1. Views are sought on the suggested best practice principles, the matters that should be canvassed in the complaint handling policy and how those matters might be addressed.

**CFECFW response:**

In Victoria new laws have been introduced to protect children. The new laws include criminal offences for failing to report child sexual abuse and compulsory child safe standards to create and maintain child safe environments.

The new criminal offences include a grooming offence, a failure to disclose child sexual abuse offence and a failure to protect a child from sexual abuse relating to child sexual abuse for children under the age of 16 years.

The failure to disclose and failure to protect offences were introduced to improve responses within organisations and the community to child sexual abuse. The failure to disclose child sexual abuse offence establishes that reporting child sexual abuse is a community-wide responsibility by requiring adults to report to police a reasonable belief that a sexual offence has been committed against a child (unless they have a reasonable excuse for not doing so). The failure to protect offence was introduced to improve responses within organisations by requiring people within organisations who hold a position of authority within a relevant organisation that works with children and they know of a substantial risk another adult associated with the organisation may commit a sex offence against a child within the organisation’s care and they have the power or responsibility to remove or reduce that risk but negligently fail to do so.

The child safe standards cover physical violence, sexual offences, serious emotional or psychological abuse and serious neglect for children under the age of 18 years. The child safe standards were designed to improve the way organisations that provide services for children prevent and respond to child abuse that may occur within their organisation. The standards are compulsory for all organisations providing services to children, and aim to drive cultural change in organisations so that protecting children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers. This will assist organisations to:

- prevent child abuse
- encourage reporting of any abuse that does occur
- improve responses to any allegations of child abuse.
Organisations must comply with the below seven child safe standards:

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

In addition, each standard must also respond to three principles:

- Promoting the cultural safety of Aboriginal and Torres Strait Islander children
- Promoting the cultural safety of children from culturally and linguistically diverse backgrounds
- Promoting the safety of children with a disability.

The failure to protect offence together with the compulsory child safe standards, legally requires organisations to have measures to prevent, detect, respond and report abuse and allegations of abuse to protect children from sexual abuse in their settings. Together, the Victorian child safe standards and criminal offences are consistent with the proposed and identified six best practice principles for institutions responding to complaints of child sexual abuse outlined in *Best Practice Principles in responding to complaints of child sexual abuse in institutional contexts* March 2016 (consultation paper).

As set out above Victoria has introduced new criminal offences laws and compulsory child safe standards as measures to prevent, detect, respond and report to abuse in organisational settings. Further, Victoria has legislated in the *Children, Youth and Families Act 2005* (the Act) section 10 and 11 best interest and decision making principles that must be adhered to by community service organisations, the Children’s Court of Victoria and the Secretary of the Department of Health and Human Services. While there is a number of best interests and decision making principles, for the purposes of the Act the best interests of the child must always be paramount and this message should clearly underpin all organisational policies on responding to complaints of child abuse.

In Victoria, the Department of Health and Human Services established a “Departmental Instruction: Responding to Allegations of Physical or Sexual Assault” (2005) that sets out the reporting requirements for allegations of physical and sexual abuse. Further, there is the “Guidelines for responding to quality of care concerns in out-of-home care” which outlines the investigation process for allegations of abuse, neglect and poor quality care in out of home care to ensure that the safety of the child remains paramount and there is a consistent approach to responding to and investigating quality of care concerns in out of home care. These guidelines could assist other organisations in developing policies on responding to allegations of abuse. A consistent theme in investigating allegations of abuse include:

- the time required to conduct such investigations
- timeliness of investigations particularly where there is a police criminal investigation
resources
impact on child victims and their families
impact on the accused
impact on the organisation

There is not an easily identifiable solution but perhaps dedicated resources that focus on investigations both criminal (i.e. such as the Sano Victorian Police taskforce) and protective in nature are necessary.

The best practice principles identified in the consultation paper have also captured the matters that should be canvassed in an organisational complaint handling policy. As per our previous written submissions we support a nationally consistent approach to improve safety for children in organisational settings and the extension of the definition of abuse to include sexual, physical, psychological and emotional abuse, neglect and cultural abuse.

It is important to include in an organisational policy, how an organisation will respond to adverse findings in a police check and or a Working with Children Check. There have been occasions where employees have successfully appealed an adverse recommendation by the Working with Children Check scheme that has allowed them to work with children. It is important that organisations are able to make decisions as to whether to employ someone with criminal conviction as they would for employees for breach of the organisation's code of conduct despite whether that meets a criminal threshold.

The Centre suggests that any finalised guidelines on a complaints policy provide detailed information, as a theme from participants attending recent Child Safe Standards information sessions in Victoria was the need for more information and guidance including information that is sector relevant, for example, housing services, child care services, services where the primary client is not the child.

In addition, consideration should be given to addressing other vulnerable children in the child safe policies such as LTGBI or other vulnerable children or groups of children as this was identified as needing attention.

Further, consideration to including guidance to organisations on their responsibility and duty of care to identify other potential victims of child abuse where an allegation is made about an employee who may have had care and responsibility for other children. Another consideration to include in guidelines is circumstances where an accused employee resigns during an investigation to gain employment in another organisation that provides services to children. The guidelines could include the organisations responsibility or duty of care to inform the new employer of the accused employee's conduct. This may require an extension of information sharing provisions to allow for an exchange of information in children's best interests.

Other feedback provided by participants of information sessions is the need for more education and training on child abuse and grooming in order to assist staff and volunteers to identify abusive and harmful behaviours to prevent abuse. In addition, many participants requested additional training on how to empower children and promote cultural safety. Training needs to drive cultural change to
promote the safety of children and ensure that have strategies to prevent, detect, report, respond and commit to continuous improvement to child abuse within organisations.

An important element is empowering children so they feel comfortable to complain and that complaints are listened to no matter how the complaint is delivered including by children's parents. Complaints should be accepted both verbally or written from children or their parents or by others on behalf of children. Where a child makes a complaint the policy should include guidance on informing the child’s parent or guardian. The organisation should also offer children and their families support and refer to support services where the child has been abused by a staff member to assist the child and parents address associated trauma issues. Support should also be offered to the complainant as often this can raise issues particularly where the accused is a colleague. The organisation should also include processes for offering the accused staff member with support particularly as investigation can take time. Policy should include processes for keeping children and their parents/guardians including the complainant and accused staff member, informed of the status and outcome of the investigation.

Feedback received by the Centre at our information sessions indicate there is a demand for more training about grooming, child abuse – definitions and indicators, mandatory reporting requirements and all other legal and regulatory obligations of services who work with children. Thus a resourced education and training package should be part of any new policy together with accessible guidelines to support organisations to develop and improve policy.

Furthermore, organisations will require additional support to respond to allegations of abuse in their organisation and that includes:

a. an advice line to provide support and guidance on complaints, and
b. access to investigative services where they do not have the capability or capacity or there is a conflict of interest to conduct an investigation into a complaint.

However, more than the above measures a complaints handling policy is necessary to protect children from abuse in organisational settings as despite existing legislation and policies, children unfortunately continue to be abused in organisational settings.

Any measures need to be part of a whole of community response in protecting children from abuse, as all adults have a responsibility to protect children.

2. The value of independent oversight mechanisms such as reportable conduct schemes and whether similar schemes should be established in all Australian states and territories and what features an independent oversight scheme should include, and whose conduct should be subject to its oversight.

CFECFW response:

The Victorian government recently consulted on a proposed reportable conduct scheme as part of the implementation of the Betrayal of Trust recommendation to improve oversight of how organisations respond to allegations of child abuse. The Victorian Government recently released a confidential report “Creating Child Safe Organisations Consultation Guide” (March 2016) that details a proposed model. Attached is the Centre’s written submission to the questions posed within this
guide, which addresses the feedback you seek in this written submission. It proposes that the Victorian scheme will be overseen by the Victorian Commission for Children and Young People, and will model the NSW scheme, which focuses on educative capacity building. The Centre believes educative capacity building assists in improving the child safety culture in organisations.

In summary the Centre believes that independent oversight is necessary and in principle supports a reportable conduct scheme. In addition, enhanced information sharing provisions are necessary to promote the protection of children.

As per our written submission to the Victorian government, the information needs to include employee conduct in order to allow organisations to inform other organisations or statutory bodies of reportable conduct. This is especially important where an accused employee resign from the organisation that has begun an investigation, to seek employment in another organisations providing services to children. The Centre supports information sharing in the context of complaints and allegations against carers – being all type of carers – employee, volunteer and kinship carers.

The Centre understand this is a very complex area, with significant and sometimes unintended negative consequences for carer well-being and retention. Any sharing of information must be done carefully with a view to principles of child safety, as well as privacy and fairness for the carer. It is the Centre’s view that information should be shared between agencies if child safety is at risk.

The Centre believes that, consistent with the Commission for Children and Young People Act 2012 (Vic), the oversight body of the reportable conduct scheme should liaise with other investigative authorities, official bodies and statutory officers to avoid unnecessary duplication and to facilitate the coordination and expedition of inquiries that are to be separately conducted by different authorities, bodies or officers.

The oversight body’s role should consider including education to other bodies on child abuse and grooming to increase understanding of the nature of child abuse.

Information should be provided to the oversight body at the earliest opportunity and consistent/aligned with other legislative or regulatory requirements/obligations to ensure that responses to allegations of abuse are appropriate, timely, the investigation plan is appropriate and to ensure the immediate safety of children. For example, organisations that are regulated and funded by government could provide the oversight body with a copy of the Department of Health and Human Services incident report to inform the oversight body of a reportable conduct.

The role and powers of the oversight body should focus on allegations that meet the definition of reportable conduct and not on less serious allegations. However, further consideration is required about what would constitute a less serious offence. Whilst it may be more appropriate for a regulatory body to address such issues, it may be appropriate to refer the allegations to the oversight body should they be of a repetitive and negligent nature that in combination makes the allegations serious and thus within the scope of the scheme.

The issue remains of how any scheme establishes that an employee’s conduct is reportable where the organisation did not meet its responsibilities and/or duty of care. For example, an organisation may directly contribute to an employee’s reportable conduct by not providing any training and supervision to the employee or by not providing appropriate resources such as additional staffing to
meet the appropriate (ie regulated/legislated) staff child ratio regulations. Another issue is how a reportable conduct scheme captures child to child abuse as a result of the action or inaction or decision/s of the employee or organisation or a more systemic problem.

The Centre believes that a reportable conduct scheme will provide the opportunity to gather evidence to ascertain the extent of child abuse in organisational settings and as such institute a continuous improvement regime in practice, policy and legislation.

3. **How to improve institutions’ access to advice and support when responding to complaints of child sexual abuse, especially for smaller institutions.** Options for consideration include a possible increased role for:
   a. peak bodies – if so, which peak bodies would be well placed to provide advice and support to their members?
   b. government agencies that may be able to provide resources for smaller institutions, such as preparing policy templates
   c. private service providers that may provide a fee for their services
   d. oversight bodies – if so, which oversight bodies would be best placed to advise and support institutions?
   e. a combination of the above as required depending on the capacity of the institution responding to the complaint.
   f. Any other issue or topic which is not addressed in this paper on which institutions seek guidance should be raised in submissions

**CFECFW response:**

How to improve institutions’ access to advice and support when responding to complaints of child sexual abuse, especially for smaller institutions.

The Centre believes there is a need to improve institution’s access to advice and support for responding to complaints of child sexual abuse.

The Centre agrees that even where organisations have good policies in place for complaints handling, having the ability to act on a complaint may be beyond the capacity of the organisation due to lack of resources or specialist expertise. The Centre acknowledges that this is especially the case for smaller organisations, however notes that this can equally apply to large organisations.

The Victorian Government’s Betrayal of Trust Inquiry in 2015 noted that many organisations have a poor understanding of criminal child abuse and that often people find the issue too confronting to acknowledge, respond to or address. This Centre agrees with this, together with the many complaint handling problems and issues outlined in the Consultation Paper.

This has been borne out further through the Centre’s own interactions with organisations, through training it delivered that indicated there is a demand for more training and information as stated above.

The Centre submits that having one central authoritative oversight body, complemented by other bodies would be the best approach to providing support and advice to organisations regarding complaints handling.
An oversight body with specialist expertise specific to handling complaints from and about children with regards to allegations of sexual abuse is invaluable for supporting organisations in this unique area. This could provide a one stop shop for consistent and authoritative advice about how to handle complaints, and organisations’ regulatory and legislative obligations. This is discussed in more detail below.

The Centre believes there is also a role for the other bodies identified in the Consultation Paper to assist organisations with carrying out investigations or guiding an organisation through the complaints process by being available to consult on the specifics of the alleged conduct, and crucially, helping to review the circumstance of the complaint and identify any systemic issues to assist with continuous improvement and strengthening of procedures and protection of children.

This is discussed in more detail below.

**Options for consideration include a possible increased role for:**

a. peak bodies – if so, which peak bodies would be well placed to provide advice and support to their members?

The Victorian Government’s Betrayal of Trust Inquiry (Final Paper, November 2015) acknowledged that greater awareness and knowledge is necessary to assist organisations to understand their responsibilities and duty of care to prevent child abuse occurring in their organisation. That inquiry recognised that sector peak bodies have an important role in supporting their members to become child-safe organisations and many are well positioned to promote child-safe practices by their members. That inquiry recommended that the Government (through the relevant statutory body/department) identify an effective approach for supporting peak bodies to build preventative capacity in sectors that interact with children and encourage smaller organisations to be affiliated with peak bodies to build capacity.

The Centre supports this use of peak bodies in Victoria, and is itself committed to supporting organisations building and implementing child safe standards in Victoria by working closely with specialist organisations and the Commission for Children Young People (CCYP). The Centre continues to support its member organisations who have sought advice on child safe standards, and as indicated above has carried out extensive training; in late 2015 and early 2016 the Victorian Department of Health and Human Services commissioned the Centre to deliver over 20 information sessions on the newly introduced compulsory child safe standards, and new criminal offences introduced in Victoria. As discussed above, the Centre delivered these sessions to a wide range of organisations, including schools, early childhood educators, children's services, hospitals, health centres, sexual assault services, family violence services, counselling services, housing and homelessness services, disability service providers, local councils including the Municipal Association of Victoria, neighbourhood houses, sports and recreation groups, camps providers, education services and recreation groups such as girl guides and scouts.

The Centre, like other peak bodies, is well positioned to expand its capacity building in organisations by providing ongoing training, forums and other capacity building tools, that can be tailored to organisations’ needs with appropriate funding resources. Further, the Centre will support this
through its ongoing work in holding forums on child safe organisations with a focus on the work and learnings from the Royal Commission into Institutional Responses to Child Sexual Abuse.

Peak bodies have a unique insight into the functions, role and responsibilities of its members, and should therefore have a role in supporting it members with complaints handling. For example, the Australian Medical Association which exists to promote and protect the professional interests of doctors and the health care needs of patients and communities, and the Australian Psychological Society Professional Advisory Service.

However, the Centre acknowledges the limitations of many of these organisations in terms of resources, specialist capabilities and authority to act on complaints. The Centre therefore supports the use of an oversight body as the primary provider of support and assistance to organisations regarding handling complaints about child sexual abuse in institutions.

b. government agencies that may be able to provide resources for smaller institutions, such as preparing policy templates

The Centre supports government agencies in providing resources for institutions to ensure that organisations it funds and regulates meet their service, funding and legislative obligations. The Centre believes that government is obliged to ensure that the organisations it funds particularly to the most vulnerable members of the community are provided with the necessary information and resources to meet all of their obligations. However, in the long term the Centre believes there is a need to balance accountability and responsibility with building understanding where an organisations has been identified as not meeting their obligations, as discussed at d. below.

c. private service providers that may provide a fee for their services

The Centre believes that there is a place for private service providers to assist organisations in complaints handling.

Many organisations in the children, youth and families sector may not be in a position financially to use this option. However, for well-resourced organisations this could provide a valuable resource for acting on their complaint handling policy. For example, by carrying out an investigation or helping review the circumstances of the complaint to identify systemic failures that may have contributed to the subject incident. The potential advantages of using private service providers lie in the specialist expertise, knowledge, objectivity and independence such a provider would bring. However, it is necessary to ensure that private providers:

- deliver quality service consistent with the best practice principles, thereby adding another level of oversight to be carried out by a regulatory authority; and
- act in the best interests of the child in responding to complaints, and not in the interests the organisation who engaged them, where this is detrimental to the child / complainant or to the full, proper and objective investigation of the complaint.

The Centre supports the use of reputable, independent and expert providers, such as ChildWise and the Australian Childhood Foundation, to support organisations in its complaints handling of allegations of child sexual abuse.
d. oversight bodies – if so, which oversight bodies would be best placed to advise and support institutions?

The Centre supports the use of an oversight body to assist and support institutions with complaints handling about child sexual abuse. The Centre believes this could provide an opportunity for organisations to receive authoritative, fulsome and consistent advice on complaints handling.

Further that advice would be specialist advice about how to handle allegations of child sexual abuse. As well highlighted in the Consultation Paper, this is a sensitive and unique area requiring specialist expertise – both in terms of responding to the complaint, and ensuring reflective practice to continually improve practice and prevent child abuse.

The Centre agrees with the finding of the Victorian Betrayal of Trust Inquiry, that there is a need for independent scrutiny of the systems and processes organisations have in place for preventing and responding to allegations of criminal child abuse and ensuring the safety of children. And further, that many organisations are seeking guidance in developing skills and knowledge necessary to respond to appropriately to allegations of child abuse and to report to the police and other authorities.

The Centre supports the use of an independent statutory body to oversee responses to allegations of criminal child abuse in organisations, such as the Commission for Children and Young People (CCYP). The Centre has previously indicated its support for an extended oversight role of the CCYP to inquire into the child safety systems of all organisations engaged in child-related work.

The Centre further supports the use of an oversight body such as the CCYP, to focus on building awareness of child abuse prevention and driving cultural change in organisational and community settings.

The Centre believes organisations should be supported with the appropriate resources and tools to build their capacity to implement and audit child safe standards to complement the implementation of any complaints policy and procedure.

To this end, the Centre believes the role of oversight bodies should balance accountability and responsibility with building understanding.

The supports required include the resources to develop new and /or review existing policies. Further, organisations should be provided with regular training and educational opportunities for all levels of staff (from executive to staff) and volunteers. Organisations should be provided with frameworks and tools to be able to effectively implement child safe standards and respond to complaints.

These tools can be provided in a variety of ways, through online resource/tools, as well as public campaigns. The Centre believes an oversight body is well placed to provide a public campaign, to:

- let organisations know the body is available to assist with complaints handling;
- let members of the community know that organisations must have a complaints handling mechanism, and
• support members of the public to make complaints.

An oversight body could use a variety of methods to make these resources available, such as through the use of social media, particularly to reach children and young people as this is a domain where children and young people perhaps feel most empowered. In addition, an existing service could be called upon to assist with complaints, such as Kids Helpline.

A further advantage of using an oversight body such as the CCYP to support and assist organisations with complaints handling is the authority such a body carries.

e. a combination of the above as required depending on the capacity of the institution responding to the complaint.

As discussed above the Centre supports an approach that uses a combination of the bodies listed above. The Centre feels an overarching oversight body such as the CCYP would be most useful for organisations seeking information, specialist knowledge and advice, templates and other support. The other bodies could have a role in complementing with the provision of more hands on support. The Centre also suggests that there may be a role for a national oversight body, such as the National Children’s Commissioner. The Centre believes this role could focus on research in order to highlight issues leading to prevention of child abuse in institutions and to collate data/evidence from jurisdictions to provide national perspective and inform a nationally consistent approach and to advocate to the Commonwealth Government.

Finally, the Centre wishes to note that children should never be responsible for protecting themselves from the harm of criminal child abuse, and prevention approaches that target children should be focused on initiatives that build their awareness.
Appendix - submission to the Victorian Department of Health and Human Services

Ms Lucinda Garrido
Department of Health and Human Services
Betrayal of Trust Implementation Team
Child Safe Standards

Dear Ms Garrido,

I am writing to thank you for inviting the Centre for Excellence in Child and Family Welfare (the Centre) to participate in consultation on the proposed Victorian reportable conduct scheme. Further, I wish to thank you for the opportunity to provide comment on the *Creating Child Safe Organisations Consultation Guide* (March 2016).

Below are the Centre’s responses to the questions posed within the consultation guide on:

**Reportable conduct scheme – Consultation Tool 1:**

**Issues 1: What conduct should be reportable?**

1. Do you agree with the proposed definition of reportable conduct? Please provide reasons.

Response:

The Centre supports the proposed definition of reportable conduct as outlined in the *Creating Child Safe Organisations Consultation Guide March 2016* (consultation guide). The definition of offences and misconduct that involve a child appear to be consistent with the child safe standard which the Centre supports. However, the Centre queries two aspects of the definition of reportable conduct:

i. Firstly, the consultation guide states that ‘sexual misconduct (including grooming behaviour falling below a criminal threshold)’ constitutes reportable conduct. The Centre believes that the definition should delete the words “falling below a criminal threshold” as this may cause inconsistencies in definition and interpretation. The Centre has been delivering information sessions on the child safe standards and new criminal offences and consistently the feedback from participants is the need for education and training on child abuse especially grooming to assist to identify, prevent and detect abuse and future abuse. As such more detailed explanation on the offences and misconduct that constitute a reportable conduct would be helpful.

ii. Further, the proposed definition states that conduct that is established to be accidental would not meet the proposed definition of reportable conduct. To determine whether conduct is accidental or not may initially be obvious but this assessment may change following an investigation. Guidance for organisations would be helpful in these circumstances, for example, this may be important when determining whether an employees (or volunteer, contractor etc) use of physical force is reasonable.
Issue 2: Whose conduct should be reportable?

1. Do you agree with the proposed definition of “employees and persons associated with an organisation”? Please provide reasons.

Response:

The Centre supports the proposed definition of employees and persons associated with an organisation as outlined in the consultation guide as this is also consistent with the child safe standards and new criminal offences (failure to protect).

The guide proposes exceptions that include clients of the organisations, adults not associated or connected with the organisation and children, which the Centre supports. The consultation guide adds that these exceptions would not alter an organisations duty of care for children in their care, supervision or authority. The consultation guide states that this would mean where an employee negligently fails to supervise a child in the care of the organisation, leading to the abuse of the child by a stranger, the employee’s misconduct should be investigated as reportable conduct. The Centre suggests that the definition also includes where a child is abused by another child or another adult not just a stranger as these circumstances may be as a result of an employee negligently failing to supervise a child in the care of the organisation. This will ensure that there is oversight and analysis of child to child abuse and sexual exploitation which are significant issues especially in out of home care settings.

However, an investigation may highlight organisational issues or systemic issues beyond the employee’s control or that contributed to the employee’s negligence and the Centre believes that this should be considered as part of the reportable conduct scheme.

Issue 3: What should organisations be required to do?

1. Do you agree with the proposed obligations for organisations in scope for a reportable conduct scheme? Please provide reasons.

2. Do you agree that the oversight body should develop minimum standards and guidelines on reportable conduct obligations, with relevant stakeholders as appropriate? Please provide reasons.

3. What information and guidance would assist you in undertaking or coordinating a reportable conduct investigation? Please provide reasons.

Response:

The Centre agrees with the proposed obligations for organisations in scope for a reportable conduct scheme.

The Centre agrees that the oversight body should develop minimum standards and guidelines on reportable conduct obligations with stakeholders. Given the breadth of services delivered and size of organisations that may be in scope for the reportable conduct scheme and the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse and Betrayal of Trust that responses to allegations vary across organisations, the Centre advocates for consultation to occur with stakeholders to ascertain their requirements prior to the implementation.
Further, the Centre believes it would be worthwhile for the guidelines to consider quality of care and police investigations, particularly where one investigation may be running concurrently with another or has priority over another in order to ensure the efficacy, timeliness, sharing of information and streamlining of investigations. For example, allegations of child abuse within organisational settings can often generate several investigations such as a child protection investigation, organisation investigation and police investigation and possibly other statutory bodies and insurance bodies.

It would be helpful if guidance material including the reportable conduct body provided assistance with the coordination and streamlining of these investigations, particularly where a police investigation halts all other investigations especially in circumstances where they are lengthy. Further, it would be helpful for guidance material to include detailed expectations of organisations in responding and investigating allegations given the findings of Betrayal of Trust and the Royal Commission of the lack of consistency in responses by organisations.

The standards and guidelines must be available for organisations prior to the implementation of the reportable conduct scheme. Consistently at the child safe standards information sessions participants stated that guidelines, training and tools should have been available prior to implementation of the standards. Subsequently, organisations have been requesting more detailed and specific guidance than is currently available to assist in the development of child safe policies including codes of conduct. Further, organisations have requested specific training to be arranged according to sectors to ensure that training is targeted to their service.

The Centre advocates that obligations on organisations to report allegations minimise duplication of existing reporting requirements. For example, an organisation could provide the oversight body with a copy of the critical incident report rather than also having to complete any newly established document that informs the oversight body of a new allegation. If there is an existing reporting document it is envisaged that this could be utilised to inform and update the oversight body of the status or outcome of an investigation.

Issues 4: What should be the role of the oversight body?

1. Please provide any comments about the proposed role and powers of the oversight body, including how it would work with other bodies including regulators, professional bodies, government and statutory bodies? Please provide reasons.
2. What information should be provided to the oversight body, and at what point? Please provide reasons.
3. What role and powers should the oversight body have for less serious allegations and conduct which does not meet the definition of ‘reportable conduct’? Please provide reasons.

Response:

The Centre supports the proposed role and powers as outlined in the consultation guide. As stated above, the Centre believes it is important that processes are streamlined and aligned with current requirements to minimise the burden on organisations without compromising the paramount safety of children in organisational settings.

Consistent with the Commission for Children and Young People Act 2012 the oversight body of the reportable conduct scheme should liaise with other investigative authorities, official bodies and
statutory officers to avoid unnecessary duplication and to facilitate the coordination and expedition of inquiries that are to be separately conducted by different authorities, bodies or officers.

The oversight body’s role should consider including education to other bodies on child abuse and grooming to increase understanding of the nature of child abuse.

Information should be provided to the oversight body at the earliest opportunity and consistent/aligned with other legislative or regulatory requirements/obligations to ensure that responses to allegations of abuse are appropriate, timely, the investigation plan is appropriate and to ensure the immediate safety of children. For example, organisations that are regulated and funded by government could provide the oversight body with a copy of the Department of Health and Human Services incident report to inform the oversight body of a reportable conduct.

The role and powers of the oversight body should focus on allegations which meet the definition of reportable conduct and not on less serious allegations. However, further information is required about what would constitute a less serious offence as it may be more appropriate for a regulatory body to address such issues, however, it may be appropriate to refer the allegations to the oversight body should they be of a repetitive and negligent nature that in combination makes the allegations serious and thus within the scope of the scheme.

Issue 5: Which types of organisations should be in scope?

1. Which organisations should be in scope for a reportable conduct scheme? Please provide reasons.
2. Should certain organisations be subject to voluntary rather than compulsory requirements? Please provide reasons.
3. Would a phased approach to implementation support some sectors to meet their obligations? If so, which sectors? Please provide reasons.

Response:

The Centre believes that the organisations in scope for a reportable conduct scheme should be consistent with the child safe standards and should be compulsory. As with the child safe standards a phased approach to implementation would be necessary to support and capacity build some sectors to meet their obligations, particularly those with no current regulatory oversight, capacity or experience.

Child Safe Consultations Tool 2:

- Do you agree with the proposed oversight, monitoring and enforcement mechanisms for the Child Safe Standards? Please provide reasons.

The Centre supports the proposed oversight, monitoring and enforcement mechanisms for the Child Safe Standards. The Centre has received feedback from organisations that it requires additional and more targeted and specific support and guidance on child safe policies to comply with all the child safe standards. Consistent with the implementation of child safe standards the focus should be on
changing the culture and building capacity and consistency across Victoria to promote the protection of children from abuse and neglect.

**Information Sharing Consultation Tool 3:**

- Do you consider the legislative provisions, similar to those in operation in NSW under Chapter 16A, should be implemented in Victoria? Please provide reasons.

The Centre supports the extension of information sharing provisions in Victoria that promote the protection of children. The scope of prescribed bodies should include other statutory bodies and officers who may be involved in an investigation or decisions related to the allegations of abuse and assessing the suitability of the alleged staff member to work with children. Thus the information that is to be shared should not be limited to the child or their family and significant other or agencies but it may be in relation to the alleged employee.

**Support for organisations to comply with obligations Consultation Tool 4:**

- What other support will your organisation need to meet its obligations? Please provide reasons.

The Centre believes the Commissioner for Children and Young People has a very important role as the oversight body of the child safe standards and reportable conduct scheme.

The Centre believes that organisations will require detailed guidance, tools, resources and training to meet its obligations prior to the implementation. Further, regular training is necessary for organisations on their obligations regarding child safe standards, child abuse and grooming, reporting abuse to statutory bodies (including failure to protect and disclose or mandatory reporting) and the reportable conduct scheme.

Organisations should be provided with regular training and educational opportunities for all levels of staff (from the board to staff) and volunteers. The tools and training tools can be provided in a variety of ways, including through the oversight body but also online resources/tools, peak bodies and specialist organisations.

The Centre has supported its member organisations who have sought such advice on child safe standards. The Centre has provided regular information and advice on child safe standards through the Centre’s delivery of information sessions on child safe standards and new criminal offences to member and non-member organisations, the Centre website, Centre newsletters to member organisations and held forums on child safe organisations as its focus on the Royal Commission into Institutional Responses to Child Sexual Abuse and implementation of Betrayal of Trust recommendations.

The Centre is committed to continuing to support organisations building and implementing child safe standards in Victoria by working closely with specialist organisations and the Commission for Children and Young People. The Centre could expand its capacity building in organisations by providing ongoing training and forums with the appropriate funding resources. This could provide for a consistent approach to changing the culture of child safety in organisational settings and ensure compliance with the child safe standards to promote the best interests of children.
Please do not hesitate to contact me or Mary Kyrios should you wish to discuss any of the above further.

Yours Sincerely

Deb Tsorbaris
CEO
Centre for Excellence in Child and Family Welfare