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Child Safe Standards,  
Policy and Cabinet Division,  
ACT Government,  
GPO Box 158 Canberra ACT 2601

Email: [ChildAbuseRoyalCommission@act.gov.au](mailto:ChildAbuseRoyalCommission@act.gov.au)

### **Child Safe Standards - The Australian Capital Territory**

Thank you for the opportunity for the Australian Catholic University's Institute of Child Protection Studies to make a submission to this consultation process.

The Institute seeks to enhance outcomes for children, young people and families through quality research, program evaluation, training and community education, advocacy and policy development. We are recognised for our expertise in child protection and the prevention of the abuse and neglect of children. We promote children's participation, the strengthening of service systems and practice and support the development of child-safe communities.

The key messages which the Institute offers to this Review are that:

- The work of creating child safe communities and environments is challenging and requires ongoing and shared commitment. The responsibility for awareness raising, community education and capacity building should be shared by a broad range of government and non-government bodies.
- Attention should be given to the measurement of the effectiveness of the reforms in preventing child abuse and creating child safe environments.
- We support the alignment of Child Safe Standards with the National Principles for Child Safe Organisations; and an ongoing coordinated national commitment to the implementation of the recommendations of the Royal Commission into Institutional Response to Child Sexual Abuse.
- We call for a broad scope of organisations to be required to comply with the Child Safe Standards; and a flexible, graduated and proportionate approach to compliance.
- We encourage recognition of the skills and experience in working with children and young people, an understanding of child and adolescent development and an appreciation and support for the rights and views of children and young people in enforcement and compliance settings.

A more detailed explanation of our position is set in the attached paper.

The Institute of Child Protection Studies wishes its submission to be treated as a public document.

Yours sincerely



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## Introduction

The ACT Government is providing the opportunity for the community to contribute to the design of legislation to establish Child Safe Standards. These Standards will guide organisations working with children and young people to keep them safe and to prevent abuse and maltreatment.

The establishment and implementation of the Standards was a recommendation to all Governments in Australia by the Royal Commission into Institutional Responses to Child Sexual Abuse.<sup>1</sup> It would be consistent with the endorsement by the Council of Australian Governments of the National Principles for Child Safe Organisations in February 2019.<sup>2</sup>

The ACT Government has already agreed to implement the relevant recommendations<sup>3</sup> and decided to require organisations working with children and young people to comply with the Child Safe Standards (once legislated), and to give formal oversight functions to the ACT Human Rights Commission.

The community is now invited to provide feedback on the scope of the scheme; the support to be provided to assist organisations to comply with the Standards; monitoring and enforcement powers and the commencement of the scheme.

The ACT Government is learning from the initial experience of the introduction of schemes to implement Child Safe Standards in Victoria and New South Wales. The Victorian Government introduced Child Safe Standards in 2016 following the Victoria Parliament *Betrayal of Trust* inquiry.<sup>4</sup> This approach was endorsed by the Royal Commission. The initial operation of the scheme has now been reviewed.<sup>5</sup>

The NSW Government is developing legislation based on the Victorian model, with some differences based on context, and lessons from the first years of Victorian operation.<sup>6</sup> The NSW context has also included a Reportable Conduct scheme introduced in 1999 to provide oversight of the handling of child abuse and neglect allegations against employees.

## The ACT Experience

The ACT Government has several components of an effective regulatory framework for child safety already in place. These include Mandatory Reporting which commenced in 1997,<sup>7</sup> “Working with Vulnerable People” checks (from 2011),<sup>8</sup> and a Reportable Conduct scheme which began operating in 2017.<sup>9</sup> In contrast, Child Safe Standards focus on prevention; guiding organisations to create the conditions that prevent abuse from occurring in the first place.

The “Working with Vulnerable People” checks support compliance with National Principle 5 (staff recruitment). Mandatory Reporting and Reportable Conduct schemes support compliance with National Principle 6 (reporting incidents). Child Safe Standards will assist organisations to build their capacity to meet the remaining eight National Principles and, in doing so, create child safe environments.

<sup>1</sup> <https://www.childabuseroyalcommission.gov.au/making-institutions-child-safe>

<sup>2</sup> <https://childsafe.humanrights.gov.au/national-principles/about-national-principles>

<sup>3</sup> <https://www.act.gov.au/childabuseroyalcommission/formalresponse>

<sup>4</sup>

[https://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child\\_Abuse\\_Inquiry/Report/Preliminaries.pdf](https://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child_Abuse_Inquiry/Report/Preliminaries.pdf)

<sup>5</sup> <https://engage.vic.gov.au/victorian-child-safe-standards-review>

<sup>6</sup> <https://www.kidsguardian.nsw.gov.au/about-us/news/new-report-outlines-key-elements-of-a-child-safe-regulatory-model-in-nsw>

<sup>7</sup> [https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/213/-/reporting-child-abuse-and-neglect](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/213/-/reporting-child-abuse-and-neglect)

<sup>8</sup>

<https://www.accesscanberra.act.gov.au/ci/fattach/get/137806/1490742993/redirect/1/filename/Working+with+vulnerable+people+e+registration+-+Information+for+persons+wanting+to+work+or+volunte.pdf>

<sup>9</sup> <https://www.ombudsman.act.gov.au/improving-the-act/reportable-conduct>

## **The Institute's Views and Experience**

The Institute of Child Protection Studies (the Institute) seeks to enhance outcomes for children, young people and families through quality research, program evaluation, training and community education, advocacy and policy development. We are recognised for our expertise in child protection and the prevention of the abuse and neglect of children. We promote children's participation, the strengthening of service systems and practice and support the development of child-safe communities.

Child Safe Standards are intended to create a regulatory framework to support, monitor and enforce the responsibilities of organisations providing services to children and young people. The aim is that child safety and protection from abuse will become imbedded in governance, service delivery and practice in organisational cultures and environments for children.

Across the nation, Governments have begun the challenging work of strengthening monitoring and regulation of organisational behaviour and the development of sound preventative practice. This includes the work of creating the culture change necessary to imbed and support respect for children, their experiences and voices and their rights.

Our experience suggests that there are many organisations around the country that are not yet prepared for the introduction of the proposed regulatory framework. We believe that this work will require further resources in awareness raising, education and capacity building. We note that this is to be within the remit of the ACT Human Rights Commission. However, it is our view that the responsibility for awareness raising, community education and capacity building should be shared by a broader range of government and non-government bodies. For example, the ACT Together platform<sup>10</sup> would be an additional appropriate forum to share this responsibility.

A further challenge facing each jurisdiction is the measurement of the effectiveness of the reforms proposed by the Royal Commission. Ideally this would include evidence of the prevention of child abuse and of the creation of child safe environments. Building the tools and the data in order to identify and measure such evidence is a task that has only just begun. We recommend that the issue of measurement is given careful attention and includes forward planning to develop and introduce more effective measures over time including the use of indicators of the conditions of safety.

The Institute has developed tools to measure the perceptions of safety held by children and young people, and the capability of adults to implement safeguarding practices and developing effective safeguarding culture within organisations.

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<sup>10</sup> <https://www.acttogether.org.au/>

## **The Child Safe Standards**

The Institute supports the work undertaken in developing the National Principles for Child Safe Organisations. We support the focus on outcomes that has been incorporated into the National Principles as a sound and practical development. We support the incorporation (in Principle 8) of the focus on the development of child safe environments. This offers a valuable tool for supporting the development of strategies and practices that are consistent with situational crime prevention approaches. It challenges communities and organisations to think beyond the standard human resources and organisational workplace processes to reflect on how children and young people engage with the world around them.

We support the inclusion of a dedicated standard to address equity and diversity (in Principle 4) that draws attention to the particular barriers to safety that may be experienced by groups of children including Aboriginal and Torres Strait Islander children, culturally and linguistically diverse children, children with a disability, those who are unable to live at home, and lesbian, gay, bisexual, transgender and intersex children and young people.

The implementation of the National Principles across Australia will build shared responsibility. It will enable clear and consistent messaging and ease the burden of enforcement and compliance.

## **The Scope of the Type of Organisations to Comply with Child Safe Standards**

The Institute supports a broad scope of organisations that are required to comply with the Child Safe Standards. To the extent that the scope is broader than that recommended by the Royal Commission, we support the current scope of the Victorian scheme. We support the requirements that government departments should be required to comply (rather than only justice and detention services as recommended by the Royal Commission). We support the inclusion of local councils; support services for parents and families; family violence or sexual assault services; homelessness services and youth services; and statutory organisations with functions of a public nature. It is our view that organisations such as these will be critical in the development of universal child safe practices and environments.

We have no explicit preference for a scope that is defined by a list of types of organisations (as currently provided by the Victorian legislation). We note that the scope proposed by the NSW Office of the Children's Guardian includes those organisations where at least one person is required to hold or holds a Working with Children Check in NSW. Consideration is also given for the existing definition of 'services for children and young people' in s8A of the *Human Rights Commission Act 2005*. A comprehensive definition could include these different options as cumulative alternatives. An effective public health model to the prevention of abuse and neglect would envisage a community-wide appreciation and support for the implementation of Child Safe Principles.

We recognise the challenge in terms of implementation and support a graduated and proportionate approach to compliance but believe that a broad approach to scope is justified in any event. A proportionate approach will recognise the challenges in compliance for smaller and voluntary organisations. There is a strong argument that these organisations are likely to be at increased risk of exploitation as larger professional organisations and services increase their monitoring and preventative practice. We would support a progressive regulatory approach that offers increased support and guidance (as well as monitoring) to such smaller and voluntary organisations. This approach would be preferable to offering exemptions without review or external scrutiny.

We recommend review of the scope in the future – either ongoing or in the medium term – to assess organisational settings that are at ongoing or increased risk of allowing abuse to occur. This review should include examination of data and evidence of abuse occurring in settings not covered by the existing scheme and beyond the scope of coverage recommended by the Royal Commission.

## **Oversight, Monitoring and Enforcement**

At this relatively early stage in the development of more effective measures for child safety and the prevention of abuse, the Institute recognises the importance of a strong but flexible approach to monitoring, compliance and enforcement in a scheme for Child Safe Standards.

We would support overall responsibility for oversight and monitoring resting with the ACT Human Rights Commission. We would encourage recognition of the skills and experience in working with children and young people, an understanding of child and adolescent development and an appreciation and support for the rights and views of children and young people in enforcement and compliance settings.

In addition, the Institute would recommend consideration of how the participation of children and young people can be integrated more comprehensively into all aspects of the operation of Child Safe Standards including in oversight and monitoring.

We would support the use of formal and informal mechanisms for the Commission to delegate oversight and monitoring to other relevant agencies (such as funding or supervising Government Departments or statutory agencies).

As discussed earlier, we would support a more deliberate sharing of responsibility for awareness raising, education, capacity building across government and community agencies.

As the regulatory framework is developed and implemented over time, the Institute would recommend a specific review of the effectiveness of the monitoring and compliance function. It may be worth considering the separation of the functions of community engagement and education and capacity building from monitoring and compliance; and similarly considering the separation of monitoring and regulatory compliance from prosecution and enforcement given the specialist nature of each function.

We support the inclusion of a broad range of powers to support and guide organisations in the understanding and implementation of Child Safe Standards. We note the initial intent to use formal enforcement powers as a measure of last resort. There must be a commitment over time to the use of enforcement in cases of intransigence in the implementation and effective commitment to Child Safe Standards.

We support the staged commencement of legislation for different types of organisation with compliance for larger organisations and government agencies required ahead of smaller not-for-profit organisations. With a range of discretionary powers for monitoring and compliance available to the regulatory body, there should be no extended delay in the introduction of the legislated scheme nor for the commencement of enforcement powers.

## **Towards A National Approach to Child Safety**

The Royal Commission has made detailed recommendations<sup>11</sup> as to the development and implementation of a comprehensive national strategy to prevent child sexual abuse. This work is to be coordinated by the National Office for Child Safety and included in the proposed National Framework for Child Safety.

Such a national strategy would build on and extend the commitments and initiatives of the COAG-endorsed National Framework for Protecting Australia's Children 2009-2020. It would also coordinate with existing (and future) measures developed in implementation of the National Plan to Reduce Violence against Women and their Children 2010-2022 and the National Disability Strategy 2010–2020.

These are important initiatives that accompany the development of Child Safe Standards. In order that this broader national work is effective, we believe that the reforms and initiatives should as much as possible be implemented consistently across the nation. The leadership of State and Territory Governments will be a critical factor in ensuring the effectiveness of the reform processes.

We note that the Royal Commission has recommended that the National Framework for Child Safety should encompass social marketing campaigns to raise general community awareness and education programs for children, parents and community members to increase knowledge and build skills around the prevention of child sexual abuse. These are to be built around information and help-seeking services for parents and community members to address concerns around adults, children and young people who may be at risk of perpetrating child sexual abuse.

As noted earlier, the addition of Principle 8 in the National Principles will give greater focus on the development of child safe environments. We encourage the ACT Government to support communities and organisations to reflect and act on safety in ways that take into account how children and young people engage with the world around them.

Collectively this should assist to develop a consistent focus on improving the culture and practices of families, organisations and communities to create conditions of safety<sup>12</sup>. It will also assist in developing skills and capacity in addressing risks and building prevention practice in the community more broadly. This will include promoting more accurate knowledge and understanding of sexuality and personal safety and listening respectfully to children and their concerns.

## **References**

Australian Government, National Disability Strategy 2010–2020.

Australian Government, National Framework for Protecting Australia's Children 2009-2020

Australian Government, National Plan to Reduce Violence against Women and their Children 2010-2022

"How can child welfare and youth-serving organisations keep children safe?" (2016) *Developing Practice: The Child, Youth and Family Work Journal*, Vol. 44 48-64

The Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse (2017)

The National Statement of Principles for Child Safe Organisations (2019)

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<sup>11</sup> Royal Commission into Institutional Responses to Child Sexual Abuse "Final Report – Preface and Executive Summary" (2017) Australia and particularly recommendations 6.1 to 6.5

<sup>12</sup> Higgins, Kaufman & Erooga "How can child welfare and youth-serving organisations keep children safe?" (2016) *Developing Practice: The Child, Youth and Family Work Journal*, Vol. 44, 48-64