prescribed standards the school has attained and continues to attain the standards required for registration.		
Nature	Either a specific prescribed minimum standard or requirement, or all		
Reviews conducted by	DET SRS	CECV	VRQA

If the VRQA concludes that the registered school no longer complies with the prescribed minimum standards for registration of school boarding premises, the VRQA is empowered to cancel or suspend the registration of a school, prohibit the school from accepting new students, require reports to parents of students that the school does not comply with prescribed minimum standards or impose conditions on the registration of the school.

The current framework representing the VRQA’s approach to regulating school compliance is shown in Diagram 1 below. The VRQA’s regulatory approach is to support schools to become more engaged and voluntarily compliant.

**Diagram 1.1. VRQA’s Approach to Regulation of School Compliance**



Source: VRQA School Compliance Framework<sup>37</sup>

<sup>37</sup> VRQA, *School Compliance Framework*, VRQA, 2019, Accessed November 5, 2020 [www.vrqa.vic.gov.au/news/Pages/News/article-130.aspx](http://www.vrqa.vic.gov.au/news/Pages/News/article-130.aspx)

#### 1.4. Regulation of school boarding premises across Australia

Currently, providers that accommodate international students already undergo reviews. In order for schools to offer a course of study to international students, they must be registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). Applying for registration as a CRICOS provider requires that a provider understands their obligations under the Education Services for Overseas Students Framework – in particular their responsibility for approving and monitoring the accommodation, support and welfare arrangements for unaccompanied international students aged under 18 years. The VRQA assesses applications from providers and recommends providers to the Commonwealth Department of Education if the application is approved; providers can only start offering courses to international students once CRICOS registration is complete.<sup>38</sup>

The current 2018 VRQA *Guidelines for Enrolment of Overseas Student Aged Under 18* requires CRICOS registered schools offering boarding accommodation to international students to meet the requirements in the Boarding Standard for Australian Schools and Residences AS5725:2015. The CRICOS framework also requires boarding services (including fees) to be addressed in the written agreement between the provider and the student, as a consumer protection measure.

Apart from this requirement for providers accommodating international students, Victorian boarding schools operate in a largely self-regulatory context. Many Victorian boarding schools are members of the Australian Boarding School Association (ABSA). In 2015, ABSA led the development of a Boarding Standard for Australian Schools and Residences AS5725:2015 (Boarding Standard AS5725) to provide a common self-regulatory framework across jurisdictions in Australia to deliver a safe and productive environment for boarders.<sup>39</sup>

Section 4 of this RIS includes consideration of the Boarding Standard AS5725 as an option for the prescribed minimum standards for registration of school boarding premises.

The different regulatory settings for boarding schools across Australian jurisdictions, as of November 2020, are described in Table 1.3 below.

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<sup>38</sup> VRQA, “Applying for CRICOS registration”, VRQA, June 16, 2020, Accessed November 18, 2020 [www.vrqa.vic.gov.au/schools/Pages/cricos-registration.aspx#link33](http://www.vrqa.vic.gov.au/schools/Pages/cricos-registration.aspx#link33).

<sup>39</sup> Australian Boarding Schools Association (ABSA), “Boarding Standard for Australian schools and residences”, ABSA, 2019, Accessed November 16, 2020 [www.boarding.org.au/about-us/national-standards](http://www.boarding.org.au/about-us/national-standards).

**Table 1.3. Regulatory settings for boarding schools in other Australian jurisdictions**

Jurisdiction	Description of regulatory settings	Government regulatory oversight
<b>Victoria</b>	There are no specific regulatory requirements enabling oversight of school boarding premises for domestic students. The current 2018 VRQA <i>Guidelines for Enrolment of Overseas Student Aged Under 18</i> requires CRICOS registered schools offering boarding accommodation to international students to meet the requirements in the Boarding Standard for Australian Schools and Residences AS5725:2015. The Education and Training Reform (Regulation of Student Accommodation) Act 2020 and the Amendment Regulations seek to amend this.	The VRQA will have regulatory oversight of boarding premises for both domestic and international students in Victoria when the regulatory scheme commences in June 2021.
<b>Australian Capital Territory</b>	From 1 January 2021, the Education Act 2004 requires that if the school provides boarding facilities for students enrolled at the school, the school must have 'policies for the provision of the facilities that comply with Boarding Standard AS5725.'	The ACT Government has regulatory oversight over government and non-government schools through the ACT Education and Training Directorate.
<b>New South Wales</b>	The Education Act 1990 (NSW) requires non-government schools that provide boarding facilities to have policies that are 'satisfactory to ensure the safety and welfare of boarders'. Requirements are set out in Section 3.11 of Registered and Accredited Individual Non-government Schools (NSW) Manual.  The Education Act 1990 requires government schools to comply with similar requirements to those required for non-government school registration. Requirements are set out in Section 4.6 of the Registration Process for the NSW Government Schooling System Manual.	School registration is regulated by the NSW Education Standards Authority.
<b>Northern Territory</b>	Government boarding schools are required to comply with Boarding Standard AS5725 There are no specific regulatory requirements enabling oversight of non-government boarding schools, at this point in time.	Government boarding schools are monitored by the Department of Education.
<b>Queensland</b>	Government boarding schools are required to comply with the departmental procedure, 'Safety and wellbeing of students residing at a state school operated residential boarding facility' which is informed by Boarding Standard AS5725.  For a non-government school to be accredited (which is required to legally operate and receive government funding), it must include whether it has boarding facilities. Accreditation criteria includes specific requirements for staffing, accommodation and facilities to ensure the health, safety and welfare of students while boarding. All schools must comply with student welfare processes for conduct of staff and students and response to harm.	Accreditation of non-government schools is regulated by the Non-State Schools Accreditation Board.
<b>South Australia</b>	All registered schools must meet all Standards in the Standards for Registration and review of registration of schools in South Australia. Standard 3.2 in the 'Evidence Guide to using the Standards' states that the school states: 'Registered schools that operate boarding schools must have in place and implement a comprehensive set of policies and procedures	The Education and Early Childhood Services Registration and Standards Board of South Australia (Education Standards Board) regulates schools including registration to provide education services and

Jurisdiction	Description of regulatory settings	Government regulatory oversight
	that guide all personnel in ensuring the safety of all children in its care, regardless of where they may be located.’	review of registration to confirm that a school is operating within legislative requirements.
<b>Tasmania</b>	The Education Regulations 2017 and Non-Government Schools Registration Board Guidelines (2019) require registered individual schools operating a boarding house to have one or more policies relating to the safety and welfare of students accommodated at a boarding house.	The Non-Government Schools Registration Board is responsible for the registration of non-government schools in accordance with the Standards set out under the <i>Education Regulation 2017</i> . Reviews are undertaken by the Office of the Education Registrar, with advice provided to the Board in relation to the school’s compliance with the Standards for a final decision on the school’s registration.
<b>Western Australia</b>	The Minister for Education and Training has made Registration Standards for Non-Government Schools (2020) that schools with boarding premises must comply with, including Standard 8 which focuses on ‘Boarding’.  The accompanying Guide to the Registration Standards provides additional guidance: ‘The policies and procedures should be benchmarked against contemporary best practice in protecting the safety and wellbeing of students in boarding facilities, as determined by a relevant peak body, such as Boarding Standard AS5725.’	Non-government schools are registered by the Director General of the Department of Education, who may authorise inspection of a school. The Department’s Non-government School Regulation team monitors non-government schools for compliance against the registration standards.

Source: Adapted from the Royal Commission’s Final Report (2017) – Volume 13 (Schools), page 59.

## 2. Problem analysis

As discussed in Section 1, the overarching problem is that **a compliance and enforcement gap exists in relation to school boarding premises**. There has been no clear regulator of boarding school premises in Victoria for the purposes of the Victorian Child Safe Standards or any other minimum requirements aimed at ensuring the safety and welfare of boarders. Given that boarders are at heightened risk of abuse in residential settings such as boarding premises, there is need for a regulator to oversee the compliance of premises with requirements.

To meet this compliance and enforcement gap, the VRQA requires the necessary powers and functions to undertake this role. The Amendment Act will provide the VRQA explicit regulatory powers to register and monitor school boarding premises for compliance with prescribed minimum standards and other requirements for registration.

While the Amendment Act will provide for more rigorous monitoring of school boarding premises, there are two sub-problems which the Amendment Regulations seek to address, described below.

### 1) A lack of sufficient prescription leads to uncertainty for providers

The Amendment Act prescribes some minimum standards for registration and provides for regulations to prescribe the bulk of the minimum standards. Without the regulations, there will not be a full set of prescribed minimum standards (similar to the prescribed minimum standards for schools that are largely prescribed in the ETR Regulations).

The Amendment Act relies on regulations to prescribe procedures and the full requirements for registration, including the prescribed minimum standards for registration of school boarding premises. The Amendment Act currently refers to the 'regulations' at numerous points to prescribe further requirements for providers. Notably, the Amendment Act refers to compliance with 'minimum standards...prescribed by the regulations or by this Act'.<sup>40</sup>

By providing a full set of requirements, the Amendment Regulations reduces uncertainty for providers in the requirements for registration are, and promotes the effective implementation of the Amendment Act.

### 2) Absence of clear requirements for information-gathering and sharing, increases risk of child abuse

While the Amendment Act prescribes some minimum standards that providers are required to comply with (relating to discipline, anaphylaxis and risk of child abuse), it does not adequately address a crucial recommendation in the Royal Commission's Final Report about record-keeping. The Royal Commission's Recommendations 8.4 and 8.5 highlight the need for rigorous implementation of recordkeeping, highlighting the lack of clarity and comprehensiveness in current record-keeping obligations, particularly in the non-government school sector.<sup>41</sup>

Comprehensive record-keeping that is proportionate to the institution's risk – including records of health and wellbeing issues such as child abuse – help schools to identify and respond quickly to risks of child sexual abuse. Comprehensive record-keeping is required in order to give effect to the

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<sup>40</sup> Amendment Act, section 4.3.8C(1)(b)

<sup>41</sup> Commonwealth of Australia, *Final Report of The Royal Commission into Institutional Responses to Child Sexual Abuse*, ACT: Attorney-General's Department, 2017 accessed November 16, 2020, <https://www.royalcommission.gov.au/sites/default/files/2019-01/carc-final-report-volume-13-schools.pdf>, p. 247

Royal Commission's Final Report's Recommendations 8.6 to 8.8 that information is shared between key agencies with responsibility for child safety.<sup>42</sup>

In the Amendment Act there are no prescribed minimum standards about keeping a register of students. While there is an offence provision relating to a record of location of students, the Amendment Act contemplates the regulations will prescribe how the provider is required to maintain the record and simply states that the provider: '...must ensure that a record is kept at the premises of the location of every student boarding at the premises at any time of the day or night in accordance with the regulations'.<sup>43</sup> The maximum penalty for failure to comply with this requirement is 5 penalty units (\$826.10 in 2020-21). Without regulations, no further requirements will be prescribed beyond what is prescribed in the Amendment Act.

These sub-problems must be addressed in order to effectively address the overarching problem of the compliance and monitoring gap regarding school boarding premises in Victoria.

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<sup>42</sup> Ibid, p.248

<sup>43</sup> See section 4.3.8X of the Amendment Act

### 3. Objectives

The objective of the Amendment Act and Amendment Regulations is to fill a compliance and enforcement gap by enabling the VRQA to monitor providers' compliance with prescribed minimum standards and requirements for registration, including for managing the risk of child abuse.

The objectives of the Amendment Regulations, to address the problems identified in Section 2, are to:

- prescribe minimum standards for registration of school boarding premises; and
- prescribe the procedures and requirements for the registration of school boarding premises, and for ongoing monitoring of compliance with the minimum standards.

In so doing, the Amendment Regulations support the effective implementation of the Amendment Act by providing further detail regarding regulatory requirements.

DET recognises that the prescribed minimum standards and other requirements for the registration of school boarding premises should reflect the importance of regulating not only child safety, but also the broader quality of the boarding school sector (for instance, the governance of school boarding premises). Both are conceptually distinct, though interconnected in practical terms in providing a safe, healthy and productive environment for boarders.

The purpose of a RIS is to discuss and evaluate the effects of proposed regulations, including an assessment of the costs and benefits of the proposed regulations and any other practicable means of achieving the same objectives.<sup>44</sup> This RIS considers the costs and benefits of options for regulations provided for in the Amendment Act.

Overall, regulatory measures should 'contain compliance strategies which ensure the greatest degree of compliance at the lowest cost to all parties'.<sup>45</sup> This RIS discusses the different options based on the following criteria (detailed further in Section 4):

- 1) **Child safety** – assesses how well the option supports the policy intention to increase protection for students in boarding school premises from abuse.
- 2) **Broader quality of the sector** – assess how well the option supports the policy intention to increase the broader quality of the sector, including the holistic wellbeing of boarders and staff and effective governance.
- 3) **Costs to the sector** – assesses the upfront and ongoing costs to boarding school providers and to CECV, as the anticipated VRQA-approved review body for Catholic school boarding premises.
- 4) **Costs to government** – assesses the upfront and ongoing costs to the VRQA, as the main regulator of schools and school boarding premises, and the DET, as the anticipated VRQA-approved review body for government school boarding premises.

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<sup>44</sup> *Subordinate Legislation Act 1994 (Vic)*, section 10.

<sup>45</sup> Australian Government, Department of the Prime Minister and Cabinet (DPMC) "Application of COAG Best Practice Regulation", DPMC, Accessed November 16, 2020 [pmc.gov.au/ria-mooc/coag/application-coag-best-practice-regulation](https://pmc.gov.au/ria-mooc/coag/application-coag-best-practice-regulation)

## 4. Options

This RIS considers three options for the Amendment Regulations to address the problem identified in Section 2. It considers the base case (Section 4.1) and non-regulatory options (Section 4.2), however only regulatory options are considered in detail as feasible options (Section 4.3).

### 4.1. Consideration of the base case

The 'base case' refers to the 'do nothing' option for government. It provides a reference-point for exploring the costs and benefits of different options. In the base-case scenario there would be no changes to the existing ETR Regulations, and the Amendment Act would become the sole instrument that specifically applies to the regulation of school boarding premises.

The Amendment Act provides that a person wishing to become a provider of school boarding services at a boarding premises may apply to the VRQA for registration and the VRQA may register a provider if it is satisfied that the provider and the premises meets certain requirements, including the prescribed minimum standards for registration in the Amendment Act and regulations. This includes prescribed minimum standards related to governance, welfare and acceptance policies.

The Amendment Act also provides the processes and procedures through which the VRQA monitors compliance. The VRQA may conduct a general review, or a specific review, of compliance with one or more of the prescribed minimum standards at any time. The VRQA can also request a report from the Secretary (for government schools), the provider (for non-government boarding schools), or a VRQA-approved review body. The VRQA is also empowered to take action in response to non-compliance, if the VRQA deems that the school boarding premises or the school boarding services no longer comply with the prescribed minimum standards for registration of school boarding premises. The VRQA can cancel or suspend the registration of the premises, prohibit the provider from accepting new students, require the provider to report to parents of students that the school does not comply with prescribed minimum standards or impose conditions on the registration of the premises.

Given the Amendment Act provides that providers must comply, and demonstrate compliance, with minimum standards and requirements prescribed by the Act *and* the regulations, if there is no change to the existing ETR Regulations, this might create uncertainty in what requirements providers need to comply with. This in turn may result in inconsistent application of existing legislation, and increase risks related to child safety and missed opportunities to regulate the overall quality of the sector.

### 4.1. Consideration of non-regulatory options

Non-regulatory approaches minimise administrative burden on the sector, as well as costs to government and impacted groups. Unlike direct government regulation where rules are imposed through regulatory schemes, non-regulatory options can provide scope for a sector or industry to take responsibility for developing and implementing their own rules (a self-regulatory approach). Currently, many Victorian school boarding premises are members of ABSA and can choose to undertake a self-assessment to demonstrate they meet Boarding Standard AS5725.<sup>46</sup>

The Royal Commission's Final Report indicates that non-regulatory options on their own are not sufficient and noted most experts in their commissioned research on the key elements of a child

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<sup>46</sup> Boarding Australian Boarding Schools Association (ABSA), "Boarding Standard for Australian schools and residences", ABSA, 2019, Accessed November 16, 2020 [www.boarding.org.au/about-us/national-standards](http://www.boarding.org.au/about-us/national-standards).

safe institution advised that strong regulation was required.<sup>47</sup> The Royal Commission's Final Report states:

'[w]e have concluded that voluntary child safe standards are not sufficient to effectively address the issue of institutional child sexual abuse for many institutions that provide or deliver services to young people.'<sup>48</sup>

At the same time, the DET recognises that to provide a coherent approach to improving the wellbeing of young people residing in boarding premises, reforms to increase regulation of child safety should occur at the same time as reforms to the regulation of the broader quality of the boarding school sector (for instance, the governance of school boarding premises).

Overall, non-regulatory options cannot support the Victorian Government to fully acquit the Victorian Government's policy objective to strengthen the regulatory environment of the boarding school sector. Further, the government is seen as the ideal regulator because governments tend to have the expertise, capacity and resourcing to monitor the whole boarding school sector.<sup>49</sup> As such, the Amendment Act coupled with non-regulatory approaches are insufficient in addressing the compliance and enforcement gap with regard to school boarding premises.

### 4.3. Feasible options

The range of feasible options considered below are necessarily limited by the subordinate relationship of regulations to the ETR Act. The regulatory options described below are feasible in the sense that they are possible under the regulation-making powers in the Amendment Act.

- **Option 1:** Prescribe minimum standards that closely align with existing standards for schools.
- **Option 2:** Prescribe minimum standards that are significantly more detailed than existing standards for schools.
- **Option 3:** Prescribe Boarding Standard AS5725 as the minimum standards.

Under all three options, the VRQA, as the regulator of registered school boarding premises, regulates compliance of providers and premises with the prescribed minimum standards and other requirements under the Amendment Act. Furthermore, under all these options, all school boarding premises would be required to submit documents demonstrating compliance to the VRQA (for independent school boarding providers), and the anticipated relevant VRQA-approved school review bodies (CECV for Catholic school boarding providers, and DET for government school boarding providers).

The regulations prescribe minimum standards for registration, as well as the procedures and other requirements for the registration of school boarding premises. While the RIS seeks to assess the impact of implementing the totality of the Amendment Regulations, the key difference between the three options is *what* the prescribed minimum standards for registration are and their level of detail.

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<sup>47</sup> Commonwealth of Australia, *Final Report of The Royal Commission into Institutional Responses to Child Sexual Abuse Volume 6*, ACT: Attorney-General's Department, 2017, pg. 258, Accessed November 4, 2020, [Final Report - Volume 6, Making institutions child safe \(royalcommission.gov.au\)](https://www.royalcommission.gov.au/final-report-volume-6-making-institutions-child-safe)

<sup>48</sup> Ibid, p. 258

<sup>49</sup> Commonwealth of Australia, *Final Report of The Royal Commission into Institutional Responses to Child Sexual Abuse Volume 6*, ACT: Attorney-General's Department, 2017, pg. 258, Accessed November 4, 2020, [Final Report - Volume 6, Making institutions child safe \(royalcommission.gov.au\)](https://www.royalcommission.gov.au/final-report-volume-6-making-institutions-child-safe)

The procedures for applications for registration or amendment of registration (for instance, the timing of such applications), and any *other* requirements beyond the prescribed minimum standards, would be broadly similar across the three feasible options.

This includes the requirement regarding a school boarding premises' not-for-profit status. A prescribed minimum standard for school registration is that it must be a not-for-profit school. The Amendment Regulations amend the existing not-for-profit standard for schools to permit the proprietor of a registered school to use school money (other than government funding) and property to conduct a school boarding premises if the school boarding services at the premises are not provided for the purposes of profit or gain. This requirement would apply to all three options.

The remainder of this section considers three options that require differing levels of prescription regarding the minimum standards that school boarding providers will be required to comply with. How exactly the minimum standards will be implemented by providers will vary, depending on the existing systems that are already in place. The VRQA also intends to develop guidelines to provide further clarity for providers to help them understand and implement the new regulatory requirements.

### Option 1: Prescribe minimum standards that closely align with existing standards for schools wherever possible

All schools in Victoria must meet the prescribed minimum standards for school registration. However, existing school boarding providers have not been required to demonstrate compliance with these standards because a school boarding premises is not defined as a 'school' for the purposes of the ETR Act.<sup>50</sup> Even where the same legal entity runs the school and school boarding premises, that entity is currently not required to demonstrate that the school boarding premises complies with school registration requirements.

Under Option 1, providers that operate registered school boarding premises must comply, and demonstrate compliance with, prescribed minimum standards and other requirements that closely align with existing minimum standards for schools:

- 1) **Compliance with *Working with Children Act 2005*** – compliance with the requirements of this Act in respect of all staff at a registered school boarding premises.
- 2) **Acceptance policy** – clearly defined student acceptance policy complying with all applicable State and Commonwealth laws. Furthermore, the provider of school boarding services at a registered school boarding premises established by a particular religious denomination or by a group of religious denominations may have an acceptance policy that gives preference to adherents of that religious denomination or denominations, or their children.<sup>51</sup>
- 3) **Register of students** – a register must be maintained containing pertinent student information, including information relating to the health or wellbeing of the student that the provider should be aware of.
- 4) **Record of location of students** – a record must be maintained at specific times (selected by the provider) throughout the day and night and include any reason for the absence of students from premises.
- 5) **Care, safety and welfare of students** – compliance with applicable State and Commonwealth laws, and staff must be advised of their obligations under those laws.

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<sup>50</sup> See the definition of "school" in section 3(1) of the ETR Act, [www.legislation.vic.gov.au/in-force/acts/education-and-training-reform-act-2006/082](http://www.legislation.vic.gov.au/in-force/acts/education-and-training-reform-act-2006/082)

<sup>51</sup> An acceptance policy is equivalent to an enrolment policy.

- 6) **Building, facilities and grounds** – compliance with local laws and building, planning and occupational health and safety laws.
- 7) **Governance** – the governance structure must enable the effective strategic direction-setting, management of finances and the fulfilment of legal obligations. In a provider of school boarding services at a non-government school boarding premises, every responsible person must be a ‘fit and proper’ person (including having not been found guilty of indictable offence, or an externally administered body corporate).
- 8) **Philosophy of provider** – clear statement of its philosophy and ability to demonstrate how it is enacted.
- 9) **Information on performance of school boarding premises to be available** – information (including a report of financial activities and copies of any reports required under funding agreements with the State or Commonwealth Governments) must be made available to community of the boarding premises at least once a year.
- 10) **Provider of school boarding services must comply with Act and Regulations.**
- 11) **Provider of school boarding services must comply with conditions of registration.**
- 12) **Providers of school boarding services must have policies, procedures and suitable arrangements in place.**
- 13) **School boarding services must be provided in accordance with scope of registration.**

A key difference between the minimum standards for registered schools and registered school boarding premises is the ‘record of location of students’ – as this requirement is unique to the residential nature of boarding facilities. The closest relevant standard for schools relates to the attendance register which is limited to attendance at a particular place (the school) during a particular period of the day (normal school hours).

Option 1 allows schools with boarding facilities to adapt and expand the scope of the evidence they already prepare for school reviews to include the boarding premises, without significant additional workload.

#### Option 2: Prescribe minimum standards that are more detailed than existing standards for schools

This option involves more detailed requirements of providers of school boarding premises, to hold providers to greater accountability in achieving high standards of quality and child safety. In addition to the 13 minimum standards in Option 1, Option 2 involves additional requirements for providers. Option 2 is more prescriptive regarding:

- **Record of location of students** – The prescribed minimum standards in Option 1 are generally reasonably high-level requirements. Under Option 1, providers are required to maintain a record of student location at any time of the day and night and record any reason for absences of students from the premises. However, Option 1 does not specify the frequency with which, and circumstances in which, the student’s location must be recorded. Under Option 2, the following requirements are also prescribed:
  - frequency of recording (five times a day at specific points – upon waking, before departing the premises for school or other purposes, returning to the premises, at dinner time, at bedtime)

- circumstances in which student location should be recorded (for example when students attend camps/excursions that the provider arranges, when students depart the premises to attend sporting or extra-curricular activities that the provider arranges).
- the details of any person into whose care a student is given, including a person whom a student travels to meet.
- how a provider approves, monitors, records and reports student absences.
- **Care, safety and welfare of students.** Under Option 2, staff of school boarding premises will be required to be informed of their State and Commonwealth obligations through annual training run by the provider.
- **Information on performance of school boarding premises.** Under Option 2, the provider will be required to report to the community of the boarding premises, a broader range of information – that is, critical incident reports and student wellbeing monitoring information.

As there are currently no regulatory requirements for boarding premises, this may represent an increase in workload for school boarding providers to ensure their existing systems, policies and procedures meet the more specific requirements outlined in this option as there is less discretion as to how providers must operate.

### Option 3: Prescribe Boarding Standard AS5725 as the prescribed minimum standards for registration of school boarding premises

Boarding Standard AS5725, published in July 2015, provides a common self-regulatory framework across jurisdictions in Australia for promoting and protecting the wellbeing of boarders, and is intended to complement the compliance of a boarding school with legislative requirements.<sup>52</sup>

Boarding Standard AS5725 comprises ‘minimum requirements for a framework and processes’<sup>53</sup> as follows:

- **Section 2: Governance and management** – records and financial management.
- **Section 3: Boarders** – child protection, safety, health and wellbeing, holistic development, care and supervision, and boarders with particular needs.
- **Section 4: Staff** – health, safety and wellbeing of staff, competence and professional learning of staff, management of staff.
- **Section 5: Parent, family and community engagement** – parent and family engagement and community engagement.

Option 3 will require school boarding providers to comply and demonstrate compliance with a broader range of requirements compared to Options 1 and 2, such as having policies and procedures in relation to different aspects of a boarder’s holistic development (academic, social, emotional and physical development). For each of the elements listed above, there are more detailed requirements that a provider will be required to demonstrate compliance with.

Currently, all school boarding providers in Victoria are existing members of ABSA and would be aware of Boarding Standard AS5725. In the case of Western Australia, a provider’s self-regulatory approach to implementing Boarding Standard AS5725 co-exists with the Government of Western

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<sup>52</sup> Boarding Australian Boarding Schools Association (ABSA), “Boarding Standard for Australian schools and residences”, ABSA, 2019, Accessed November 16, 2020 [www.boarding.org.au/about-us/national-standards](http://www.boarding.org.au/about-us/national-standards).

<sup>53</sup> Ibid, p. 6

Australia's minimum standards for registration.<sup>54</sup> Non-government schools in Western Australia are required to comply with registration standards determined by the Minister. Standard 10 of the Guide to the Registration Standards and Other Requirements for Non-Government Schools,<sup>55</sup> issued by the Government of Western Australia, deals specifically with boarding, as do elements of other standards. At the same time, the Guide also states:

'[p]olicies and procedures should be benchmarked against contemporary best practice...as determined by a peak body, such as the Boarding Standard for Australian schools and residences [AS 5725-2015]'.<sup>56</sup>

While providers are encouraged to benchmark their policies and procedures against Boarding Standard AS5725, this is no specific government oversight of compliance. As such, providers submit evidence of compliance with the Government of Western Australia's registration standards, while being encouraged to reference Boarding Standard AS5725 in the development of policies and procedures. The Western Australian scenario demonstrates how both regulatory frameworks might co-exist.

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<sup>54</sup> See pp. 18-19 of this RIS.

<sup>55</sup> Government of Western Australia, *Guide to the Registration Standards and Other Requirements for Non-Government Schools*, East Perth: Non Government School Regulation, Department of Education, 2020, Accessed November 16, 2020 [www.education.wa.edu.au/dl/gom614](http://www.education.wa.edu.au/dl/gom614)

<sup>56</sup> *Ibid*, pg.30.

## 5. Determining the preferred option

### 5.1. Approach to analysis

A multi-criteria analysis (MCA) is a common approach to evaluating regulatory impact and can be used when the key benefits of a regulatory proposal cannot be quantified or are impractical to quantify to the same level of detail in a cost-benefit analysis. For instance, the benefits of increased child safety on a community are clear, but difficult to express in monetary terms. MCA was selected as the most appropriate analytical approach for the purposes of this RIS, because it allows the systematic consideration of the qualitative and quantitative impacts of options.

The steps of an MCA include determining criteria most relevant to the evaluation of options, and scoring each option against the selected criteria. Positive scores indicate that the option is better than the base case, while negative scores indicate that the option is worse than the base case. The criteria are weighted based on their relative importance in addressing the identified problem.

The MCA was conducted drawing on key principles of best practice, including:

- 1) being transparent about assumptions made
- 2) ensuring criteria are clearly described and consistent with the policy intentions
- 3) ensuring criteria are independent of each other to avoid double-counting benefits or costs
- 4) providing a clear justification for criteria and weightings.<sup>57</sup>

The impact of options is typically analysed over a 10-year timeframe. In this RIS, the impact of each option is assessed over a seven-year timeframe (June 2020 to June 2027), as the Amendment Regulations seek to amend the existing ETR Regulations that are due to sunset in June 2027. The ETR Regulations will be reviewed and renewed at that time. While the majority of estimated cost impacts occur between July 2021 and June 2027, a six-year period, preparation costs for the VRQA in the 2020-21 financial year have been included, bringing the total period to seven years.

One of the challenges of this RIS is that in identifying the preferred option, it considers only regulatory impact (that is, the impact of the Amendment Regulations), and not the legislative impact of the Amendment Act, although both work together to give effect to the regulatory scheme for boarding schools. For example, where the regulations prescribe more detailed record-keeping than what is required in the Amendment Act, additional estimated labour costs are categorised as a regulatory impact.

To differentiate the impacts of the Amendment Act and Amendment Regulations, it was estimated that two-thirds of the combined impact is accounted for by the impact of the Amendment Act, and one-third by the impact of the Amendment Regulations. This ratio was estimated on the basis that the Amendment Act comprises a higher proportion of overall requirements (such as requiring the registration of school boarding premises) than the Amendment Regulations which provide details that support the effective implementation of the Amendment Act. The ratio applies to consideration of both costs and benefits of the child safety in boarding schools regulatory scheme.

The Amendment Act also requires that the VRQA must be satisfied with regard to policies and procedures, including policies and procedures related to acceptance policies, welfare of students,

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<sup>57</sup> Department of Treasury and Finance, *Economic Evaluation for Business Cases Technical Guidelines*, Melbourne: Department of Treasury and Finance, 2013, pg. 11, Accessed November 13, 2020 [www.dtf.vic.gov.au/investment-lifecycle-and-high-value-high-risk-guidelines/stage-1-business-case](http://www.dtf.vic.gov.au/investment-lifecycle-and-high-value-high-risk-guidelines/stage-1-business-case)

governance, probity of provider, anaphylaxis and managing the risk of child abuse. As such, the Amendment Act is expected to impact the sector and government more significantly than the Amendment Regulations.

## 5.2. Criteria

As discussed in Section 2, a compliance and enforcement gap exists in relation to school boarding premises. The following criteria have been used to assess the options outlined in this RIS:

- 1) **Child safety** – assesses how well the option supports the policy intention of increased safety for students in boarding school premises through increased provider compliance.
- 2) **Broader quality of the sector** – assess how well the option supports the policy intention to increase the broader quality of the sector, including the holistic wellbeing of boarders and staff and effective governance, noting that the Victorian Government has wider policy objectives captured in the Education State ambition to develop 'healthy, happy and resilient kids'.<sup>58</sup>
- 3) **Costs to the sector** – assesses the upfront and ongoing costs to boarding school providers and to CECV, as the anticipated VRQA-approved review body for Catholic school boarding premises.
- 4) **Costs to government** – assesses the upfront and ongoing costs to the VRQA, as the main regulator of schools and school boarding premises, and the DET, as the anticipated VRQA-approved review body for government school boarding premises.

## 5.3. Weightings and scale

It is standard practice for an MCA to weight the benefits and costs of options at 50 per cent each. The benefits-related criteria are weighted as follows:

- Child safety – 35 per cent. This reflects the importance of child safety as the main impetus for legislative and regulatory change.
- Broader quality of the sector – 15 per cent. Government oversight of boarding premises for overall quality of the sector, not just child safety, is needed to realise the Education State ambitions.

The costs-related criteria are weighted as follows:

- Costs to sector – 25 per cent.
- Costs to government – 25 per cent.

The costs to sector and costs to government are weighted equally, as it is equally important to consider the impact on the regulated and the regulator. Insufficient consideration of costs to either can lead to risk of infeasibility and failure in implementing change and achieving the policy intentions.

The criterion rating scale ranges from -10 to +10. A score of zero represents no change from the base case. Benefits are scored between 0-10, costs are scored from -10 to 0. Using this scale allows for greater understanding of the options. Table 5.1 outlines what scores generally represent.

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<sup>58</sup> Victoria State Government, "About the Education State", *Victoria State Government*, April 16, 2019, Accessed November 16, 2020 [education.vic.gov.au/about/educationstate/Pages/vision.aspx](http://education.vic.gov.au/about/educationstate/Pages/vision.aspx)

**Table 5.1. MCA scoring matrix**

Score	Description
-10	Much worse than the base case
-5	Somewhat worse than the base case
0	No change from the base case
+5	Somewhat better than the base case
+10	Much better than the base case

#### 5.4. Assessing the options

Scores for the different options and criteria were determined through a combination of qualitative and quantitative methods. Scores were developed in consultation with key stakeholders.

For the benefit-related criteria, scores were determined through a qualitative assessment of how well each option realises the benefits of the criteria, as these benefits are difficult to quantify in monetary terms. Scoring for the benefits, as for the cost, captures the impact of the regulations (not the combined impact of the legislative and regulatory impact).

Table 5.2 provides an overview of how the elements under each option relate to the two benefits-related criteria – before each of these criteria (child safety and broader quality of the sector) are discussed in further detail.

**Table 5.2. Areas covered under each option**

Criteria	Option 1	Option 2	Option 3
<b>Child safety</b>	Compliance with <i>Working with Children Act 2005</i> Register of students Record of location of students	As for Option 1, but with more detailed requirements regarding: <ul style="list-style-type: none"> <li>record of location of students</li> <li>care, safety and welfare of students</li> <li>information on performance of school boarding premises</li> </ul>	Child protection of boarders Safety of boarders Health and wellbeing of boarders Care and supervision of boarders Providing for boarders with particular needs Competence and professional learning of staff
<b>Broader quality of sector</b>	Acceptance policy Buildings, facilities and grounds Governance Care, safety and welfare of students Philosophy of provider of school boarding services Information on performance of school boarding premises to be available	As for Option 1	Governance and management (General) Records management Financial management Boarders (General) Holistic development of boarders Staff (General) Health, safety and wellbeing of staff Management of staff Parent, family and community engagement (General) Parent and family engagement Community engagement Facilities

#### Criterion 1 – Effectiveness in increasing child safety

The child safety scores for each option is shown in Table 5.3.

**Table 5.3. Child safety scores**

Criterion	Option 1	Option 2	Option 3
Increase child safety	+6.5	+7.0	+6.5

**Option 1: Prescribe minimum standards that align with existing standards for schools wherever possible**

Option 1 supports the effective implementation of the Amendment Act in relation to child safety, by requiring compliance with minimum standards related to:

- **Compliance with Working with Children Act 2005** – the provider must provide evidence that all staff meet the requirements of the Working with Children Act 2005.
- **Register of students** – providers must have a register containing specific types of information, including information related to the health or wellbeing of the student that the provider should be aware of, as well as the name and contact details of parents and guardians. This can help providers in identifying and providing effective support to more vulnerable students; it also facilitates timely contact with parents when needed.
- **Record of location of students** – providers must maintain a record of location of every student boarding at the premises at any time of the day or night, and include in the record any reason, given or apparent, for the absence of students from the boarding premises.

In addition, requirements related to governance and philosophy of the provider – while related to the broader quality of the sector – impact child safety, too.

- **Philosophy** – providers must have a clear statement of its philosophy, and be able to demonstrate how that philosophy is enacted. Requiring a clear statement of a school’s philosophy can encourage consideration of how providers might develop healthy organisational cultures that promote the safety and wellbeing of students.
- **Governance** – requirements regarding governance include that providers must structure the governance of a registered school boarding premises to enable the effective development of the strategic direction of the school boarding premises, the effective management of the finances of the provider, and the provider to fulfil its legal obligations.

Option 1 is hence also likely the most practically feasible of the three. Providers likely already have a record-keeping system in place and record student location approximately twice a day. Providers are likely able to adapt existing systems, policies and procedures to meet the requirements. Providers should already be compliant with the *Working with Children Act 2005* and relevant privacy legislation, although this has not been explicitly monitored, and documentation evidencing compliance with this requirement has not to date been required for the purposes of registration.

**Option 2 – Prescribe minimum standards that are more detailed than existing standards for schools**

Option 2 specifies more detailed requirements of school boarding premises, to hold providers to greater accountability in achieving high standards of child safety. These requirements relate to:

- **Record of location of students.** While the Amendment Act states that providers should keep a record of student location in accordance with the regulations,<sup>59</sup> it does not prescribe

<sup>59</sup> Amendment Act, Section 4.3.8X

the frequency nor require recording of absences. The recording of student location requirements in Option 1 are generally reasonably high-level, whereas under Option 2:

- The frequency of recording will be more explicit i.e. five times a day at specific points – upon waking, before departing the premises for school or other purposes, returning to the premises, at dinner time, at bedtime.
  - The circumstances in which student location should be recorded will be more explicit such as when students attend camps/excursions that the provider arranges and when students depart the premises to attend sporting or extra-curricular activities that the provider arranges.
  - Details of any person into whose care a student is given would be specifically required, including any person whom a student travels to meet.
  - Requirements regarding how a provider approves, monitors, records and reports student absences would be more specific.
- **Care, safety and welfare of students.** Under Option 2, there will be a requirement for staff to be informed of their State and Commonwealth obligations through training at least annually.
  - **Information on performance of school boarding premises.** Under Option 2, a broader range of information concerning the performance of the boarding premises must be provided to the boarding school community including reporting on critical incidents, student absences and student wellbeing to enable the school community to monitor student safety and welfare.

Under Option 2, the administrative and compliance burden on providers would be higher for providers than for Option 1. Specific staff training and performance reporting requirements would likely require more resources and staff time.

Providers can adapt existing systems to monitor student whereabouts, and the more prescriptive requirements to record student location under Option 2 may not align with their current procedures, increasing the administrative burden to adjust their systems. There would also be an increased ongoing workload for staff to record student location more frequently (five times) and at specific times. This increase in workload is likely substantial, based on the assumption that student location is recorded approximately twice a day. Providers should already be compliant with the *Working with Children Act 2005*, and with the relevant privacy legislation.

### **Option 3 – Prescribe the Boarding Standard AS5725 as the minimum standards**

A key strength of Boarding Standard AS5725 is that it serves as a common framework of best practice across Australian boarding schools. Boarding Standard AS5725 specifies a wide range of requirements regarding child safety, that relate to:

- **Governance and management** – including, but not limited to:
  - ensuring that all boarding staff meet child protection and other screening requirements
- **Child protection of boarders** – including, but not limited to:
  - ensuring compliance with different state and territory legislation relevant to the subject of child protection
  - current working with children clearances for all personnel

- child protection training, including reporting obligations, regular training and adherence to requirements regarding relationships with boarders.
- **Safety of boarders** – including, but not limited to:
  - implementation of processes to increase boarders’ understanding and their effective response to matters that might harm their safety (for instance, bullying and harassment and serious incidents and resulting trauma).
- **Health and wellbeing of boarders** – including, but not limited to:
  - a bullying and harassment policy and procedures
  - a policy and procedure for age-appropriate use of electronic and mobile communication devices and cyber activity
  - boarding service management should promote a boarding service culture of respect and inclusion.
- **Care and supervision of boarders** – including, but not limited to:
  - a daily record of the whereabouts of boarders at least five times a day – including, but not limited to: morning, after school/mid-afternoon, early evening, bedtime, extra-curricular activities
  - ongoing and annual information sessions for all boarders.
- **Providing for boarders with specific needs** – including, but not limited to:
  - policies and procedures in relation to the induction and care of boarders from overseas, indigenous communities, isolated country areas, disabilities, and boarders with specific education needs.<sup>60</sup>
- **Competence and professional learning of staff** – including, but not limited to:
  - provision of annual professional learning relevant to the role and context.

Boarding Standard AS5725 provides a broad quality framework that requires school boarding premises to meet wide-ranging requirements. Its record-keeping requirements regarding the capturing of student details (e.g. student’s age, parent or guardian contact details), is not as comprehensive as Options 1 and 2. Prescribing Boarding Standard AS5725 as the minimum standards may place very detailed obligations upon providers that increase student safety; however, it is likely to place a more significant compliance and cost burden on the sector and government, compared with Options 1 and 2 – as reflected in the below discussions of Criterion 3 and 4.

## Criterion 2 – Effectiveness in increasing broader quality of sector

The effectiveness of an option in increasing the broader quality of a sector might be gauged through assessing the breadth of areas covered in each option, that are deemed important to the overall quality of the boarding school sector. An overview of the differences in coverage of areas (beyond child safety) between the options is shown in Table 5.5.

The broader quality scores for each option are shown in Table 5.4 below.

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<sup>60</sup> Boarding Standard AS5725 was created with attention to risk issues related to international students in mind (for example, language challenges can make it hard to speak up against abuse).

**Table 5.4. Broader quality scores**

Criterion	Option 1	Option 2	Option 3
Increase broader quality of sector	+6	+6	+7

**Option 1: Prescribe minimum standards that closely align with existing standards for schools wherever possible (preferred option) and Option 2: Prescribe minimum standards that are more detailed than existing standards for schools.**

Options 1 and 2 are given the same score, because they cover the same areas.

**Option 3: Prescribe Boarding Standard AS5725 as the prescribed minimum standards**

As a quality framework for the boarding school sector, Option 3 covers a broader range of requirements that extend beyond child safety (for example, requirements related to the holistic development of boarders, the health, safety and wellbeing of staff, and the development and management of the facilities).

It is assumed that a broader coverage of regulated requirements likely translates to a greater focus on quality of the school boarding sector. While many providers may have appropriate policies, procedures and practices to maintain a high quality boarding premises, it is possible that some providers could improve service quality. As such, regulating more requirements across a broader range of areas reduces flexibility in how providers interpret or implement the requirements, and holds the sector to a higher level of accountability in meeting service quality standards. For this reason, Option 3 receives a higher score for effectiveness in increasing the broader quality of sector than the other options

However, for some elements such as maintaining a register of students and essential student information, and reporting of performance to the school community, there is less prescription compared with Options 1 and 2.

While options 2 and 3 rate highly in terms of child safety and the broader quality of the sector,, they are not as closely aligned with the current existing requirements and minimum standards for school registration. This makes it harder for the sector to comply, and may mean that some providers, with greater resources, experience a proportionately greater increase in child safety and sector quality than less well-resourced providers.

**Table 5.5. Comparing the breadth of areas covered between options<sup>61</sup>**

Area	Options 1 and 2	Option 3
<b>Acceptance policy</b>	<p><b>Acceptance policy</b></p> <p>Providers must have a clearly defined acceptance policy that complies with all applicable State and Commonwealth laws. Furthermore, the provider of school boarding services at a registered school boarding premises established by a particular religious denomination or by a group of religious denominations may have an acceptance policy that gives preference to adherents of that religious denomination or denominations, or their children.</p>	<p><b>Written agreement for the enrolment of boarders</b></p> <p>Providers must ensure a written agreement is in place for the enrolment of each boarder.</p>
<b>Buildings and facilities</b>	<p><b>Buildings, facilities and grounds</b></p> <p>A registered school boarding premises' buildings, facilities and grounds must comply with any laws that apply to the registered school boarding premises including local laws and building, planning and occupational health and safety laws.</p>	<p><b>Facilities</b></p> <p>Providers must have processes in place for day-to-day management, including for cleaning, maintenance and facility improvement.</p> <p>Providers must also have in place:</p> <ul style="list-style-type: none"> <li>• written evidence of regulatory compliance</li> <li>• provision of appropriate security and privacy for boarders and staff</li> <li>• access to an emergency communication system.</li> </ul>
<b>Governance</b>	<p><b>Governance</b></p> <p>Providers must structure the governance to enable effective development of strategic direction, effective financial management, and fulfilling of legal obligations.</p> <p>In a provider of school boarding services at a non-government school boarding premises, every responsible person must be a 'fit and proper' person (including having not been found guilty of indictable offence, or an externally administered body corporate).</p>	<p><b>Governance and management</b></p> <p>Governance processes are used to govern the strategic plan and operation of boarding service, including:</p> <ul style="list-style-type: none"> <li>• financial management and financial auditing</li> <li>• risk management processes with periodic review</li> <li>• monitoring of service performance and processes for implementing continuous improvements</li> <li>• review of policies and procedures at least every two years</li> <li>• policies for records management</li> </ul>
<b>Philosophy of provider</b>	<p><b>Philosophy of provider of school boarding services</b></p> <p>Providers must publish a clear statement of its philosophy and be able to demonstrate how that philosophy is enacted.</p>	<p><b>Boarding service objectives</b></p> <p>Providers must identify and implement the boarding service objectives, organisational structure, policies, processes, and resources needed to deliver a quality, appropriate and accountable boarding service.</p>

<sup>61</sup> While Table 5.4 attempts to capture the key differences between options, the requirements listed here are not exhaustive. For a full list of requirements, see the Amendment Regulations (for Options 1 and 2) and the Boarding Standard for Australian schools and residences published by Standards Australia. [www.boarding.org.au/about-us/national-standards](http://www.boarding.org.au/about-us/national-standards).

Area	Options 1 and 2	Option 3
<b>Engagement with families and school community</b>	<p><b>Information on performance of school boarding premises to be available</b></p> <p>Providers must report to school community regarding the performance of the school – in relation to financial activities and copies of reports that provider is required to prepare under funding agreements with the State and Commonwealth.</p>	<p><b>Parent, family and community engagement</b></p> <p>Providers must have processes to engage with families and communities, including:</p> <ul style="list-style-type: none"> <li>• training of staff in parent and family engagement</li> <li>• processes for parent communication and timely responses</li> <li>• regular assessment of parent satisfaction.</li> </ul>
<b>Holistic development of boarders</b>	Not covered	<p><b>Holistic development of boarders</b></p> <p>Providers must have policies and procedures in relation to:</p> <ul style="list-style-type: none"> <li>• academic development</li> <li>• social development</li> <li>• emotional development</li> <li>• physical development.</li> </ul> <p>Other requirements related to boarder holistic development include a program promoting social responsibility, and a leadership development program.</p>
<b>Staff</b>	Not covered (beyond requirements covered under <i>Criteria 1 – Effectiveness in increasing child safety</i> )	<p><b>Staff</b></p> <p>Providers must ensure health, safety, wellbeing, competence, professional learning and management of staff</p> <p>Policies and procedures relating to management of staff and recruitment policies should be in place.</p>

### Criterion 3 – Costs to sector

The costs to the sector are estimated to account for one-third of the combined impact of the new regulatory scheme (that is, the combined impact of legislation and regulations). The discussion of the relative costs of the different options in this section relate to the costs of the regulations only.

The cost to the boarding school sector is expected to be greater for options containing more detailed requirements and for options covering a broader range of areas. These costs were developed in consultation with key stakeholders, although stakeholders noted the variability of the potential impact across the sector, depending on whether providers had policies, procedures and systems in place that aligned with schools, or with Boarding Standard AS5725.

The costs until the ETR Regulations sunset in June 2027 are shown in Table 5.6, and the cost scores are shown in Table 5.7. There are no cost impacts estimated for the 2020-21 financial year.

Further detail on the assumptions and approach to costing is provided in Section 6 - Preferred Option, as well as in Appendix 1.

**Table 5.6. Cost totals of Amendment Regulations to the sector**

	Option 1	Option 2	Option 3
Cost (providers)	\$520,995	\$599,144	\$651,243
Cost (CECV)	\$ 33,907	\$35,602	\$37,298
<b>Total cost</b>	<b>\$554,902</b>	<b>\$634,746</b>	<b>\$688,542</b>

**Table 5.7. Cost scores**

Criterion	Option 1	Option 2	Option 3
Cost (sector)	-3.00	-3.43	-3.72

### **Option 1: Prescribe minimum standards that closely align with existing standards for schools wherever possible**

Close alignment with existing regulatory requirements for school registration wherever possible will provide a consistent and uniform approach for providers of boarding premises, as well as for CECV, the anticipated VRQA-approved review body for Catholic school boarding premises. Further, schools with boarding facilities will be reviewed at the same time as their associated boarding premises. The close alignment of the prescribed minimum standards and processes for reviewing compliance with the prescribed minimum standards will reduce the compliance burden on the sector and streamlines the review process.

The main cost to the providers is labour costs to cover the time of staff to ensure policies, procedures and systems comply with the prescribed minimum standards and other registration requirements, and to demonstrate compliance to the VRQA or approved school review body. However, it is expected that providers can meet the requirements of the Amendment Regulations by drawing on their existing resources and it will not be necessary to hire new staff. A score of -3 was selected to represent the increased resourcing required in comparison to the base case; other cost scores are derived relative to this score.

## **Option 2: Prescribe minimum standards that are more detailed than existing standards for schools**

Option 2 requires more staff time and thus higher labour costs, to meet the more detailed requirements under this option. It is assumed that labour costs will increase by 15 per cent for providers, and 5 per cent for CECV, under Option 2, compared to Option 1.

## **Option 3: Prescribe the Boarding Standard AS5725 as the prescribed minimum standards**

As the most prescriptive of the three options, it is assumed that there will be significant increases in staff time and labour costs. It is estimated that labour costs will increase by 25 per cent for providers, and 10 per cent for CECV, under Option 3, compared to Option 1.

Under this option, providers will demonstrate compliance with Boarding Standard AS5725. Prescribing this option may reduce the time required for providers to meet two sets of requirements for the school boarding premises that have opted to voluntarily comply with Boarding Standard AS5725.

However, Boarding Standard AS5725 covers a broad range of areas and to comply and demonstrate compliance with these standards will pose a significant administrative burden on the sector. Further, while most Victorian providers are ABSA members, this does not mean they have necessarily opted to comply with Boarding Standard AS5725 (the former is not a condition of the latter).

It is estimated that prescribing all requirements under Boarding Standard AS5725 will double the labour costs, compared to the preferred option. This creates risks regarding the deliverability of the regulatory scheme, given the existing regulatory environment for school boarding premises in Victoria.

### **Criterion 4 – Costs to government**

As for the costs to the sector, costs to government are estimated to account for one-third of the combined impact of the new regulatory scheme (that is, the combined impact of legislation and regulations).

The costs to government over seven years are shown in Table 5.8, and cost scores in Table 5.9.

**Table 5.8. Cost totals of Amendment Regulations to government**

	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
Cost (VRQA)	\$1,006,227	\$1,157,161	\$1,408,718
Cost (DET)	\$2,261	\$2,374	\$2,713
<b>Total cost</b>	<b>\$1,008,488</b>	<b>\$1,159,535</b>	<b>\$1,411,431</b>

**Table 5.9. Cost scores**

<b>Criterion</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
Cost score (government)	-5.45	-6.27	-7.63

**Option 1: Prescribe minimum standards that closely align with existing standards for schools wherever possible**

The VRQA, DET and their external contractors are familiar with existing requirements for schools and can draw on existing tools and organisational procedures in reviewing school boarding premises.

**Option 2: Prescribe minimum standards that are more detailed than existing standards for schools**

Estimated costs for Option 2 are higher than for Option 1 due to the costs associated with implementing and complying with more detailed requirements. The DET estimates an increase in costs by 15 per cent for VRQA and five per cent for the DET.

**Option 3 – Prescribe Boarding Standard AS5725 as the prescribed minimum standards**

VRQA, VRQA’s external contractors, and DET’s external contractors will need to familiarise themselves with these prescribed minimum standards. External contractors and VRQA staff will need more training compared to Options 1 and 2. The VRQA will likely have to adapt its procedures and systems significantly, including its IT system.

It is estimated that labour costs will increase by 40 per cent for the VRQA, and 20 per cent for DET, under Option 3, compared to Option 1.

**5.5. Summary of outcome of MCA**

The outcome of the MCA, based on the qualitative and quantitative assessments in this section, are shown in Table 5.10 below.

Overall, based on analysis in this chapter, the preferred option for the Amendment Regulations is **Option 1 – Prescribe minimum standards that closely align with existing standards for schools.**

**Table 5.10. Outcome of MCA**

Criterion	Weighting	Option 1		Option 2		Option 3	
		Assigned score	Weighted score	Assigned score	Weighted score	Assigned score	Weighted score
Child safety	35%	6.50	2.28	7.00	2.45	6.50	2.28
Broader quality of sector	15%	6.00	0.90	6.00	0.90	7.00	1.05
Costs to sector	25%	-3.00	-0.75	-3.43	-0.86	-3.72	-0.93
Costs to government	25%	-5.45	-1.36	-6.27	-1.57	-7.63	-1.91
<b>Total</b>	<b>100%</b>	-	<b>1.06</b>	-	<b>0.93</b>	-	<b>0.49</b>

## 6. Preferred option

### 6.1. Summary of preferred option

The key groups that are impacted by the child safety in boarding schools regulatory scheme include:

- the providers of boarding services at boarding premises
- the VRQA
- the anticipated VRQA-approved school review bodies - CECV and DET.

#### What will providers be required to do?

Under the preferred option, the requirements and review processes, where appropriate and practicable, align with the existing requirements and review processes that schools already comply with for the purposes of school registration. This alignment seeks to strengthen the regulatory environment of the boarding school sector, while minimising additional regulatory burden on schools with boarding premises. The VRQA will seek to align reviews of schools and associated boarding premises, to minimise regulatory burden.

The Amendment Act prescribes transitional arrangements for existing boarding facilities. A school boarding premises that exists before the commencement of the Amendment Act is taken to be a registered school boarding premises. The provider must provide to the VRQA, within three months after commencement, a self-assessment as to the compliance of the boarding services and premises with each prescribed minimum standard for registration, and a statutory declaration made by the provider which confirms the veracity of the information in the assessment.

Providers must comply with and be able to demonstrate compliance with the following prescribed minimum standards for registration:

- 1) Compliance with *Working with Children Act 2005*
- 2) Acceptance policy
- 3) Register of students
- 4) Record of location of students
- 5) Care, safety and welfare of students
- 6) Building, facilities and grounds
- 7) Governance
- 8) Philosophy of provider
- 9) Information on performance of school boarding premises to be available
- 10) Provider of school boarding services must comply with Act and Regulations
- 11) Provider of school boarding services must comply with conditions of registration.
- 12) Providers of school boarding services must have policies, procedures and suitable arrangements in place.
- 13) School boarding services must be provided in accordance with scope of registration.

Providers must also comply with and be able to demonstrate compliance with other requirements for registration, that are not examined in detail in this RIS. This includes:

- School boarding premises must be **not-for-profit**. The Amendment Regulations amend the existing not-for-profit standard for schools to permit the proprietor of a registered school to use school money (other than government funding) and property to conduct a school boarding premises if the school boarding services at the premises are not provided for the purposes of profit or gain.
- Government school boarding premises are required to develop a **student engagement policy** for the students boarding at the premises. A member of staff of a government school boarding premises must not administer **corporal punishment** to any student boarding at the premises. They may, however, take any reasonable action that is immediately required to restrain a student boarding at the premises from acts or behaviour that are dangerous to the member of staff, the student or any other person.

Procedures for registration are also not considered in detail in this RIS. Providers must follow the procedures regarding the timing and particulars of applications for registration of a school boarding premises, and of applications to amend registration of a school boarding premises – as will be described in the Amendment Regulations.

The full list of particulars, information and documents required in applications for registration of a school boarding premises, is provided in the Amendment Regulations.

#### What will the VRQA be required to do?

Under the preferred option, the VRQA must regulate boarding premises to monitor and enforce compliance with minimum standards and requirements that align closely with that of schools. The Amendment Act makes provisions for the VRQA to register school boarding premises and to conduct both general reviews and specific reviews (of one or more of the prescribed minimum standards) of school boarding premises. The Amendment Act requires the VRQA to maintain a State Register with details of providers and provides the VRQA may issue guidelines relating to the minimum standards, conditions of registration, financial viability of non-government schools.

The VRQA might also request that the school review bodies conduct a specific review of a particular school's compliance with one or more of the prescribed minimum standards, should the VRQA deem it necessary. The VRQA can also conduct a review itself. The VRQA can take action to manage non-compliance of providers, such as requiring the provider to report to parents of students that the premise does not comply with prescribed minimum standards.

#### What will VRQA-approved school review bodies be required to do?

It is anticipated that the VRQA will approve school review bodies, CECV and DET, to conduct general reviews of Catholic and government boarding school premises respectively, once every four to five years, and report on compliance with the prescribed minimum standards for registration and other requirements to the VRQA. CECV and DET are required to report annually to the VRQA regarding the compliance of boarding schools for any school boarding premises they review in that year. It should be noted that, given the small number of boarding premises anticipated to be reviewed by CECV and DET, no reviews may be conducted by CECV and DET on some years, and as such, a report will not be required that year.

Under the preferred option, CECV and DET will review school boarding premises for compliance with prescribed minimum standards and requirements that align closely with that of schools, reducing administrative compliance.

## 6.2. Assessing the costs of the preferred option

This section outlines the overall approach and key assumptions in the costing of the preferred option. Further detail on the method of cost analysis and assumptions, are provided in Appendix 1.

The Amendment Regulations are expected to result in a range of costs:

- Costs to sector – upfront and ongoing.
- Costs to government – upfront and ongoing.

The costings were estimated by first mapping out the main tasks that providers were required to complete, as well as an estimate of costs needed to complete these tasks. Estimations were done with the assumption that schools with boarding premises already have policies, procedures and systems in place required for *school* registration, and that schools could adapt and extend relevant documentation to cover their associated boarding premises. Furthermore, school boarding premises likely already have some policies, procedures and systems in place that can be used to demonstrate compliance with the regulatory requirements. After estimating the tasks and related costs, costs were scaled up according to the size of the relevant workforce.

Likewise, the VRQA and VRQA-approved school review bodies already have policies, procedures and systems in place to review schools' compliance with minimum standards and requirements; these can be adapted and extended to cover the review of school boarding premises.

As the number of providers may change from year to year, it is assumed for the purposes of calculation that there will be 30 school boarding premises in Victoria between 2020-2027.

The cost of implementing the preferred option from provider to provider will differ, depending on whether providers already have processes and systems in place. As such, this RIS provides only an indicative estimate of the potential impacts of requiring providers to comply and demonstrate compliance with the prescribed minimum standards and other requirements for registration.

Australian Bureau of Statistics (ABS) data on wage rates from 2018 was used to assess costs to providers. The assumed labour costs were calculated using the ABS average wage rates for comparable professions, adjusted for on-costs and overheads at a rate of 75 per cent.<sup>62</sup> However, actual labour costs are likely lower than estimated given that most schools are likely able to meet the new regulatory requirements within their existing capacities, without hiring additional staff, which will reduce overheads.

In May 2018, the ABS reported that managers had average hourly earnings of \$60 per hour. Professionals had average hourly earnings of \$54 per hour. The estimated labour costs are summarised in Table 6.1 below, with wages adjusted for a two per cent wage growth since 2018.

**Table 6.1. Assumed labour costs**

	Wage rate (ABS) (\$/hour)	Including on-costs and overheads (\$/hour)
<b>Manager</b>	60.00	109.20
<b>Professional</b>	54.00	96.39
<b>Skilled worker</b>	48.60	86.75

Source: [www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release](http://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release)

<sup>62</sup> Department of Treasury and Finance, *Victorian Regulatory Change Measurement Manual*, Melbourne: Department of Treasury and Finance, 2018, Accessed November 13, 2020 [www.dtf.vic.gov.au/reducing-regulatory-burden/regulatory-change-measurement-manual](http://www.dtf.vic.gov.au/reducing-regulatory-burden/regulatory-change-measurement-manual)

Furthermore, based on ABS hours-of-work data, this RIS assumes that managers work on average 37 hours per week.<sup>63</sup> Victorian Public Service salary bands were used to assess workforce costs to government.<sup>64</sup>

Finally, estimates over seven-year periods are in NPV terms.<sup>65</sup> Figures are adjusted for inflation (assumed inflation rate of 2.5 per cent) and discounted (assumed discount rate of 4 per cent) as per the Department of Treasury and Finance's Technical Guidelines for conducting economic evaluations.<sup>66</sup>

### 6.3. Costs of the base case

This RIS assumes that two-thirds of the total costs and benefits of implementing the new regulatory scheme will arise from implementing legislative requirements, and the remaining one-third, from implementing requirements in the Amendment Regulations that provide additional detail in supporting the implementation of the Amendment Act. This section outlines the costs of the base case (the legislative impact) as a reference-point for subsequent discussion of the costs of the preferred option.

#### Sector

The costs to providers are captured in terms of workforce costs. There will be upfront and ongoing costs incurred, with slightly more costs incurred within the first year after commencement (2021-22). There are two types of workforce costs: upfront and ongoing.

The main cost of the new regulatory scheme is from complying and providing evidence of compliance with the minimum standards and other requirements. A compliance manager, Principal, Deputy Principal and various staff (possibly including a boarding house manager or supervisor) are usually responsible for updating policies, procedures and systems to enable the school to comply with registration requirements. They also usually provide documentation to the VRQA or VRQA-approved school review body as evidence of compliance.

The VRQA will provide training for relevant staff; however, there are nevertheless resourcing implications for the boarding school sector, as staff time spent on participating in training is not covered by government funding.

Thus, overall, upfront costs to registered school boarding premises incurred in the first year after commencement include costs to:

- update policies, procedures and systems
- provide a self-assessment as to the compliance of the boarding services and premises with each of the prescribed minimum standards and requirements, and statutory declaration, within three months of commencement of the Amendment Act

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<sup>63</sup> Australian Bureau of Statistics (ABS), "Employee Earnings and Hours, Australia", ABS, January 22, 2019, Accessed November 16, 2020 [www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release](http://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release)

<sup>64</sup> Fairwork Work Commission, *Decision - Victorian Public Service Enterprise Agreement 2020*, VPS Salaries and Classification and Value Range Descriptions, Schedule 6, 2020, Accessed November 13, 2020 [AE509129\(fwc.gov.au\)](http://AE509129(fwc.gov.au))

<sup>65</sup> NPV is a measure of costs of future investments in today's money. \$110 due in 12 months can have a net present value of \$100, for example.

<sup>66</sup> Department of Treasury and Finance, *Economic Evaluation for Business Cases Technical Guidelines*, Melbourne: Department of Treasury and Finance, 2013, pg. 11, Accessed November 13, 2020 [www.dtf.vic.gov.au/investment-lifecycle-and-high-value-high-risk-guidelines/stage-1-business-case](http://www.dtf.vic.gov.au/investment-lifecycle-and-high-value-high-risk-guidelines/stage-1-business-case)

- attend training – which may include in-house training and awareness-raising to help embed staff within their operating context.

These upfront costs are estimated to take up to ten per cent of staff time in the first year after commencement (assuming this is the average amount of time required by providers, given systems, policies and procedures that already exist for schools that boarding premises are associated to). The legislative impact likely accounts for around two-thirds of this, or 6.67 per cent of staff time.

Ongoing costs, after the first year, include costs to:

- maintain policies, procedures and systems
- develop new policies, procedures and forms
- prepare documents to demonstrate compliance at general or specific reviews
- train any new staff, and possibly provide refresher training and awareness-raising for existing staff

These ongoing costs are estimated to take approximately four per cent of staff time after the first year. The legislative impact likely accounts for around two-thirds of this, or 2.67 per cent of staff time, assuming that after the first year, providers will be able to rely on improved and established policies, procedures and systems that relate to school boarding premises.

It is assumed that the average salary across the key staff involved (Principal, Deputy Principal, compliance manager or any additional staff) is manager level according to the ABS wage rates framework (\$109.20/hour, including overheads and on-costs), and that the average number of hours worked is 37 hours a week. Based on these assumptions, the cost of the base case to providers is represented in Table 6.2 below.

The cost to CECV as the anticipated VRQA-approved review body for Catholic school boarding premises is also represented in Table 6.2. It is estimated that the cost of one review of a boarding premises (conducted by external contractors) is a maximum of \$12,000. Again, the legislative impact is estimated to account for two-thirds of this cost impact (\$8,000). Given that there are five Catholic school boarding premises in Victoria that it is anticipated the CECV will review, the estimated main cost to CECV is \$40,000 in the first three years because reviews of schools with boarding premises will occur within three years of commencement of the Amendment Act. An additional cost of \$40,000 is estimated in the following four years to account for up to two review cycles due to occur between June 2021 and June 2027).

Additional costs to the CECV not accounted for in these calculations, include training of external contractors (with the VRQA providing training but not participation costs) and any costs of specific reviews. There may also be small costs to CECV staff in managing aspects of the review process that has not been included.

**Table 6.2. Costs of base case to sector**

Costs	Upfront cost	Ongoing cost/year	Total cost until June 2027(NPV)
Cost to one provider	\$14,077	\$5,610	\$34,732
Cost to 30 providers	\$422,310	\$168,300	\$1,041,990
Cost to CECV*		\$ 40,000 (every 4-5 years)	\$67,814
<b>Cost to sector</b>			<b>\$1,109,804</b>

\*Based on CECV conducting reviews for five boarding school premises.

Overall, the total estimated cost (NPV) of implementing the Amendment Act alone is **\$1.11m** for the sector between June 2021 and June 2027, as there are no estimated cost impacts for the 2020-21 financial year.

### Government

While the regulator (VRQA) is an independent statutory authority, the Victorian Government provides the VRQA's budget and supports its administration.

Upfront and ongoing costs for the VRQA to implement the requirements of the Amendment Act, include costs to:

- engage VRQA staff
- engage external contractors to conduct school reviews
- develop guidelines, and other materials and communications
- upgrade and maintain the IT system to accommodate expanded regulatory responsibility.

A more detailed estimate of the funding required by the VRQA to complete the above activities, is provided in Appendix 2.

To meet staffing needs, VRQA requires funding for staff to do a range of tasks including reviewing and assessing boarding facilities, conducting workshops and providing advisory services to stakeholders. VRQA staff will also build the capacity of reviewers (typically external contractors) to meet VRQA's expanded regulatory remit and responsibilities. External contractors will undertake an average of eight reviews of independent school boarding facilities per calendar year, or 32 reviews in total every four to five years, of the compliance of boarding premises with the prescribed minimum standards for registration.

It is estimated that VRQA will run at least five information sessions (depending on the level of interest) for providers – three for existing providers on the changes to the regulation of boarding school premises, and two further sessions for schools considering applying to become a provider of boarding services at boarding premises. While current estimates are provided based on venue hire, travel and accommodation, these costs might reduce if sessions are conducted online due to possible COVID-19 restrictions.

The VRQA's IT system will require an upgrade to enable the VRQA to meet the new regulatory requirements. This includes the development of a new section of the internal and external facing State Register and Customer Relationship Management system for school boarding premises. It also involves integration with the existing State Register for registered schools. This upgrade allows effective, consistent, data-based regulation of providers and school boarding premises.<sup>67</sup>

As the Amendment Act is estimated to account for two-thirds of the total cost impact, the costs of implementing the legislative requirements of the Amendment Act are shown in Table 6.3 below.

The DET will also incur costs as the anticipated VRQA-approved review body for government school boarding premises as there is currently one government school boarding premises. As the cost of a review (conducted by external contractors) of a boarding premises is estimated to be approximately \$4,000, and the legislative impact accounts for two-thirds of the cost impact (\$2,667),

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<sup>67</sup> Costings are based on previous costings to enhance the VRQA's existing IT system, slightly increased to account for the greater complexity required of the task. It includes engagement of an IMTD project manager for 12 months (\$230,000), development of an upgraded system by supplier (\$150,000) and other miscellaneous costs (\$20,000).

the main cost to DET is \$2,667 in the first three years because reviews of schools with boarding premises will occur within three years of commencement of the Amendment Act. An additional cost of \$2,667 is estimated in the next four years to account for up to two review cycles occurring between June 2021 and June 2027. As with CECV, additional costs to the DET that are not accounted for in these calculations, include training of external contractors (with the VRQA providing training but not participation costs) and any costs of specific reviews. Small costs to DET staff in managing aspects of the review process have also not been included.

**Table 6.3. Costs of base case to government**

	Upfront cost	Ongoing cost/year	Total until June 2027 (NPV)
<b>Cost to VRQA</b>	\$701,488*	\$301,488**	\$2.012m
<b>Cost to DET</b>		\$2,667 (every four years)	\$4,567
<b>Cost to government</b>			<b>\$2.017m</b>

\*Including 6 months of salaries for preparation. \*\*For the first 3 years and then reduced due to a reduction in reviews to sunset.

Overall, the total cost (NPV) of implementing the legislative requirements of the Amendment Act to the government over six years is estimated to be **\$2.017m**.

The total cost of the base case is estimated to be **\$3.217m**.

#### 6.4. Costs of Amendment Regulations to the sector

Under Option 1 (the preferred option), the boarding school sector incurs costs due to the additional prescribed minimum standards and other requirements prescribed by the Amendment Regulations.

Table 6.4 provides an overview of the key requirements listed under the Amendment Act and Amendment Regulations.

**Table 6.4. Key requirements in the Amendment Act and Amendment Regulations**

Amendment Act	Amendment Regulations <sup>68</sup>
Acceptance policies	Acceptance policy
Welfare of students	Care, safety and welfare of students
Governance	Governance
Probity of provider	-
Processes for review and evaluation of premises	-
Record of location of students	Record of location of students
Anaphylaxis management policy	-
Policies, procedures, measures and practices for managing the risk of child abuse	-
-	Policies, procedures and suitable arrangements to comply with minimum standards
-	Buildings, facilities and grounds
-	Register of students

Amendment Act	Amendment Regulations <sup>68</sup>
-	Philosophy of provider
-	Compliance with <i>Working with Children Act 2005</i>
-	Availability of information on performance of school boarding premises
-	Provider must comply with Act and Regulations
-	Boarding services provided in accordance with scope of registration

### Upfront costs

Providers are expected to be able to implement the new regulatory scheme within their current capacity and resources. As Option 1 requires alignment with existing registration requirements for schools, the regulatory costs are expected to be relatively low.

The DET assumes that compliance activities associated with the Amendment Regulations require ten per cent of staff time in the first year following commencement. If the regulatory impact accounts for one-third of this time, the regulatory impact accounts for approximately 3.3 per cent of staff time. 3.3 per cent of staff time, based on the assumptions outlined in the Section 6.3, *Costs of the base case*, is \$6,933.

Regarding costs to the CECV, given the cost of one review is \$12,000 and regulatory impact accounts for one-third of this cost, the cost to review one boarding premise is \$4,000. Given there are five boarding premises that are reviewed by the CECV, the total cost for CECV is \$20,000 in the first three years following commencement of the regulatory scheme.

Upfront costs to the CECV to monitor compliance with the Amendment Regulations, based on assumptions described earlier, is \$20,000 for the first three years after commencement of the Amendment Act (as, under the Amendment Act, all boarding premises must be reviewed within three years after commencement of the regulatory scheme). Reviews of schools with boarding premises will occur within three years of commencement of the Amendment Act. For existing school boarding premises, where associated schools do not have a review scheduled within three years of commencement, the school review will be brought forward to occur within this timeframe.

### Ongoing costs

This RIS assumes that compliance activities associated with the Amendment Act and Amendment Regulations require, on an ongoing basis, four per cent of an appropriate staff member's time. If the regulatory impact accounts for around one-third of this time (around 1.32 per cent), the ongoing cost is \$2,794/year.

Given reviews are conducted every four to five years, ongoing costs to CECV to monitor compliance with the Amendment Regulations, based on assumptions described earlier, is \$20,000 every four to five years.

Total costs to sector

**Table 6.5. Costs of Amendment Regulations to the sector**

	Upfront cost	Ongoing cost/year	Total cost (NPV) until June 2027
<b>Cost to one provider</b>	\$6,933	\$2,794	\$17,366
<b>Cost to 30 providers</b>	\$207,990	\$83,820	\$520,995
<b>Cost to CECV</b>		\$20,000 (for first three years then every 4-5 years)	\$33,907
<b>Total cost</b>			<b>\$ \$554,092</b>

The total cost of the Amendment Regulations to the sector is thus **\$554,902**.

**6.4. Costs of Amendment Regulations to government**

Upfront costs

The breakdown of upfront costs to implement the Amendment Regulations is shown in Table 6.6.

**Table 6.6. Upfront costs to VRQA**

Cost type	Upfront costs
VRQA staff	\$59,372
IT system, guidelines, materials and communication	\$200,000
<b>Total cost*</b>	<b>\$259,372</b>

Upfront costs to the DET to monitor compliance with the Amendment Regulations, based on assumptions described earlier, is estimated to be \$1,320 for the first three years.

Ongoing costs

It is expected that for the first five years of the new regulatory scheme, the costs will be slightly higher as the VRQA adjusts and develops processes and materials. Thereafter, the ongoing costs are estimated to be lower as shown in the cost breakdown of ongoing costs in Table 6.7.<sup>69</sup>

**Table 6.7. Ongoing costs to the VRQA**

Cost type	Ongoing cost/year
VRQA staff	\$118,744
IT system, guidelines, materials and communication	\$18,397
<b>Total cost</b>	<b>\$137,141</b>

Given general reviews are conducted every four years, ongoing costs to DET is estimated to be \$1,320 every four years. It is estimated that VRQA will incur an additional \$288,000 for 24 external reviews within the six years to sunset.

Total costs to government

The total costs to government of Option 1 are shown in Table 6.8 below. The seven-year total is shown in NPV terms.

**Table 6.8. Costs of Amendment Regulations to government**

<sup>69</sup> See Appendix 2 for a more detailed breakdown of costs to the VRQA over the seven-year period.

	Upfront cost	Ongoing cost/year	Total cost (7 years) (NPV)
Cost to VRQA	\$350,744*	\$150,744**	\$ 1,006,277
Cost to DET		\$1,320 (every four years)	\$2,261
<b>Total cost</b>			<b>\$1,008,488</b>

\* Including 6 months of salaries for preparation. \*\*For the first 3 years and then reduced due to a reduction in reviews to sunset.

## 6.5. Total cost of Amendment Regulations

The total costs of the Amendment Regulations are shown in Table 6.9 below.

**Table 6.9. Total costs – 7-year totals**

	Sector	Government
<b>Total cost (7 years) (NPV)</b>	<b>\$ 554,902</b>	<b>\$1,008,488</b>

The total cost over seven years is estimated to be **\$1.563 m.**

## 6.6. Impact on competition and small businesses

This section assesses the impacts of the preferred option on competition and small businesses (that is, providers, in the context of this RIS). Any regulatory proposal should be scrutinised carefully to assess whether it will have an adverse impact on the ability of firms or individuals to enter and participate in the market. Victoria is party to the Competition Principles Agreement, which requires that any new primary or subordinate legislation should not restrict competition unless it can be demonstrated that:

- (a) the benefits of the restriction to the community as a whole outweigh the costs;
- (b) the objectives of the legislation can only be achieved by restricting competition.<sup>70</sup>

Importantly, the competition ‘test’ does not preclude any option being preferred, but requires that any change in competition should ensure that the benefits outweigh the costs and that the desired outcomes can only be achieved by affecting competition.

Introducing a new regulatory scheme can affect competition by limiting the ability of providers to enter the market and compete. Based on categories of restriction outlined in the *Assessment against the Competition Test*, the Amendment Regulations potentially affect competition in several ways:

- increasing business costs by imposing administrative or compliance costs
- creating barriers of entry
- advantaging larger, more well-resourced providers over smaller, less well-resourced providers.<sup>71</sup>

<sup>70</sup> Council of Australian Governments (COAG), *Competition Principles Agreement*, 2007, pg. 5 Accessed November 16, 2020 [Competition Principles Agreement 11 April 1995 as amended to 13 April 2007 \(coag.gov.au\)](http://coag.gov.au)

<sup>71</sup> NSW Government, Department of Finance, Services and Innovation, *Assessment against the Competition Test*, Sydney: NSW Department of Finance, Services and Innovation, 2017, Accessed November 16 [Competition Test Guidelines 190808.doc \(nsw.gov.au\)](http://nsw.gov.au)

The compliance costs of complying with the Amendment Regulations may be particularly onerous on smaller providers, who may have limited resources to interpret compliance requirements or meet substantive compliance requirements compared to larger providers. However, a smaller provider with less students will also require less time to meet certain regulatory requirements, such as maintaining a student register and recording student location.

Having weighed the costs and benefits (Section 5), the compliance costs are deemed necessary to achieve the policy intentions of the Victorian Government. The preferred option keeps business costs relatively low while improving the quality and safety of the boarding school sector. It keeps costs low by requiring that the minimum standards and requirements for boarding premises align with existing standards and requirements for schools. It is expected that some providers are likely voluntarily meeting many of these standards already, and that documents used to evidence systems, policies and procedures can be adapted to meet compliance requirements.

## 7. Implementation

### 7.1. Approach to implementation

The following implementation approach is based on adoption of the preferred option – Option 1. The Amendment Regulations are intended to commence in June 2021.

#### Registration of existing school boarding premises

To minimise upfront regulatory burden for the boarding school sector, there will be transitional arrangements for existing school boarding premises. On commencement, which is anticipated in June 2021, existing school boarding premises will be registered with the VRQA and will remain registered if the provider provides to the VRQA within three months of commencement:

- a self-assessment as to the compliance of the boarding services and premises with each of the prescribed minimum standards for registration; and
- a statutory declaration of the veracity of the self-assessment.

If the abovementioned self-assessment process is not completed, the boarding premises will cease to be registered six months after commencement, unless the VRQA decides to conduct a review and evaluation of the operation of the premises during this period. The VRQA will then determine the registration status of the premises. The premises will remain registered pending the outcomes of the review.

#### Registration of new school boarding premises

Providers who apply for registration of new school boarding premises after commencement of the Amendment Act will be required to apply for registration. This includes providing the VRQA with documentation to demonstrate that the provider and the premises (including infrastructure, facilities and so on) complies with the prescribed minimum standards for registration.

#### Review of school boarding premises

The VRQA, or school review body (CECV or DET) will review all existing school boarding premises with three years of commencement of the Amendment Act, and subsequently every five years. Schools are currently reviewed on a five-year basis to ensure that they comply with the prescribed minimum standards for registration, and it is intended that school boarding premises will also be reviewed every five years.

Scheduled reviews of schools for compliance with the prescribed minimum standards for registration will take place concurrently with reviews of school boarding premises associated with a school to minimise the number of times a school (which also operates a school boarding premises) will be required to participate in a review.

For existing school boarding premises, where associated schools do not have a review scheduled within three years of commencement, the school review will be brought forward to occur within this timeframe.

### 7.2. Implementation support - training and guidelines

As part of the new regulatory scheme, the VRQA will issue guidelines and conduct training sessions. The VRQA will design and deliver the training sessions. In addition to increased regulatory oversight, guidance and practical support will be given to providers, as this is crucial to the regulatory scheme successfully achieving its policy intentions.

The VRQA guidelines, similar to their existing VRQA Guidelines to the Minimum Standards and Requirements for School Registration, will provide detail regarding compliance with the minimum standards and other requirements for providers when applying to register a school boarding premises or when the premises is being reviewed. In developing the guidelines for registration of school boarding premises, the VRQA will consult with the boarding schools' sector. The VRQA Board will review and approve the guidelines before they are published on the VRQA website and in the Government Gazette. The guidelines are intended to be published in June 2021. The VRQA and DET will also produce communication materials to help the boarding school sector understand the new regulatory requirements.

The VRQA will hold information sessions to support both existing providers, and if required, providers considering applying for the registration of a school boarding premises. VRQA will run training for VRQA's external contractor reviewers, as well as for external contractors contracted by VRQA-approved school review bodies (CECV and DET).

### 7.3. Managing complaints

#### Privacy complaints

Victorian government schools are subject to the *Privacy and Data Protection Act 2014* (Vic). The DET website provides information about the Schools' Privacy Policy and the Department's privacy complaint process.

Non-government schools are subject to the *Privacy Act 1988* (Cth) and follow the privacy policy and complaints handling process of their governing organisations.

Complaints about privacy and the disclosure of personal information, including health information, should be made in the first instance to the governing organisation responsible for that institution.

In the case of privacy complaints, if complainants are not satisfied, complaints about government schools can be progressed to the Office of the Victorian Information Commissioner. Complaints about non-government schools can be progressed to the Office of the Australian Information Commissioner.

Complaints in relation to the handling of health information can be progressed to the Health Complaints Commissioner, whether they relate to government or non-government schools.

#### Other complaints

Complaints can be made under section 4.6A(7) of the amended Act in relation to a person, body, school or institution registered or approved as a registered school boarding premises

Additional complaints handling requirements apply to VRQA approved and CRICOS registered school providers in respect of the international students to whom they provide accommodation. While not a new regulatory burden, the operation of the proposed minimum standards will be informed by these additional requirements.

The draft minimum standards that relate to boarder acceptance, care, safety and welfare will apply in conjunction with these other complaints and consumer protection laws.

## 8. Consultation and Review

### 8.1. Consultation

The following bodies were consulted during development of the RIS in November 2020:

- VRQA
- ABSA
- ISV
- CECV.

During the development of the Bill (which subsequently became the Amendment Act), DET sent a survey to all schools with boarding premises. In July 2019, DET invited all schools with school boarding premises to workshops for further consultation and feedback.

ABSA, CECV and ISV were consulted in July and December 2019 about the proposal for the VRQA to register and regulate school boarding premises. Stakeholders were largely supportive of the proposal to enable VRQA oversight of school boarding premises.

In developing the Bill and associated communications for schools, the DET also consulted the VRQA, the Commission for Children and Young People and ABSA.

During these consultations, stakeholders generally expressed support for a new regulatory scheme for boarding schools, noting that it would support boarding schools to comply with the Child Safe Standards. Given that the new regulatory scheme aligns with the existing requirements and review processes that schools already comply with for the purposes of school registration, it is expected that the compliance burden will not be significant for most schools. Providers did not raise financial implications of the new regulatory scheme as a concern.

The RIS aims to support interested members of the public to provide input into the development of the Amendment Regulations. DET invites public comments or submissions to consider before it finalises the Amendment Regulations for making and commencement, likely in June 2021. Information on how to lodge submissions can be found at the Engage Victoria Consultations website at: [engage.vic.gov.au/consultations](https://engage.vic.gov.au/consultations)

Submissions on this RIS are to be received via the Engage Victoria website by 5pm on Friday 29 January 2021.

### 8.2. Review

The ETR Regulations are due to sunset in June 2027, at which time the regulations for school boarding schools, along with regulations for other education institutions, will be reviewed.

The Amendment Regulations, along with a Ministerial Order for managing the risk of child abuse under the ETR Act, will help implement recommendation 13.3 of the Royal Commission. An effectiveness review will be part of the Australian Government progress review of the implementation of the Royal Commission's recommendations. This Royal Commission recommended this review and the Australian Government accepted it, and the review is to be conducted in 2027, ten years after the tabling of the Royal Commission's Final Report.

Where possible, both review processes (the ETR Regulations review and the Royal Commission review) will be drawn on to inform the other, to make the best-informed changes, going forward.

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## **Legislation**

*Charter of Human Rights and Responsibilities Act 2006 (Vic)*

*Child Wellbeing and Safety Act 2005 (Vic)*

*Education and Training Reform Act 2006 (Vic)*

*Education and Training Reform (Regulation of Student Accommodation) Act 2020 (Vic)*

*Education and Training Reform Regulations 2017 (Vic)*

*Subordinate Legislation Act 1994 (Vic)*

# Appendices

## Appendix 1: Cost analysis and assumptions

This appendix presents the methodology of cost analysis, and the assumptions underpinning estimates of cost impact of the preferred option, noting that the key assumptions have been presented in Section 6.

### Overarching assumptions and methodological notes

- a) DET estimates that two-thirds of the total cost of implementing the new regulatory scheme will arise from implementing legislative requirements, and the remaining one-third, from implementing requirements in the Amendment Regulations that provide additional detail in supporting the implementation of the Amendment Act.
- b) Total costs were calculated over seven financial years (January 2021 to June 2027) and presented in Net Present Value (NPV) terms. Figures are adjusted for inflation (assumed inflation rate of 2.5 per cent) and discounted (assumed discount rate of 4 per cent) – as per the Department of Treasury and Finance’s Technical Guidelines for conducting economic evaluations.
- c) The calculations of cost to boarding school providers represent the average estimated impact on a provider. It must be acknowledged that there is a variety of boarding schools in Victoria; the felt impact on a provider will depend on variables such as:
  - size and resources of the provider
  - the level to which the provider already has policies, systems and practices in place that comply with requirements in the Amendment Regulations.
- d) Calculations assume that most providers already have some policies, systems and practices in place that comply with requirements in the Amendment Regulations. The costs may be more for providers that have less in place.
- e) Estimate of costs were discussed in consultation with the VRQA, ISV and CECV.

### Cost analysis framework

The cost analysis framework is presented in Table A1.1.

**Table A1.1. Cost analysis framework**

Category	Cost/Task type	Assumptions
Boarding school providers – upfront	<ul style="list-style-type: none"> <li>• Update policies, procedures and systems</li> <li>• Provide a self-assessment against the minimum standards and requirements, and statutory declaration, within three months of commencement of the regulatory scheme</li> <li>• Attend training – which may include in-house training and awareness-raising to help embed staff within their operating context.</li> </ul>	<ul style="list-style-type: none"> <li>• Key staff involved: Principal, Deputy Principal, compliance manager, various other staff</li> <li>• Average labour cost across groups: \$109.20/hour (including overheads and on-costs), based on ABS wage rates framework</li> <li>• Average working hours: 37 hours/week</li> <li>• To implement regulatory scheme: ten per cent of staff time (upfront), four per cent of staff time (ongoing)</li> <li>• To implement Amendment Regulations: 3.3 per cent (upfront) and 1.3 per cent (ongoing)</li> <li>• 30 boarding premises in Victoria (as of November 2020)</li> </ul>
Boarding school providers – ongoing	<ul style="list-style-type: none"> <li>• Maintain policies, procedures and systems</li> <li>• Prepare documents to demonstrate compliance at general or specific reviews</li> <li>• Train any new staff, and possibly provide refresher training and awareness-raising for existing staff</li> </ul>	<ul style="list-style-type: none"> <li>• VPS salary bands based on Victorian Public Service salary framework</li> <li>• VRQA regulates all school boarding premises and approves review bodies to conduct reviews for Catholic and government providers.</li> <li>• VRQA provided an estimate of costs for each task (see Appendix 2).</li> </ul>
VRQA – upfront and ongoing	<ul style="list-style-type: none"> <li>• Engage VRQA staff to do a range of tasks to support consistent, effective regulation</li> <li>• Engage external contractors to conduct school reviews</li> <li>• Develop guidelines for providers, and other materials and communications</li> <li>• Upgrade the IT system to accommodate expanded regulatory responsibility</li> </ul>	<ul style="list-style-type: none"> <li>• VPS salary bands based on Victorian Public Service salary framework</li> <li>• VRQA regulates all school boarding premises and approves review bodies to conduct reviews for Catholic and government providers.</li> <li>• VRQA provided an estimate of costs for each task (see Appendix 2).</li> </ul>
CECV – upfront and ongoing	<ul style="list-style-type: none"> <li>• External contractors review school boarding premises: review documents prepared by provider, site visit, produce report on compliance of the school boarding premises</li> </ul>	<ul style="list-style-type: none"> <li>• To review all elements of regulatory scheme, cost of one review: \$12,000. Impact of Amendment Regulations: \$4,000.</li> <li>• Five school boarding premises that CECV will review (\$4,000 x 5 = \$20,000 / per review cycle)</li> </ul>

Category	Cost/Task type	Assumptions
		<ul style="list-style-type: none"> <li>• Two review cycles over seven years (\$33,907, in NPV terms)</li> <li>• Additional costs (specific reviews, CECV staff in managing review process, contractor's participation in training) not included in calculation to CECV.</li> </ul>
DET – upfront and ongoing	<ul style="list-style-type: none"> <li>• External contractors review school boarding premises: review documents prepared by provider, site visit, produce report on the compliance of school boarding premises</li> </ul>	<ul style="list-style-type: none"> <li>• To review all elements of regulatory scheme, cost of one review: \$4,000. Impact of Amendment Regulations: \$1,320</li> <li>• One school boarding premises that DET will review (\$1,320 per review cycle)</li> <li>• Two review cycles over seven years (\$2,261 in NPV terms)</li> <li>• Additional costs (specific reviews, DET staff in managing review process, contractor's participation in training) not included in calculation to DET.</li> </ul>

## Appendix 2: VRQA cost estimates

Table A1.2 maps the cost types and cost estimates are provided by the VRQA. seven years until the ETR Regulations sunset Based on these estimations, the total cost of the boarding schools regulatory scheme to the VRQA 6 (NPV) is \$3.019m, of which the regulatory impact for seven years (NPV) is estimated to be **\$1.006m**.

**Table A1.2. Estimated cost of the boarding schools regulatory scheme from preparation to sunset (NPV)**

Cost Type	2020-21*	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27*	TOTAL
Staffing	\$178,116	\$334,177	\$313,486	\$294,077	\$275,870	\$258,790	\$242,767	\$1,897,283
Contractor reviews**	0	\$90,056	\$84,481	\$79,250	0	0	0	\$253,787
IT system, guidelines, materials and communication	\$600,000	\$67,308	\$45,338	\$42,531	\$39,898	\$37,427	\$35,110	\$867,612
<b>Total</b>	<b>\$778,116</b>	<b>\$491,541</b>	<b>\$443,305</b>	<b>\$415,858</b>	<b>\$375,665</b>	<b>\$296,217</b>	<b>\$277,877</b>	<b>\$3,018,682</b>

\* Costs for six months only

\*\* Based on 24 reviews and not including those anticipated to be undertaken by CECV and DET.