



**Submission from the  
Truth Justice and Healing Council**

**Royal Commission into Institutional Responses to Child Sexual Abuse**

**Issues Paper No. 3 | Child Safe Institutions**

**11 October 2013**



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Justice Peter McClellan AM  
Chair  
Royal Commission into  
Institutional Responses to Child Sexual Abuse

Via email: [solicitor@childabuseroyalcommission.gov.au](mailto:solicitor@childabuseroyalcommission.gov.au)

Dear Justice McClellan

As you know, the Truth Justice and Healing Council (the Council) has been appointed by the Catholic Church to oversee the Church's response to the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).

On behalf of the Council I submit the Catholic Church's submission in response to the Royal Commission's third Issues Paper: Child Safe Institutions.

The Council has consulted widely to ensure the expertise and wisdom of its constituents was taken into account in the preparation of this Submission.

Yours sincerely

**Barry O'Keefe AM QC**  
Chair  
Truth Justice and Healing Council

11 October 2013

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## Our Commitment

The leaders of the Catholic Church in Australia recognise and acknowledge the devastating harm caused to people by the crime of child sexual abuse. We take this opportunity to state:

- 1 Sexual abuse of a child by a priest or religious is a crime under Australian law and under canon law.
- 2 Sexual abuse of a child by any Church personnel, whenever it occurred, was then and is now indefensible.
- 3 That such abuse has occurred at all, and the extent to which it has occurred, are facts of which the whole Church in Australia is deeply ashamed.
- 4 The Church fully and unreservedly acknowledges the devastating, deep and ongoing impact of sexual abuse on the lives of the victims and their families.
- 5 The Church acknowledges that many victims were not believed when they should have been.
- 6 The Church is also ashamed to acknowledge that, in some cases, those in positions of authority concealed or covered up what they knew of the facts, moved perpetrators to another place, thereby enabling them to offend again, or failed to report matters to the police when they should have. That behaviour too is indefensible.
- 7 Too often in the past it is clear some Church leaders gave too high a priority to protecting the reputation of the Church, its priests, religious and other personnel, over the protection of children and their families, and over compassion and concern for those who suffered at the hands of Church personnel. That too was and is inexcusable.
- 8 In such ways, Church leaders betrayed the trust of their own people and the expectations of the wider community.
- 9 For all these things the Church is deeply sorry. It apologises to all those who have been harmed and betrayed. It humbly asks for forgiveness.

The leaders of the Catholic Church in Australia commit ourselves to endeavour to repair the wrongs of the past, to listen to and hear victims, to put their needs first, and to do everything we can to ensure a safer future for children.

## Authorising Church Bodies

The following Catholic Church bodies have authorised the Truth Justice and Healing Council to represent them at the Royal Commission:

### Dioceses

Archdiocese of Adelaide	Diocese of Broome	Diocese of Sandhurst
Archdiocese of Brisbane	Diocese of Bunbury	Diocese of Toowoomba
Archdiocese of Canberra-Goulburn	Diocese of Cairns	Diocese of Townsville
Archdiocese of Hobart	Diocese of Darwin	Diocese of Wagga Wagga
Archdiocese of Melbourne	Diocese of Geraldton	Diocese of Wilcannia-Forbes
Archdiocese of Perth	Diocese of Lismore	Diocese of Wollongong
Archdiocese of Sydney	Diocese of Maitland-Newcastle	Eparchy of Saints Peter & Paul of Melbourne
Diocese of Armidale	Diocese of Parramatta	Military Ordinariate of Australia
Diocese of Ballarat	Diocese of Port Pirie	Personal Ordinariate of Our Lady of the Southern Cross
Diocese of Bathurst	Diocese of Rockhampton	
Diocese of Broken Bay	Diocese of Sale	

### Religious Institutes

Adorers of the Blood of Christ	Holy Cross – Congregation of Dominican Sisters	Presentation Sisters WA
Augustinian Recollect Sisters	Hospitaller Order of St John of God	Religious of the Cenacle
Augustinian Sisters, Servants of Jesus and Mary	Institute of Sisters of Mercy Australia & Papua New Guinea	Salesians of Don Bosco
Australian Ursulines	Loreto Sisters	Salvatorian Fathers
Blessed Sacrament Fathers	Marist Brothers	Servants of the Blessed Sacrament
Brigidine Sisters	Marist Fathers Australian Province	Sisters of Charity of Australia
Canons Regular of Premontre (Norbertines)	Marist Sisters – Congregation of Mary	Sisters of Jesus Good Shepherd “Pastorelle”
Canossian Daughters of Charity	Ministers of the Infirm (Camillians)	Sisters of Mercy Brisbane
Capuchin Friars	Missionaries of God’s Love	Sisters of Mercy North Sydney
Christian Brothers	Missionaries of the Sacred Heart	Sisters of Mercy Parramatta
Cistercian Monks	Missionary Franciscan Sisters of the Immaculate Conception	Sisters of Nazareth
Columban Fathers	Missionary Sisters of Mary, Queen of the World	Sisters of Our Lady of Sion
Congregation of the Mission – Vincentians	Missionary Sisters of St Peter Claver	Sisters of St Joseph
Congregation of the Most Holy Redeemer – Redemptorists	Missionary Sisters of Service	Sisters of St Joseph of the Apparition
Congregation of the Passion – Passionists	Missionary Sisters of the Sacred Heart	Sisters of St Joseph of the Sacred Heart
Congregation of the Sisters of Our Lady Help of Christians	Missionary Sisters of the Society of Mary	Sisters of St Joseph, Perthville
Daughters of Charity	Missionary Society of St Paul	Sisters of St Paul de Chartres
Daughters of Mary Help of Christians	Oblates of Mary Immaculate	Sisters of the Good Samaritan
Daughters of Our Lady of the Sacred Heart	Order of Brothers of the Most Blessed Virgin Mary of Mount Carmel (Carmelites)	Sisters of the Good Shepherd
De La Salle Brothers	Order of Friars Minor Conventual	Sisters of the Little Company of Mary
Discalced Carmelite Friars	Order of Saint Augustine	Sisters of the Resurrection
Dominican Friars	Order of the Friar Servants of Mary (Servite Friars)	Society of African Missions
Dominican Sisters of Eastern Australia & The Solomons	Our Lady of the Missions	Society of Catholic Apostolate
Dominican Sisters of North Adelaide	Patrician Brothers	Society of Jesus
Dominican Sisters of Western Australia	Pious Society of St Charles – Scalabrinians	Society of St Paul
Faithful Companions of Jesus	Poor Clare Colettines	Society of the Divine Word Australian Province
Family Care Sisters	Presentation Sisters – Lismore	Society of the Sacred Heart
Franciscan Friars	Presentation Sisters – Queensland Congregation	Sylvestrine-Benedictine Monks
Franciscan Missionaries of Mary	Presentation Sisters – Tasmania	Ursuline Missionaries of the Sacred Heart
Franciscan Missionaries of the Divine Motherhood	Presentation Sisters – Victoria	
Franciscans of the Immaculate	Presentation Sisters – Wagga Wagga Congregation	

## Other Entities

Australian Catholic Bishops  
Conference  
Catholic Religious Australia  
Catholic Church Insurance Limited  
Professional Standards Office  
NSW/ACT  
Professional Standards Office  
Northern Territory  
Professional Standards Office  
Queensland  
Good Samaritan Education and  
Lourdes Hill College  
Good Samaritan Education and  
Mater Dei  
Good Samaritan Education and  
St Mary Star of the Sea College  
Good Samaritan Education and  
St Patrick's College  
Loreto Mandeville Hall Toorak  
Trustees of Mary Aikenhead  
Ministries

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## The Truth Justice and Healing Council

- 1 The Catholic Church in Australia (the Church) welcomes the establishment of the Royal Commission into Institutional Responses to Child Sexual Abuse as an opportunity to acknowledge the truth about child sexual abuse within the Church, and to have these issues investigated and considered, objectively and publicly. It is an opportunity to bear witness to the suffering of the many victims of this abuse.
- 2 The Church is committed to cooperating fully with the Royal Commission, without reservation or qualification.
- 3 In February 2013 the Australian Catholic Bishops Conference (ACBC) and Catholic Religious Australia (CRA)<sup>1</sup> jointly established the Truth Justice and Healing Council (the Council) to coordinate and oversee the Church's overall response to and appearance at the hearings of the Royal Commission.
- 4 The Council is a body of 13 people, with expertise spanning such fields as child sexual abuse, trauma, mental illness, suicide, psycho-sexual disorders, education, public administration, law and governance. The majority of Council members are lay, two of its members are bishops, and one of its members is a Brigidine sister. Four of the Council members are either themselves victims of abuse or have immediate family members who are victims. The Council provides independent advice to the ACBC and CRA, through a Supervisory Group, which is comprised of the Permanent Committee of the ACBC, and representatives of CRA. The Supervisory Group may accept or reject such advice. The Supervisory Group fully endorses this Submission. The members of the Supervisory Group are listed on the TJHC website [here](http://www.tjhcouncil.org.au/about-us/members-of-supervisory-group.aspx) <http://www.tjhcouncil.org.au/about-us/members-of-supervisory-group.aspx>
- 5 The Council is chaired by the Hon Barry O'Keefe AM QC, former Chief Judge of the Commercial Division of the Supreme Court of New South Wales and a former Commissioner of the NSW Independent Commission Against Corruption.
- 6 The current members of the Council are:
  - (a) Dr Sue Gordon AM, former Magistrate of the Children's Court of Western Australia
  - (b) Archbishop Mark Coleridge, Archbishop of Brisbane
  - (c) Professor Maria Harries, Adjunct Professor at Curtin University and Research Fellow in Social Work and Social Policy at the University of Western Australia
  - (d) Mr Jack Heath, CEO of SANE Australia
  - (e) Associate Professor Rosemary Sheehan, Department of Social Work, Faculty of Medicine, Nursing and Health Sciences, Monash University
  - (f) Hon Greg Crafter AO, former South Australian Minister of Education
  - (g) Sr Maree Marsh, former Congregational Leader of the Brigidine Sisters and psychologist with Anti-Slavery Australia at the University of Technology Sydney, Faculty of Law
  - (h) Bishop Bill Wright, Bishop of the Diocese of Maitland-Newcastle
  - (i) Professor Greg Craven, Vice-Chancellor of the Australian Catholic University

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<sup>1</sup> CRA is the peak body, previously known as the Australian Conference of Leaders of Religious Institutes, for leaders of religious institutes and societies of apostolic life resident in Australia.

- (j) Ms Elizabeth Proust AO, former Secretary to the Victorian Department of Premier and Cabinet, and Chairman of the Bank of Melbourne and Nestlé Australia and member of other boards
  - (k) Mr Stephen Elder, former Member of the Victorian Legislative Assembly and Parliamentary Secretary for Education and currently Executive Director of Catholic Education for the Archdiocese of Melbourne, and
  - (l) Dr Marian Sullivan, child and adolescent psychiatrist.
- 7 The CEO of the Council, Mr Francis Sullivan, has worked in government and private practice and has held positions as Secretary-General of the Australian Medical Association, Chief Executive of Catholic Health Australia and consultant to the Pontifical Council for the Pastoral Care of Health Care Workers at the Vatican. He is also an Adjunct Professor at the Australian Catholic University.
- 8 The Council oversees the Church's engagement with the Royal Commission, including by:
- (a) speaking for the Church in matters related to the Royal Commission and child sexual abuse
  - (b) coordinating the Church's legal representation at, and the Church's participation in, the Royal Commission.
- 9 The Council's role extends to:
- (a) initiating research into best practice procedures, policies and structures to protect children
  - (b) assisting in identifying any systemic institutional failures that have impeded the protection of children
  - (c) providing information to the Royal Commission concerning the various procedures, policies and structures that have been successively put in place by Church organisations over the past 25 years to deal with complaints and instances of child sexual abuse and any improvements which might be made to them to provide greater protection for children
  - (d) seeking to promote lasting healing for the victims and survivors of abuse.
- 10 To date, 31 dioceses and 91 religious institutes (commonly referred to as congregations and orders) have given an authorisation to the ACBC or CRA, authorising those bodies to represent and act for them in the engagement of the Church with the Royal Commission.
- 11 The ACBC and CRA have in turn delegated that authority to the Council. The Council therefore seeks to appear at the Royal Commission for all the authorising bodies, and will speak with one voice for all of them.
- 12 Pursuant to these arrangements, the Council thus acts for all archdioceses and dioceses in Australia, with the exception of three of the Eastern Rite Eparchies, and for all the major religious institutes. The Council also acts for a number of other Catholic organisations including Catholic Church Insurance Limited (CCI).

- 13 For practical purposes, the Council will ordinarily speak for the whole Church: its dioceses, its religious institutes, its priests and religious, in the Royal Commission.
- 14 The Catholic Church in Australia today is an extensive and diverse religious organisation committed to worship, prayer and pastoral care. It is involved in providing pastoral, educational, health, human and social services across Australia.<sup>2</sup>
- 15 Notwithstanding that all the dioceses and religious institutes are autonomous and independent, each from the other, with no one central or controlling authority, and with each free to govern its affairs separately and independently, all are united in their support for the principles stated in the Commitment at the head of this Submission.
- 16 Those principles are also fully shared by all the innocent and high-minded priests and religious whose long years of devoted and selfless service have been admirable and who are heartbroken by the revelations of sexual abuse which have emerged in recent decades.
- 17 The Council's aim is to do everything in its power to ensure that the Royal Commission has available to it from the Church all the material that it needs for the work it seeks to do, so as to ensure that a light is shone on dark places and times and events, and to ensure that nothing is concealed or covered up in respect of what Church personnel did or failed to do.
- 18 The Council seeks to fulfil that role, on behalf of the Church, in a spirit of honesty, openness and genuine humility.

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<sup>2</sup> See Annexure B: TJHC Submission to RC Issues Paper No 2: Towards Healing 30/9/13



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## Executive Summary

The Church in Australia is fully committed to strategies that promote child safe organisational environments. The Church seeks to base its response on Gospel values which articulate our responsibilities to weak and vulnerable people. Consistent with these values and with the provisions of the United Nations *Convention on the Rights of the Child* (CROC), the best interests of children require that all steps be taken to protect them from abuse. Victims of abuse have a right to have their stories heard, to seek justice and to receive counselling and other support to overcome the deleterious impacts of the abuse. Organisations<sup>3</sup> providing services or activities involving children have a duty of care based on legal and ethical considerations to ensure their safety from sexual and other forms of abuse.

The dynamics of organisational settings mean that all children are vulnerable to sexual abuse, particularly those who have previously experienced neglect and harm. The foundational value underpinning the Church's approach to child safety is the inherent dignity of each child, regardless of circumstances. An essential element in the creation of child safe environments is listening to and responding to children. Respecting the voice of children overcomes the silence and powerlessness that so often characterises unsafe organisations.

There is no current fail-safe method that can identify people who are unsuitable to work with children. Current screening includes an assessment of a range of information, but its focus is usually around criminal offences involving children, drugs and violence. Organisations need to understand the limitations of this information and obtain as broad a range of information about potential employees as possible, so that they are able to make an informed decision about the steps required to minimise any risk. Furthermore, there is a need to strengthen the safety of children through policies and practices that develop and enhance the protective nature of organisational environments.

This Submission responds to the eight issues outlined in the Royal Commission's Issues Paper 3. It explores the current evidence base for child safe organisational policies and practices and their efficacy. It also incorporates the feedback by experienced managers and staff from across a diverse range of the Church's organisations and agencies.

The Council submits that the nine essential elements of child safe organisations are:

- a protective child centred organisational culture
- 'child aware' leadership
- continuous risk management strategies
- implementation of a child protection policy
- effective human resource practices, including regular training
- effective investigation processes
- accreditation

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<sup>3</sup> For the purposes of this Submission:  
'Organisation' includes the Church as an institution and its Archdioceses, Dioceses, Parishes, Religious Institutes, Schools, Church groups and other agencies.  
'Staff' of an organisation refers to employees, independent contractors, volunteers, priests or religious.

- children's empowerment, and
- victim support.

The Submission analyses the state of play in the implementation of child safe practices in Australia, including for those services auspiced by the Church. It also identifies areas where further investigation is required in relation to the implementation of child safe practices, such as in isolated Indigenous communities, in responding to the risk of sexual abuse by the peers of a child and in the potential for extension to the protection of vulnerable people more broadly.

The fact that organisations can pose risk to children does not mean that organisations should curtail their work with children. Restricting services to children can in itself lead to child harm. Rather, organisations working with children need to recognise that risk is a feature of all work with children and that they need to manage this risk by creating safer organisational environments. The change of focus to ensuring that child safety is paramount may be a cultural shift for many organisations, which currently compartmentalise child protection as an issue that is separate from their other functions. Child related organisations need to recognise that child safety is integral to everything that they do.

Although the evidence base is limited there is emerging consensus amongst researchers and practitioners about what is required to facilitate child safe organisational environments. The priority is to garner government and organisational commitment to implement best practice despite the cost implications.

This Submission calls for the implementation of consistent, effective and comprehensive child safe practices across institutions, through the establishment of a national mandatory accreditation scheme, including enforcement and random independent audits of organisations. The lack of independent audit is a major deficiency in current Australian child safe frameworks and limits their adoption and effectiveness.

The Church also recognises that there is significant diversity in the types of organisations that come into contact with children, and the way in which children and employees or volunteers interact. It will certainly be important to recognise those differences and provide for them in some way in any national accreditation system, so that smaller, volunteer-based organisations are not precluded from obtaining accreditation. In particular, in the context of the Church, the development of an accreditation system needs to allow for the continued operation of parishes while giving confidence to all about the protection of children.

On behalf of the Church, the Council is pleased to provide this Submission in response to this critical issue impacting on the welfare of Australian children. The Council would welcome any further opportunity to participate in the development and implementation of a national best practice child safe framework.

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# 1. The essential elements of establishing a ‘child safe organisation’ that protects children from sexual abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?

## 1.1 General

- 1 Children are developmentally immature and have a right to receive special protection from adults and governments. Recognition of this right is a central feature of the CROC. Australia is a signatory to this international treaty and is therefore responsible for giving effect to it.
- 2 In organisational contexts, due to children’s developmental immaturity, they are vulnerable to being sexually abused by adults.<sup>4</sup> Their vulnerability is increased by inherent imbalances of power within organisational settings between children, who are generally recipients of services, and adults who are both the providers of services and the holders of authority.<sup>5</sup> The vulnerability of some children is further compounded by previous experiences of harm and/or abuse.<sup>6</sup>
- 3 Openness to the views of children and young people themselves is an essential part of the creation of child safe organisations. Listening and responding to children across the spectrum of program design, service delivery, complaints and feedback create the necessary and empowering conditions for child safety.
- 4 Managers of organisations committed to the protection of children are hampered in their endeavours by the current limited nature of research. Research into child abuse including sexual abuse has been dominated by inquiries into the dynamics within families rather than examining responses to organisational risks. At present for organisational contexts, it is not possible to identify in a definitive manner the range of risks present for children and how these risks vary across developmental capabilities.<sup>7</sup> Further, it is not always possible to screen out staff who are likely to sexually abuse children or who are simply unsuitable to work with them.<sup>8</sup> Sexual offenders can either have a predisposition towards paedophilic behaviour or else are opportunistically motivated to sexually abuse children by environmental cues such as sensing children’s vulnerability and powerlessness as well as the low risk of detection in some organisational settings.<sup>9</sup> Similarly the profiles of sex offenders vary greatly and can range from charismatic leaders to the quiet, apparently helpful staff member who is seen to often ‘go the extra mile’ in the performance of their duties.<sup>10</sup>
- 5 While there is value in screening tools to assess the suitability of potential employees and volunteers, evidence indicates that focussing on increasing the safety of organisational environments is equally effective. Indeed, contemporary research suggests that it is not feasible to definitely select safe individuals. As Budiselik (2010) summarised in reviewing existing evidence across research literature:

*‘Unfortunately there appears to be no simple (or complex for that matter) way of discerning a person’s character. People who are dangerous to children will from time to time be employed by some children’s service organisations. It is doubtful that investments in psychometric testing, more thorough screening and interview processes including referee checks, will ever*

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<sup>4</sup> Erooga, M. (2009) Towards safer organisations:5-7

<sup>5</sup> Beyer, L., Higgins, D., Bromfield, L. (2005) Understanding Organisational Risk Factors for Child maltreatment: A review of Literature: 30; Erooga, M. (2009): 61

<sup>6</sup> Erooga, M. (2009): 5-7

<sup>7</sup> Beyer, L., Higgins, D., Bromfield, L. (2005) Understanding Organisational Risk Factors for Child maltreatment: A review of Literature: 18 & 21-2

<sup>8</sup> Beyer, et al. (2005): 38-40, 76&91; Erooga, (2009): 1&9

<sup>9</sup> Beyer, et al. (2005):51

<sup>10</sup> Beyer, et al. (2005): 38-40, 76&91; Erooga, (2009): 1&9

*provide certainty about people's future behaviours. Administering child safe children's organisations needs to be predicated on a belief that it is possible people with a motive and propensity to abuse children will continue to be employed.'*

- 6 A key theme in the evidence is that child safe environmental strategies need to relate to the various core functions of organisations and need to be implemented in a holistic and integrated manner. The greater the number of organisational strategies implemented the more safe children will be in their contacts with organisations.

## **1.2 Organisational risk factors**

- 7 To place these strategies in perspective it is instructive to consider the organisational risks that they are designed to counter. Research shows that there are higher levels of sexual and other forms of child abuse in organisations where:
- (a) staff can be alone with children
  - (b) organisational structures are hierarchical with vertical, centralised and siloed communication channels which prevent staff from having an overview of a child's welfare and what is happening for them in that context
  - (c) bullying is ingrained in the organisation's culture
  - (d) there is little or no external and independent scrutiny of service delivery and operations
  - (e) organisational resources are inadequate, preventing the recruitment of quality staff with suitable training and qualifications and leading to an overreliance on volunteers
  - (f) performance management practices are poor, resulting in staff not being held accountable for their behaviours and leading to a sense amongst staff that they can act as they please
  - (g) accreditation for staff of the organisation is lacking
  - (h) disclosure policies and procedures and whistle-blower protection are absent
  - (i) there is an overreliance on internal investigation responses at the expense of the reporting of concerns about sexual abuse to external authorities
  - (j) services operate in isolated environments, for example services such as residential care programs that are physically isolated from the community and/or where children in these programs are prevented from contacting other services or members of the community.<sup>11</sup>

## **1.3 The essential elements of a child safe organisation**

- 8 The essential elements of a child safe organisation are set out in the table below. This analysis was informed by:
- (a) a review of contemporary research literature including the work undertaken by Dr. Monica Applewhite with the Catholic Church in America
  - (b) feedback from managers of education, employment and social services and Professional Standards teams from across the Church

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<sup>11</sup> Beyer, et al. (2005): 43-6; Erooga, M. (2009): 38-49

- (c) views of Leaders of Religious Institutes
- (d) the work of Ian Elliott, former CEO of the National Board for Safeguarding Children in the Catholic Church in Ireland. Mr Elliott was directly consulted on the eight issues outlined in the Issues Paper.

9 An overview of each essential element is provided following the table.

**Table 1: Essential elements of child safe organisations**

No	Essential Element	Key Components
1	A protective, child centred organisational culture	<p>Explicit statement of Core Organisational Values that are communicated internally and externally and modelled by leaders</p> <p>Recognition of a child's rights to a safe environment and to be heard about matters that affect them</p> <p>Fostering a culture of disclosure from children which encourages children to speak up</p> <p>Parents and children are encouraged to participate in the development of policies, procedures and models of service</p> <p>Primary criteria for <b>all</b> organisational decision making are the best interests and safety of the individual child or collective group of children who are participating in or receiving services from the organisation</p> <p>Recognition and understanding at all organisational levels of the developmental capabilities of children</p> <p>Staff are empowered to express issues of concern about an organisation's activities and practice</p> <p>Open Communication – culture of trust and openness where practice is supervised, discussed and questioned</p> <p>Vigilance in how children are treated</p> <p>Advocate for children in legislative, policy and community forums</p>
2	Governance and leadership informed by an understanding of the developmental needs of children	<p>Those responsible for the leadership and governance of the organisation have values and model behaviour that are consistent with child safe principles. They assist with the formation of staff in the organisation's core values</p> <p>Child safety is a priority for the whole organisation</p> <p>Demonstrated commitment to organisational improvement and development</p> <p>Model and encourage open communication</p> <p>Lead an accountable organisation by promoting transparency about its operations and performance with key stakeholders</p> <p>Ensure a thorough, independent investigation of any expressed concerns and complaints by children, their families and advocates, even if these are informally presented</p>

No	Essential Element	Key Components
3	Risk management process that identifies and develops responses to high risk issues in the organisation's operations	<p>Identification of high risk work activities from a child safety perspective</p> <p>Assessment of risk is informed by an understanding of the dynamics of sexual abuse in institutions</p> <p>The use of a risk management process is ongoing and is undertaken with staff and clients</p> <p>Continuous organisational learning and improvement is encouraged. This is informed by an analysis of any previous abusive incidents within the organisation</p> <p>Use of external experts to review risk management plans to ascertain whether any matters have been overlooked</p> <p>Reviews the practices of external suppliers and contractors to ensure that they are compliant with child safe principles</p>
4	Implementation of a child protection policy	<p>The content of an organisational child protection policy may include but is not limited to:</p> <ul style="list-style-type: none"> <li>■ The organisation's commitment to child protection</li> <li>■ Reference to national and state legislation that informs the policy including definitions of abuse.</li> <li>■ How the organisation will meet its responsibilities</li> <li>■ Responsibilities to report, and respond to, any abuse</li> <li>■ How the policy will be implemented</li> <li>■ To whom the policy applies, for example to priests and religious, board members, management, staff and volunteers</li> <li>■ Recognition of the needs of children from Indigenous and diverse cultural backgrounds</li> <li>■ Clarity about the status of the policy, i.e. is it mandatory and who has approved it</li> <li>■ How the policy will be monitored and reviewed</li> </ul> <p>The Child Protection Policy is communicated to stakeholders including staff, children and their families</p>
5	Human resource practices that promote the recruitment of suitable people to work with children, invest in their development, and monitor their performance	<p>Recruitment practices that collect a wide range of information concerning potential employees, including working with children checks, criminal history, performance in previous employment, character checks and, in the case of temporary residents, evidence of their right to work in Australia</p> <p>Job descriptions which accurately describe the knowledge, skill set and qualifications required. Job descriptions also reflect the staff members' responsibilities to comply with the organisation's child safe policies and procedures</p> <p>Codes of behaviour governing interactions between staff and children and their families are developed and incorporated into employment contracts and volunteer agreements to reduce the likelihood of risk behaviours. Codes of behaviour should include the organisation's standards about:</p> <ul style="list-style-type: none"> <li>■ after hours contact</li> </ul>



No	Essential Element	Key Components
		<ul style="list-style-type: none"> <li>■ professional boundaries</li> <li>■ touching children</li> <li>■ acceptable behavioural management and support practices if working in an 'out of home' care program</li> <li>■ relationships with adults/children who were previously in the care of the organisation and</li> <li>■ internet use and social media practices including the organisation's sanctions against staff who access child and other forms of pornography</li> </ul> <p>Duty of care policies and the obligations of adults to intervene and protect children if they are at risk of either harming themselves or others</p> <p>Disclosure of Abuse or Harm Policy including clear procedures to handle the disclosure: i.e. how the investigation would be conducted, timelines, roles and responsibilities, how staff will be dealt with prior to the outcome being known, documentation of the process and internal and external reporting</p> <p>Whistle-blower protection policy</p> <p>Work Health and Safety practices to ensure the health and safety of staff on the job including bullying and harassment prevention</p> <p>Clear disciplinary and grievance policy which is applied to all people working in the organisation</p> <p>Staff are trained in all of the above policies and procedures at induction and at regular periods post appointment in the form of refresher training</p> <p>Staff are also trained in relation to the dynamics of sexual abuse in organisations and how to promote a safe environment for children</p> <p>Onsite supervision of work behaviour and performance</p> <p>The provision of professional supervision to address the developmental needs and performance of staff</p> <p>A performance management system that regularly evaluates staff and their skills</p> <p>Bullying prevention strategies</p>
6	Effective investigation processes	<p>Investigations are conducted in relation to complaints of abuse and malpractice</p> <p>Clear procedures are in place for reporting to police, child protection and other relevant authorities such as Ombudsman Offices</p>
7	External monitoring	<p>External accreditation and audit against child safe standards</p>
8	Empowerment of children	<p>Organisations actively support the participation of children in program design, service delivery, complaints and feedback activities.</p> <p>The organisation has an 'open door' reporting policy for children that actively encourages the reporting of concerns and/or any behaviours they are uncomfortable about</p> <p>The provision of training and information to children, particularly those who have experienced prior neglect or abuse to increase their understanding about what constitutes healthy and respectful</p>

No	Essential Element	Key Components
		relationships with peers, family or staff Training to build self esteem and confidence of children to promote self assertiveness
9	Victim support programs	The provision of support to access required counselling and assistance to ameliorate the impacts of sexual abuse and assist recovery Need to balance organisational resources between prevention and responding to victims

## 1.4 Key features

### A protective child centred organisational culture [Table 1 (1)]

- 10 Organisational culture has been described as the set of inherent assumptions and beliefs shared by organisational participants that shape their perceptions and behaviour. Child safe organisations are those that believe in the inherent value and dignity of children. There is an accurate understanding across all levels of the organisation about the developmental capabilities of children and a strong focus on children's rights particularly the right of protection and to be heard on matters affecting them.<sup>12</sup> This commitment can be physically expressed. For example, in some Catholic organisations the children's version of the CROC is prominently displayed across service sites. Considerations about the best interests of children are central in guiding the operations of the organisation, including its decision making. Staff are empowered within the organisation to question and challenge practice and the activities of the organisation. All staff are vigilant as they are aware that organisations are inherently risky for children. The communicative behaviour of the organisation's leadership, management and staff can be described as being open and lateral rather than siloed and hierarchically driven.
- 11 Organisations with this culture also place value on advocacy activities that promote the interests of children within the community. This can be seen, for example, in the advocacy work conducted by Catholic agencies with their involvement in campaigns celebrating the importance of children such as National Child Protection Week, International Children's Day and Education Week and their involvement in consultations concerning the development of the National Framework for Protecting Australia's Children.
- 12 A range of evidence supports the importance of these inherent assumptions and beliefs being present within child safe organisations. Risk of sexual and other forms of abuse is higher in those organisations that see children as part of a system of work or as problems to be solved.<sup>13</sup> These organisations do not recognise the right of children to safety and protection. It is also easier to hide the sexual abuse of children in organisational settings where staff are demoralised and disempowered. If staff believe that they cannot change the way the organisation operates then they will be discouraged from voicing their concerns, or even disclosing direct evidence about the sexual abuse of children.<sup>14</sup>
- 13 Research also identifies some enablers that support the development of suitable organisational cultures required to protect children. These are:

<sup>12</sup> Beyer, et al. (2005): 54 & 93; Erooga, (2009): 6

<sup>13</sup> Erooga, (2009): 39 & 41

<sup>14</sup> Erooga, (2009): 42

- (a) explicitly stated core organisational values based on the rights of children that are required in the behaviours of the organisation's leaders, managers, staff and volunteers,<sup>15</sup> and
- (b) the participation of parents and children in the development of programs, services, and risk plans. The quality of services and the accuracy of risk plans will be strengthened by the involvement of parents and children.<sup>16</sup>

**Leadership with a child protection focus informed by an understanding of the developmental needs of children [Table 1 (2)]**

- 14 Those responsible for leadership and governance of 'child-safe' organisations lead by example in ensuring that protecting children is a priority of the organisation. Organisational leaders, including directors, the CEO and senior management<sup>17</sup> need to model behaviour that is consistent with child safe principles. Open communication across the organisation is encouraged. Emphasis is placed on organisational accountability to stakeholders, which is facilitated by increasing the transparency about the organisation's performance against publicly available indicators. The organisation's leadership ensures that a thorough investigation is conducted of any expressed concern by children, their families and advocates even if these are informally articulated.
- 15 The organisation is also characterised by its ability to learn from its mistakes. Organisational improvement based on an analysis of 'where it went wrong' is emphasised.
- 16 This profile is based on the evidence from research about child safe organisations and the Church's own experience. However the Council submits that there is a gap in current research, as there is little or no acknowledgement of the importance of those in governance roles engendering and oversighting the development of child safe practices in organisations. Boards of directors and in the Church context Church leaders are critical to this process as they appoint CEOs and senior managers and monitor their performance. Religious leaders and boards are a critical link in the child safety chain.
- 17 In relation to the commitment by organisational leaders to facilitate the full investigation of concerns about risks to children, the Council is aware that there can be reluctance to investigate where the expressed concern may be from an anonymous party or is presented informally. However, research indicates that anonymous informal complaints will often be made by children seeking help about their sexual abuse.<sup>18</sup> The key issue is that all complaints, even if anonymous and informal, must be thoroughly investigated by the organisation.<sup>19</sup> This is best achieved through referral of the concern or complaint to an appropriate external statutory body such as the police and/or child protection service.

**A risk management process that identifies and develops responses to high risk issues in the organisation's operations [Table 1 (3)]**

- 18 Child safe organisations proactively identify work activities in which there may be risk of sexual abuse occurring. This analysis is undertaken in collaboration with children and parents associated with the organisation. It is also informed by an understanding of the dynamics of sexual abuse within organisations. Any previous incident of sexual abuse within the organisation is examined to determine how it can be prevented in the future. This organisational learning is incorporated into the risk plan. External experts are periodically engaged to review the risk plan to determine gaps and to incorporate any other remedial strategies. Risk plans are regularly reviewed and updated.

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<sup>15</sup> Beyer, et al. (2005): 93-4

<sup>16</sup> Budiselik, W.(2010) Child-safe organisations: A wise investment?: 167

<sup>17</sup> In a Church context, the leadership and governance roles will include Archbishops, Bishops and leaders of Religious Institutes.

<sup>18</sup> Budiselik, W.(2010): 213

<sup>19</sup> Budiselik, W.(2010): 213

- 19 This approach is premised on an understanding that the operational environments and activities of organisations vary substantially. Consequently, the situations of risk which may provide opportunities for sexual abuse will be different for each organisation. This places the onus on each organisation to conduct a risk management process focused on sexual and other forms of abuse and harm to children. There is strong evidence in research that the accuracy of these risk plans will be enhanced if staff and management understand the dynamics of sexual abuse in organisational settings, particularly how perpetrators engage in ‘grooming’ behaviour, to build trust with children and create a context within which sexual abuse of a child can be undertaken without detection.<sup>20</sup> Risk plans also need to be tested against the likely impact on children in contact with the organisation, to ensure that they are protected in ways that minimise any unintended negative consequences.<sup>21</sup> Given the changing circumstances of most organisations the risk plan needs to be regularly re-evaluated.

#### **Implementation of a child protection policy [Table 1 (4)]**

- 20 A child protection policy is foundational for the establishment and review of child safe practices in an organisation. It provides a clear statement to organisational stakeholders including children, families, staff (and, in the Council's context, members of the clergy and religious institutes) as to the position of the organisation in relation to the protection of children and how it will go about implementing the required reforms to achieve safety. It makes clear the organisation's standards of practice and holds it to account if it fails to meet them. The policy also informs the development of organisational codes of conduct and protocols about the sharing of client information which need to be in place to reduce the risk of sexual abuse of children. The Child Protection Policy is actively communicated to stakeholders.
- 21 The content of a child protection policy may include but is not limited to:
- (a) the organisation's commitment to child protection
  - (b) reference to national and state legislation that informs the policy including definitions of abuse
  - (c) how the organisation will meet its responsibilities
  - (d) responsibilities to report and respond to reports of abuse
  - (e) how the policy will be implemented
  - (f) to whom the policy applies: i.e. organisational leaders, board members, management and staff
  - (g) recognition of the particular needs of children from Indigenous and diverse cultural backgrounds and the obligation that organisations develop capacity to deliver accessible culturally appropriate services
  - (h) clarity about the status of the policy: for example, a statement that it is mandatory and who has approved it
  - (i) how the policy will be monitored and reviewed<sup>22</sup>.

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<sup>20</sup> Erooga, (2009): 61 & 93; Staller, K. (2012) Missing Pieces, Repetitive Practices: Child Sexual Exploitation and Institutional Settings: 276

<sup>21</sup> Budiselik, W.(2010): 81

<sup>22</sup> Child wise (2006), and *Safeguarding Children: Standards and Guidance Document for the Catholic Church in Ireland* (2008).

## Human resource practices that promote the recruitment of suitable people to work with children, invest in their development, and monitor their performance [Table 1 (5)]

- 22 Research and operational experience identifies a broad range of human resource management practices that assist in creating safer organisational environments for children. Before detailing these strategies it is important to re-examine the limitations of current Working With Children Checks (WWCC) as these are often used and relied upon to determine the suitability of workers in children's organisations and for some agencies and services, are the only specific child safe strategy in place.<sup>23</sup>
- 23 The Council provided a comprehensive submission to the Royal Commission's earlier Issues Paper 1: Working With Children Check. In that submission, the Council argued that, while the WWCC was only one part of an overall approach to determining the suitability of a person to work with children, the lack of consistency in the current State and Territory-based systems meant that organisations were unable to access a full range of information on applicants.<sup>24</sup>
- 24 Research supports this position. For example, research profiling 205 extra-familial sexual abusers in Melbourne found that 25% had no prior convictions for sexual offences against children, even though they had abused multiple children over significant periods of time.<sup>25</sup> A further issue is that there may already be unsuitable people employed in the organisation, or that the risk profile of staff may change over time due to alterations in their personal life and mental health.<sup>26</sup> Organisations should never rely on criminal history checks alone to determine the suitability of staff to work with children. The main value of criminal history checks is to act as a deterrent to those who pose a risk from applying for positions in child-related organisations.<sup>27</sup>
- 25 The Council submits that the following human resource strategies are essential components of an effective human resource management regime in child safe organisations.
- 26 Organisations that are safer for children use a varied mix of practices to test the suitability of people to work with children. The organisation is proactive in stating its commitment to child safe practices in advertising for positions.<sup>28</sup> This is in part to deter unsuitable people from applying. Position descriptions include the staff member's responsibility to comply with the organisation's child safe practices. At selection, organisations not only use criminal history checks but also acquire a range of other information concerning the background of the applicant, including references from previous employers and personal referee checks.<sup>29</sup> Selection interviews not only focus on applicants demonstrating their technical knowledge and skills but also on whether their personal beliefs and values about children are consistent with child safe perspectives.<sup>30</sup> These screening processes are applied consistently to all people working in a child-related organisation. It has been found that sexual offenders are more likely to be recruited when these basic procedures have not been followed.<sup>31</sup>
- 27 The Church has instituted processes in the formation and assessment of priests and religious to ensure that those presenting for ordination or profession of vows have been trained, formed and scrutinised to minimise the possibility of child sexual abuse.

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<sup>23</sup> For example, the 2012 *Employment Services Deed 2012-2015*, proscribes only criminal history checks to test the suitability of staff to work in Jobs Services Australia programs and that of participants in activities involving contact with vulnerable people including children (see Clause 12)

<sup>24</sup> Truth Justice and Healing Council (2013) *Submission: Issues Paper 1 – Working with children check*, Sections 1:10, 2.2 (3)

<sup>25</sup> Beyer, et al. (2005): 27

<sup>26</sup> Beyer, et al. (2005): 48

<sup>27</sup> Beyer, et al. (2005): 70; Budiselik, W.(2010): 48

<sup>28</sup> Erooga, (2009): 103 & 105 Budiselik, W.(2010): 75

<sup>29</sup> Erooga, (2009): 114

<sup>30</sup> Erooga, (2009):13-15 & 105-9

<sup>31</sup> Erooga, (2009): 114

- 28 The National Committee for Professional Standards supports and endorses the adoption by Church organisations of the same safe recruitment practices for clergy and religious as for all other workers who are engaged by organisations to work with children (both paid and volunteer). These include but are not limited to:
- (a) Legislative compliance (Working With Children Check) or national criminal history checks (in accordance with the requirements of the relevant State/Territory law)
  - (b) Reference checking with previous employer or Church organisation
  - (c) Reference checking with the leader of the Religious Institute or Bishop to ascertain that this person is in good standing
  - (d) Specific reference checking for visiting clergy and religious as per paragraphs 45.6 and 45.7 of the *Towards Healing* protocols, including for overseas clergy and religious.
- 29 Child safe organisations will also have established enforceable Codes of Conduct for staff and volunteers in relation to their interactions with clients and their use of technology including the internet. In relation to children, the code should remove any ambiguity concerning expectations about staff behaviours in those situations where there may be higher risk of sexual abuse of children. For example, as outlined in Essential Element 5 in Table 1, the code will often cover behavioural standards about what is acceptable after hours contact with children, the need to maintain professional boundaries, rules on touching children and acceptable discipline practices.<sup>32</sup>
- 30 In relation to internet use, the code would set benchmarks for appropriate social media behaviour and the employment sanctions that will apply if staff access unsuitable material including child pornography, either at work or in their private lives.<sup>33</sup> Accessing child pornography is a criminal offence. The Council submits that it is inappropriate for children to be receiving services or care from individuals who view them as sexual objects.<sup>34</sup> In some organisations these policies are reinforced by random IT audits of worker's use of office computers.
- 31 Unless otherwise covered in the organisation's child protection policy, child safe organisations will also have in place duty of care and disclosure of abuse or harm policies. The duty of care policy will detail the duties of staff and volunteers to intervene and protect children if they are at risk of either harming themselves or others and how intervention will occur. The disclosure of abuse or harm policy will outline the organisation's reporting and investigation procedures and the management of staff during the investigative stage.
- 32 Child safe organisations are also committed to whistle-blower protection policies. This strategy encourages open communication in organisations.<sup>35</sup> Whistle-blower protection is particularly important in those contexts where a staff member needs to alert others about abusive behaviour by a senior manager.<sup>36</sup>
- 33 Child safe organisations also observe work health and safety legislation and standards as they are committed to the health and safety of workers.
- 34 Clear disciplinary and grievance policies are also a requirement for child safe organisations.<sup>37</sup> When complaints are received, appropriate disciplinary and grievance policies are applied transparently.

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<sup>32</sup> Beyer, et al. (2005): 56; Budiselik, W.(2010): 185

<sup>33</sup> Research into internet offences in America found that 17% of offenders had used their work computers to access child pornography or in attempts to recruit children to be sexually abused: Erooga, (2009): 71

<sup>34</sup> Erooga, (2009): 73

<sup>35</sup> Beyer, et al. (2005): 57; Erooga, (2009): 45

<sup>36</sup> Beyer, et al. (2005): 57

<sup>37</sup> Beyer, et al. (2005): 56; Budiselik, W.(2010): 185



The person against whom a complaint of child sexual abuse is made is to have their access to children removed or is to be stood down pending investigation of the complaint, ensuring the protection of children in the organisation. The investigation should proceed in an expeditious manner, and in accordance with principles of natural justice.

- 35 As well as having a well-developed child safe policy framework, the board, organisational leaders and staff need to be trained in its use and implications for performance and behaviour. This training occurs at induction and through regular 'refresher training'. Also provided for all organisational participants is training on the dynamics of sexual abuse in organisations and how to positively promote safe environments for children. This training is designed to inform all organisational participants of their responsibility to act if they have concerns about the care of children or potential or actual abuse. Furthermore, the training sensitises people to broad risk indicators and abusive practices, particularly in relation to possible sexual abuse, and encourages reporting. Some Catholic organisations have found that scenario training, whereby 'real life' examples are presented to staff for their analysis and reflection, is a particularly effective way to heighten awareness of the issues involved in the sexual abuse of children.
- 36 The Council also submits that adequate staff supervision is a particularly powerful strategy in creating safer environments for children. On-site supervision focuses on monitoring day to day workplace behaviour. Where possible, work environments need to be structured to maximise line of sight supervision of staff.<sup>38</sup> Professional supervision involves practices where opportunities are provided to staff and volunteers to reflect on their activities and to receive feedback about their performance and developmental needs from experienced practitioners. Professional supervision also provides a space where staff and volunteers can be encouraged to speak out about concerns regarding children and behaviours towards children can be monitored.<sup>39</sup>
- 37 Professional supervision should be provided as a regular work routine.<sup>40</sup> An example of this practice is the Principal Mentoring Program and Aspirant Principals' Program delivered through the Catholic Education Office, Melbourne. The provision of professional supervision by organisations also helps overcome a systemic risk in the accreditation of staff.<sup>41</sup>
- 38 Child safe organisations also place importance on performance management practices with staff. As noted previously, an organisational risk factor is staff believing that they can ignore policies and procedures and 'go their own way'.<sup>42</sup> Robust performance management systems are an inhibitor to the emergence of this behaviour and culture.
- 39 Lastly, child safe organisations are proactive in ensuring that bullying is not part of their culture. Research has found that a culture of bullying in organisations will lessen inhibitions about sexually abusing children.<sup>43</sup>

#### **Effective investigation processes [Table 1 (6)]**

- 40 A significant gap in much of the material on the creation and maintenance of child safe organisations is a focus on the integrity and effective oversight of the processes of investigation of complaints of abuse. This is of particular importance for organisations working in areas where children and young people are at greater potential risk of abuse, neglect or exploitation, such as organisations providing out-of-home care services and other organisations that take on the primary care of a child or young

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<sup>38</sup> Budiselik, W.(2010): 86

<sup>39</sup> Budiselik, W.(2010): 183

<sup>40</sup> Budiselik, W.(2010): 73

<sup>41</sup> In Australia, there is no mandatory professional accreditation process for social workers and youth workers. This is a systemic issue that needs to be addressed by governments and professional associations.

<sup>42</sup> Budiselik, W.(2010): 182-3

<sup>43</sup> Erooga, (2009): 41

person. In these circumstances, it is important that the process of investigation is at arm's length from the individuals and organisation involved. Procedures to respond to complaints of abuse must focus on clear roles and accountabilities and the best interests of children and young people must be at the centre of these processes.

- 41 Concerns or complaints about child sexual abuse should be referred to Police and/or the statutory child protection agency, and this procedure should be clearly communicated. This provides a clear message to all parties that the organisation considers the matter to be serious.<sup>44</sup> It also provides an independent and robust investigation response to the concern.
- 42 An effective example of an external oversight model for organisations responding to concerns about sexual abuse or other forms of abuse and harm is the role of the NSW Ombudsman in overseeing the investigations of concerns about the care of children in 'out of home care' programs. The Ombudsman plays a key role in overseeing and scrutinising the integrity and adequacy of non-government agencies' systems for handling and responding to reportable allegations and convictions. Based on an assessment of the reportable conduct,<sup>45</sup> the Ombudsman will make a determination to:
- (a) oversee the investigation
  - (b) monitor the investigation
  - (c) undertake a direct investigation, or
  - (d) determine that no further action is required.
- 43 Such external oversight mechanisms are an important element in improving the integrity of systems to respond to allegations of abuse. An oversight process needs to be extended to all organisations in contact with children. The details of its implementation and operation would need to be developed in consultation with providers of services to children.
- 44 The following case study provides an example of effective investigative practices. These specific procedures may not be feasible in all organisational settings such as in smaller, volunteer organisations but nonetheless serve as valuable indicators of best practice.

#### **Case study – MacKillop Family Services, NSW**

- 45 MacKillop Family Services is a provider of out-of-home care in Victoria and NSW. In NSW MacKillop has implemented a procedure in response to complaints of poor quality of care and reportable conduct that includes provisions to strengthen the impartiality, independence and objectivity of the process.
- 46 The procedure specifies that the investigator selected must not have, nor be perceived to have, any conflict of interest in relation to the:
- (a) situation
  - (b) victim(s)
  - (c) employee the subject of the allegation, or

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<sup>44</sup> Beyer, et al. (2005): 59

<sup>45</sup> Section 25A of the *Ombudsman Act 1974* (NSW) defines 'reportable conduct' as:

- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material), or
- b) any assault, ill-treatment or neglect of a child, or
- c) any behaviour that causes psychological harm to a child.



- (d) outcomes which might affect MacKillop's reputation.
- 47 The MacKillop General Manager NSW Services, in consultation with the Executive Director Operations, determines the most appropriate person to investigate the allegation from the following hierarchy:
- (a) manager from another MacKillop NSW program
  - (b) MacKillop Victoria or Western Australia manager
  - (c) manager from another designated agency
  - (d) an external investigator.
- 48 The selection of investigator and the level of investigation will be in keeping with the seriousness of the allegation. A MacKillop manager may be the responsible investigator for less serious or low risk matters. An external investigator may be appointed when the matter is serious, complex, requires particular expertise or there is a potential conflict of interest. Consistent with external requirements,<sup>46</sup> the procedure also acknowledges that advice may be sought from the NSW Ombudsman regarding the level of investigation that is appropriate in a particular circumstance and provides clear reporting protocols to external agencies such as the relevant child protection agency and Police.
- 49 An example of a model for independent investigations is provided by the Victorian Department of Human Services (DHS). Designated DHS staff (Quality of Care Coordinators) take the lead role in the response to complaints of abuse and other quality of care concerns in the out-of-home care sector. An Investigation Planning Group (IPG) comprising the relevant Child Protection staff, the community organisation manager and the Quality of Care Coordinator is convened to:
- (a) screen all concerns raised
  - (b) coordinate any investigation
  - (c) determine, on the balance of probabilities, and based on assessment of information obtained, whether an allegation of abuse is substantiated
  - (d) recommend action with respect to the carer if the IPG considers no further action is required or the matter can be managed through support and supervision
  - (e) advise the relevant community organisation senior regional manager that the IPG has assessed there are ongoing concerns regarding the capacity of the carer to provide good quality care or there are issues that may involve some form of disciplinary response.
- 50 Specific provisions relating to the handling of complaints involving Indigenous children and young people are included. Guidelines formalise the reporting protocols to external agencies such as the police and provide a framework for documenting the process and outcomes of the investigation.

**External monitoring of an organisation's compliance with child safe policies, procedures and practices [Table 1 (7)]**

- 51 The effective implementation of child safe policies and practices requires an accreditation process. This process would include external, independent auditing of the organisation's child safe policies

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<sup>46</sup> MacKillop Family Services acknowledges its obligations under the NSW *Interagency Guidelines for Child Protection Intervention* (2006) It also acknowledges its obligations under the *Ombudsman Act 1974*, the *Children and Young Persons (Care and Protection) Act 1998*, the *Child Protection Legislation Amendment Act 2003*, the *Commission for Children and Young People Act 1998* and the *Child Protection (Prohibited Employment) Act 1998*.

and their implementation. Research indicates that this encourages the proper development and application of these policies.<sup>47</sup>

- 52 One example of an accreditation system is that administered by the National Board for Safeguarding Children in the Catholic Church in Ireland. Each Church organisation e.g. diocese, parish, religious institution or seminary conducts an annual self assessment of their child safe policies and practices against seven Standards that have been developed by the National Board. Each Standard has a set of criteria which need to be met to prove compliance. There is also an evidence guide to assist the organisational self assessment. Independent investigators from the National Board then undertake random audits against these Standards. It is expected that every Irish Church organisation will be independently audited at least once every five years. Results of both the self assessment and independent audit are published annually on the National Board's website. Church organisations are named and shamed for non-compliance.<sup>48</sup>
- 53 As will be further discussed in Issue 4, the lack of national standards and compulsory accreditation for organisations involved with children is a major gap in Australia's current system. As Budiselik (2010) observed:

*'The creation of child-safe organisations [in Australia] relies largely on rhetoric and an organisation's goodwill.'*<sup>49</sup>

#### **Empowerment of children to report risks and harm [Table 1 (8)]**

- 54 A further theme in research on child safe practices advocates for the education of children concerning healthy adult-child relationships. This is particularly important for vulnerable children who have experienced previous abuse and harm and as a consequence may have misconceptions about what is permissible behaviour by peers and adults, particularly carers.<sup>50</sup>
- 55 A second strategy is to increase the self assertiveness of children within organisational settings. This may be achieved through the provision of formal and informal programs that build self esteem and confidence. This strategy draws on evidence derived from sexual offenders that suggests assertive children are less likely to be targeted for sexual abuse.<sup>51</sup> The strategy will also encourage early disclosure of sexual abuse.<sup>52</sup> No child is ever responsible for their own abuse and this research in no way attributes responsibility for being sexually abused to the child victim. A distorted rationalisation by paedophiles committing sexually abusive behaviour is that the child encouraged their behaviour. At all times the sole responsibility for the behaviour rests with the adult perpetrator. Subject to this truth being recognised, strategies related to increasing the self assertiveness of children may assist in their empowerment within organisational contexts to both resist 'grooming behaviour' by offenders and/or encourage early disclosure of (attempted) abuse.
- 56 Schools are well placed to implement personal development and child safety programs. These types of activities can also be linked to meeting relevant student developmental components of the education curriculum such as found in the Victorian Education Learning Standards (VELS).
- 57 These strategies need to be supported by an open door reporting policy for children.<sup>53</sup> Practices need to be developed within the organisation that encourage and support children to report concerns and behaviours about which they feel uncomfortable.

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<sup>47</sup> Beyer, et al. (2005): 68

<sup>48</sup> National Board for Safeguarding Children in the Catholic Church (2008)

<sup>49</sup> Budiselik, W.(2010): 209

<sup>50</sup> Beyer, et al. (2005): 53

<sup>51</sup> Beyer, et al. (2005): 53 and 94

<sup>52</sup> Beyer, et al. (2005): 54

<sup>53</sup> Beyer, et al. (2005): 53

### Victim support programs [Table 1 (9)]

- 58 As stated, even with the implementation of the full range of child safety practices outlined in this section, there is no guarantee that a child will not be sexually abused in an organisational environment. If abuse occurs the child safe organisation has a moral, and potentially a legal obligation to assist the victim's recovery from the abusive incident.<sup>54</sup> This may include the provision of support to the victim to access required counselling.

## 1.5 Conclusion

- 59 There is no guarantee that the nine essential elements of child safe organisations will prevent child sexual abuse. However their presence and operation in organisations reduces risk, encourages early detection and provides a framework for managers to respond effectively to end any abuse that may occur.
- 60 While the nine elements should be present in all organisations in contact with children, the Council understands that their specific application will vary depending on the scope of the operations of the organisation. Consequently national consultations need to occur to finalise standards concerning these essential elements and to develop effective implementation processes.

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<sup>54</sup> Clark, K. (2009) Institutional Child Sexual Abuse – Not Just a Catholic Thing: 235-237

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## 2. The evidence base for the range of strategies associated with making an organisation child safe. Does this evidence base extend to the physical environment?

- 1 As noted, research into sexual abuse has been dominated by inquiries concerning family contexts. There is limited research into the prevention of abuse in organisations.<sup>55</sup> Research undertaken in relation to sexual abuse in institutions has drawn upon a diverse range of theoretical frameworks. These frameworks are outlined below.

### Ecological theory

- 2 Child safe organisational practices have been informed by ecological theory. This research model explores how the biological and developmental needs of children interact with their environment to increase the risk of abuse. The key finding from this research is that risk factors for children will change in correlation with their developmental stage.<sup>56</sup>

### Causes of paedophilia and sexual offending

- 3 Research into the causes of paedophilia and the risk profiles of sexual offenders has also informed the development of child safe practices.<sup>57</sup> This research demonstrates that screening for likely sexual abusers is ineffective as a stand alone strategy.

### Situational crime prevention

- 4 Situational crime prevention research has also been very influential in the development of child safe strategies. This approach advocates that managers focus on creating safe environments rather than trying to detect staff at risk of sexually abusing children.<sup>58</sup> This has become a dominant theme in research concerning child safe organisations. It postulates that sexual offenders are either anti-social predators or opportunistic and situational offenders. Consequently, strategies that reduce opportunities for crime by making the behaviour more risky, increasing the effort required by the offender to commit sexual abuse, and promoting moral constraints on offending through the development of environmental cues within the organisation, are all key strategies of this approach.<sup>59</sup>
- 5 This perspective emphasises the importance of staff supervision and visibility processes, codes of conduct and organisational cultures that value children and respect their rights.

### Spatial research

- 6 Child safe practices have also been informed by research into environments within which perpetrators are more likely to sexually abuse children – spatial research. This has focussed on two areas:
- Environment - it has been found that about half the incidents of sexual crime occur in private spaces such as private homes, cars, watching television or where adults allow children to sleep with them in their bed.<sup>60</sup> Other research has found that sexual abusers will generally commit the crime close to their own homes.<sup>61</sup> This research informs the development of organisational codes of behaviour, for example rules concerning where staff have contact and work with children.

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<sup>55</sup> Beyer, et al. (2005): 7&17

<sup>56</sup> Beyer, et al. (2005): 10

<sup>57</sup> Beyer, et al. (2005): 11

<sup>58</sup> Beyer, et al. (2005): 12-15

<sup>59</sup> Beyer, et al. (2005): 12-15

<sup>60</sup> Beyer, et al. (2005): 31

<sup>61</sup> Beyer, et al. (2005): 31

- Physical infrastructure of work places: This research has demonstrated the importance of developing work spaces that allow for line of sight supervision.<sup>62</sup> Other, more specialised considerations have included the risk involved in programs being conducted in places that are physically isolated from the rest of the community and where children, mostly involved in residential care programs, are discouraged from forming contacts with other services and community members.<sup>63</sup>
- 7 Against this background, the physical infrastructure in which child-related organisations operate becomes an important consideration. For example, the creation of child safe youth detention centres and residential facilities for children requires a strong focus on visibility within the environment and procedures to ensure appropriate staff-to-children ratios and staff accountability. This is broadly applicable across all child-related organisations.
- 8 Within the Church context, organisations in their development of child safe practices have been informed by the work of Dr Monica Applewhite and Ian Elliott in regard to their undertakings on this issue with the Church in America and Ireland respectively.

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<sup>62</sup> Budiselik, W.(2010): 86

<sup>63</sup> Beyer, et al. (2005): 46

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### 3. How should the effectiveness of child safe strategies be tested?

#### 3.1 General

- 1 It is worth noting again that there has been little research undertaken in relation to child safe organisations and whether their practices are effective.<sup>64</sup> The following discussion identifies the key assumptions in child safe strategies that would need to be tested to measure effectiveness. It also outlines the difficulty in doing so and, based on research and the operational knowledge of managers in Church organisations, proposes several criteria against which effectiveness could be tested in operational and research contexts.
- 2 The two assumptions of child safe approaches are that:
  - (a) Children are at risk from staff
  - (b) These risks will be lessened if organisations adopt child safe practices.<sup>65</sup>

#### 3.2 Assumption 1: Children are at risk in organisational settings

- 3 The difficulty in testing the first assumption is that there is no centralised data collection process in Australia that measures the prevalence of sexual abuse in organisations. Furthermore, any published figures on prevalence need to be considered cautiously as there is a strong probability of under-reporting. This is not to discount the seriousness of the problem or its extent. An Australian research study of 205 sexual offenders who had committed crimes against children noted that 39% had accessed children through some form of organisational activity. A more recent study by Smallbone and Wortley (2001) of sexual offenders in Queensland found that 20% had committed their crimes within organisations.<sup>66</sup> This same study found evidence of high rates of under reporting, as these offenders had only been convicted in relation to a third of the total number of children they had admitted to sexually abusing.<sup>67</sup> Further, nothing is known about those offenders whose actions remain undetected, for obvious reasons.<sup>68</sup>
- 4 International studies on prevalence may provide some guide to estimating the level of sexual abuse in Australian organisations. However this research is also limited. A rigorous study undertaken by the American Association of University Women estimated that at least 9.6% of United States students will be subjected to sexual misconduct by school staff during their schooling.<sup>69</sup> This is not an alarmist figure, as the rates of sexual misconduct against students by educational staff in America in other studies have ranged as high as 50.3%.<sup>70</sup> In brief, there is no doubt that children can be sexually abused in organisational settings by staff. The unknown factor is the frequency of this abuse. Research therefore confirms the first assumption in the child safe discourse.

#### 3.3 Assumption 2: Child safe practices reduce risk for children in organisational settings

- 5 This leads to a consideration of the second assumption. Given that no authority is aware of the frequency of sexual abuse in Australian organisations, it currently cannot be proven or disproven that the introduction of child safe strategies will be effective in reducing sexual abuse. However,

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<sup>64</sup> Beyer, et al. (2005): 6; Budiselik, W.(2010): 11

<sup>65</sup> Budiselik, W.(2010): 55

<sup>66</sup> Beyer, et al. (2005): 30

<sup>67</sup> Beyer, et al. (2005): 51

<sup>68</sup> Beyer, et al. (2005): 18

<sup>69</sup> Erooga, (2009): 58-9

<sup>70</sup> Erooga, (2009): 59

organisations can measure a range of factors associated with what is currently known about making children safer in organisational settings to test their own effectiveness in responding to risks and incidents of sexual abuse. These factors include:

- (a) The organisation's level of compliance with known child safe strategies as outlined in the nine essential components in the response to Issue 1 in this Submission.
  - (b) The level of understanding amongst staff as to the organisation's risk profile in regard to sexual and other forms of abuse towards children and whether they are aware of how to act in relation to concerns and abusive incidents.
  - (c) Whether the organisational child safe practices have assisted in detecting the risk of sexual abuse to a child at an early (warning) stage rather than at an acute stage when the abuse has occurred.
  - (d) The length of time between the occurrence of sexual abuse and the detection of the abuse in the organisation.
  - (e) Documented evidence that demonstrates the organisation has thoroughly investigated all concerns and notifications concerning sexual and other forms of abuse brought to its attention either formally or informally.
  - (f) Documented outcomes showing that unsafe behaviour to children by staff was ended as a result of intervention by the organisation.
- 6 To summarise, as the Safety, Wellbeing and Professional Services Office, Catholic Education Office, Sydney states:

*'What is important is to be gathering and reviewing data on what is being reported, when it is being reported and if the risk management of the agency could have prevented the incident or not.'*

### **3.4 Conclusion:**

- 7 A national database should be established. The Council submits that the practice of collecting and analysing information about the sexual abuse of children in organisations needs to be systematically conducted across all Australian organisations that engage with children, to commence the development of a national database to inform the development of future child safe practices. The method by which this can be achieved needs to be the subject of further consultations with Australian organisations.

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## 4. How child safe policies and procedures work in practice

### 4.1 National policy and child safe standard frameworks

- 1 Article 19 of the CROC requires national governments to protect children from all forms of maltreatment (including sexual abuse) perpetrated by parents or others responsible for their care.
- 2 The Council of Australian Governments (COAG) has developed national standards for the protection of children. These standards include a commitment to the development of 'a nationally consistent approach to working with children checks and child safe organisations'.<sup>71</sup> The Council is unaware of the current progress being made in the development of these standards.
- 3 There has been earlier work by the Australian Government to develop a national framework for child safe organisations. In 2005 the Community and Disability Services Ministers' issued the publication '*Creating Safe Environments for Children – Organisations, Employees and Volunteers National Framework*'.<sup>72</sup> Many of the standards listed in this report are consistent with the Council's view about the essential elements of a child safe framework outlined above. These standards were referred to State and Territory jurisdictions for further refinement and implementation.<sup>73</sup>
- 4 Similarly to WWCC, state and territory jurisdictions have taken a range of different approaches to implementing these National Frameworks for child safe organisations. Consequently, Australia lacks a nationally consistent set of standards for child safe organisations.
- 5 Child safe standards have evolved in specialised sectors. For example, in the education sector the National Safe Schools Framework has been developed.<sup>74</sup> The Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) has suggested that this could be a suitable framework for use in sports organisations.<sup>75</sup>
- 6 However, generally child safe strategies are voluntary codes of conduct for organisations. There are some exceptions, for example, in most States services providing 'Out of Home' care or other child safety programs are legally required to introduce, monitor and review child safe service standards. The South Australian State Government has introduced a statutorily enforced but limited child safe accreditation process for organisations working with, or having access to, children. These organisations include those providing health, welfare, education, sporting, recreation, religious and child care services, including government departments and agencies.<sup>76</sup> In Queensland, there is a legislative requirement that organisations working with children implement a written risk management strategy, containing employment practices that promote the best interests of the child and child protection.<sup>77</sup> However, for most other services across Australia, compliance with child safe standards is voluntary, and adoption depends on the goodwill of the individual organisation.<sup>78</sup>

### 4.2 Current national implementation of child safe strategies

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<sup>71</sup> Council of Australian Governments (2009) *Protecting children is everyone's business: National framework for Protecting Australia's Children 2009-2020*, p18.

<sup>72</sup> Community Disability Services Ministers Conference. (2005) *Creating safe environments for children – organisations, employees and volunteers : National framework*

<sup>73</sup> Community Disability Services Ministers Conference (2005) *Creating Safe Environments for Children – Organisations, Employees and Volunteers National Framework: A Strategic Approach to Implementation*

<sup>74</sup> Department of Education, Employment and Workplace Relations (2010) *The National Safe Schools Framework*

<sup>75</sup> Higgins, D., *Child Safe Sports Environments: Lessons from research about the context for protecting children from abuse*, 2013

<sup>76</sup> Budiselik, W.(2010): 50

<sup>77</sup> *Commission for Children and Young People and Child Guardian Act 2000* (Qld) s171.

<sup>78</sup> Budiselik, W.(2010): 209



- 7 It is unlikely that any governing authority either in government, the Church or the Not For Profit (NFP) sector in Australia would have a definitive understanding about how child safe policies and procedures work in practice across organisations associated with children. This is partly due to the potential number of organisations in contact with children. For example there are at least:
- (a) 13,286 Child Care Services<sup>79</sup>
  - (b) 9,256 businesses and other organisations providing sports and physical recreation services to children<sup>80</sup>
  - (c) 9,999 primary, special and secondary schools
  - (d) 55,779 economically significant NFP social services, for example those that employ staff.<sup>81</sup> A significant proportion of these services would either be providing services to children or be in contact with them.
- 8 Further, there are overlapping incorporation, reporting and governance arrangements for these services. Both Commonwealth and State Governments are accountable for the incorporation of NFP organisations. At the Commonwealth level this is achieved through the Australian Securities and Investments Commission (ASIC), the Australian Tax Office (ATO) and the recently established Australian Charities and Not for Profit Commission (ACNC). State Governments use their Office of Fair Trading or equivalent instrumentality. These authorities have various and sometimes conflicting governance standards for NFP organisations. There are also a range of other standards that various NFP organisations need to abide by that incorporate some of the essential elements of child safe strategies, for example, the Disability Service Standards. The complex regulatory and governance requirements that apply to NFP organisations, which often overlap with service standards and child safe strategies requirements, results in an ambiguous picture of how child safe policies and procedures work in practice.
- 9 The Church is committed to implementing child safe policies and practices across its archdioceses, dioceses, religious institutes and organisations. While some organisations within the Church are very advanced, at present the uniform application of child safe policies and practices has not been achieved across the Church. However, in view of the importance of this reform, the Church has a commitment to progress this issue as quickly as possible. The Church's work in this area would be more effective if Commonwealth and State Governments worked together to introduce a set of clear and consistent national child safe standards, supported by an accreditation scheme for child related organisations that included both self assessment and external audit processes.

### 4.3 There should be a national accreditation scheme

- 10 The Council considers that the absence of a mandatory national accreditation scheme backed up by an external audit system for organisations working with or in contact with children is a major limitation that increases risk.
- 11 There have been some attempts to introduce national accreditation on a voluntary basis. For example, Child Wise, a Melbourne based NFP organisation has developed a set of standards to assist organisations to establish safe environments for children.<sup>82</sup> The Australian Council of

<sup>79</sup> Department of Education, Employment and Workplace Relations, (2013) Child Care in Australia:3

<sup>80</sup> Australian Bureau of Statistics. (2012) Sports and Physical Recreation: A Statistical Overview, Australia

<sup>81</sup> Productivity Commission (2010) The Contribution of the Not for Profit Sector: 60

<sup>82</sup> Budiselik, W.(2010): 52

Children's and Youth Organisations also delivers a Safeguarding Children program that involves an accreditation process and that includes an independent audit to determine the organisation's compliance with child safe standards. However, it is the Council's assessment that these initiatives have not been broadly implemented across Australian organisations due to their voluntary nature.

- 12 At a national level, the Council submits that there is a need for the development and implementation of both a comprehensive set of national child safe standards and the introduction of compulsory accreditation and external auditing of organisations. As previously stated, apart from South Australia and to a limited degree in Queensland, there is no enforceable accreditation process specifically for child safe policies and procedures in Australia. Even in South Australia, the accreditation process is limited in that to date it has only involved a one-off self assessment by the organisation. One off point of time self assessments are ineffective as they are open to manipulation by organisations. Further, given the changeable nature of institutions and their operational environments, risk patterns will always be evolving. For example, changes in risk profiles will be driven by replacement of leaders, the establishment of new programs and the emerging needs of children.
- 13 Research indicates that enforceable accreditation schemes are required to ensure the implementation of effective child safe policies and procedures.<sup>83</sup> Enforceable accreditation ensures managers and staff will be supported in overcoming any resistance from their constituencies to the application of child safe strategies. Further, the implementation of national accreditation will improve community confidence in organisations working with children. In a recent interview with Ian Elliott, former CEO of the National Board for Safeguarding Children in the Catholic Church in Ireland, which was conducted to inform the development of this Submission, Mr Elliott commented that the implementation of the accreditation scheme developed by his organisation was a primary factor in the restoration of public confidence in Irish Catholic institutions working with children.
- 14 The Council submits that the Safeguarding Children initiative that has been implemented by the Church in Ireland, as outlined in Section 1, is an example of best practice in this area. The principles of this scheme, which include the development of consistent and assessable national standards, accreditation, self and external auditing and the public 'naming and shaming' of non-compliant organisations, should inform the development of a national accreditation system for child safe organisations in Australia.
- 15 The Council would be pleased to work with representatives of the Royal Commission and government to progress discussions regarding the establishment of a national accreditation scheme.

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<sup>83</sup> Beyer, et al. (2005): 58

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## **5. Should there be a universal framework for a ‘child safe organisation’ or should strategies be specifically tailored to particular types of institutional settings?**

- 1 The Council submits that there are three implementation levels for child safe frameworks:
  - (a) Essential elements that need to be applied and be evident in the activities of all organisations in contact with children
  - (b) Guidelines and standards to assist organisational leaders and staff in their application of these essential elements, and
  - (c) Customisation of the essential elements, guidelines and standards in individual organisations.

### **5.1 Universal child safe principles**

- 2 The nine essential elements outlined in Issue 1 need to be applied across all organisations. These nine essential elements are based on contemporary research, evidence and operational knowledge about what approaches are most effective to prevent sexual abuse and other harms to children.

### **5.2 The need for guidelines and standards**

- 3 As stated in Issue 4 there is significant diversity in the types of organisations in contact with children. These can range from the parish netball club to ‘out of home care’ services and schools. Consequently it would assist organisations if best practice guidelines and standards concerning the implementation of the essential elements across various sectors were developed. For example, a question that could be asked is how can these essential elements be best applied in specialised settings such as sports organisations, schools, employment services and disability services for children.

### **5.3 The need to customise the implementation of child safe principles at the organisational level**

- 4 At an organisational level the risk management approach will ensure that strategies are customised in the organisation to respond to high risk areas within their operations. All organisations that aspire to being child safe need to demonstrate a protective child centred culture, leadership committed to and informed by the best interests of children and a child protection policy that states the organisation’s public commitment to being child safe, accountable and designed to meet the particular risks in that organisational context. Section 4 argues for the implementation of a legislatively mandated national accreditation system and if this proposal were accepted then all organisations would need to be compliant with this framework. Empowerment strategies for children and assistance in the recovery of the child victim, if abuse occurs, would also be generic features of all organisations. Human resource practices within the child safe framework may be the principle that is most varied in its application across organisations as there will be a mix of staffing models consistent with the mission of the organisation concerned. However codes of conduct developed to give clear guidance to staff, including those from religious institutions, of behavioural expectations in all ambiguous situations involving risk to children should be a standard feature of all organisations.

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## **6. The role of staff performance management systems and disciplinary processes in a ‘child safe organisation’**

### **6.1 General**

- 1 As outlined in Section 1, research has found that dysfunctional organisational cultures where staff act as they please and feel able to ignore operational policies and procedures are an organisational risk factor increasing the likelihood that children will be sexually abused or harmed.<sup>84</sup> Consequently it is critical that organisations have in place effective performance management and disciplinary procedures informed by contemporary human resource practice. The application of these processes will also assist in changing an organisation’s culture to that characterised by accountability and safety.
- 2 The Council recognises that some people in the Church and general community in the past have struggled with the issue of how to respond to individuals responsible for unsatisfactory and abusive behaviour to children. It is recognised that, consistent with the Gospel values of forgiveness and healing, staff including religious staff who are found to be unsuitable to work with children may need support. However, this does not extend to providing employment in any context involving children.
- 3 Sexual offenders who have been abusive to children should never hold any role in a child related organisation that includes contact with children.

### **6.2 Performance management**

- 4 Performance management systems should be routinely implemented in organisations. They provide for staff and their managers to assess performance against an organisation’s cultural, behavioural and service standards. Developmental or remedial plans can then be developed with the staff member if their performance is deficient. The staff member’s progress in responding to developmental and/or remedial plans can be monitored and further action taken if performance is unsatisfactory, including formal disciplinary action.

### **6.3 Disciplinary processes**

- 5 Employment law in Australia is complex and the penalties for unfair dismissal can be severe for organisations. For organisations operating with a paucity of resources, unfair dismissal claims can be both difficult to defend and a threat to the organisation’s existence. Furthermore, as previously discussed, staff behaviour indicative of risk may be ambiguous and difficult to substantiate. Consequently organisations committed to child safety need to develop clear codes of conduct linked to an employee’s employment contract or volunteer’s agreement to assist in complaint handling, discipline and dismissal matters.
- 6 Grievance and complaint handling procedures need also to be clear, and applicable to every person who holds a role in the organisation, whether they are employed or attend in a volunteer or other capacity.
- 7 When complaints are received, the clear processes in the disciplinary and grievance policies should be triggered. The person against whom a complaint of child abuse is made must be stood down pending investigation of the complaint. This is not an erosion of rights, but a necessary step to ensure that children in the organisation are protected while the complaint is investigated.

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<sup>84</sup> Beyer, et al. (2005): 43-6

Investigation processes need to be transparent, and investigations should proceed expeditiously, subject to natural justice being accorded to the person against whom the complaint is made.

8 As outlined in the Council's submission in response to Issues Paper 1: Working with Children Check, information concerning the outcome of relevant investigations, and disciplinary action and/or dismissal of staff for unsuitability issues in working with children should be conveyed to a national authority and be made available to other organisations if the individual applies for other child related employment.<sup>85</sup>

9 A summation of these issues is provided by the Catholic Education Office, Sydney:

*'An organisation with coherent policies and a strong culture of accountability of staff and volunteers is best placed to comply with child protection and legal requirements'.*

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<sup>85</sup> Truth Justice and Healing Council (2013) *Submission: Issues Paper 1 – Working with children check*, Issue 1:1.1, 1.2

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## **7. The role and characteristics of governance and management leadership in creating and maintaining a child safe organisational culture**

- 1 As previously stated, there is currently no specific governance responsibility or, for the most part, legislative requirement, for organisations to implement child safe principles apart from some prescribed services in the child protection and ‘out of home’ care sectors.
- 2 Given the importance of child protection and the life-long consequences of child sexual abuse, the Council submits that the implementation of child safe strategies, with external auditing and compliance monitoring, should be a legislative requirement for all Australian organisations with operations that involve children, so that child protection becomes a fundamental element of their governance.
- 3 As an extension of this, as has been noted in response to Issue 1 (see section 1 paragraphs 14-17 above), participation of organisational leaders is critical for the effective implementation of the essential elements of child safe organisations. These leaders:
  - (a) influence the nature of organisational culture and the importance of ‘child centred’ values and practices through the expression of their beliefs and behaviour
  - (b) ensure the organisation-wide adoption of child safe strategies, and
  - (c) monitor, review and continuously improve child safe policies and procedures for their organisations.
- 4 In fact the Council submits that the core responsibility of leadership should be to focus organisational development on achieving child safe environments.
- 5 Consequently, organisational leaders need to understand what constitutes healthy adult – child relationships. Organisational leaders including those of religious institutes, parishes and schools should undertake regular professional development and professional supervision to assist them in their child protection and prevention responsibilities.
- 6 Leaders also need to ensure that concern about an organisation’s reputation and funding does not override the need to act on concerns and complaints about the sexual abuse of children and to externally report matters of concern. Organisational leaders are also critical to the protection of whistle-blowers, thereby encouraging the reporting of concerns about abuse. Furthermore, research indicates that child safe strategies will not be effective unless there is organisational will to fully implement and to be compliant with the organisations’s standards for the protection of children.<sup>86</sup> Organisations will be more responsive if failure to act impacts negatively on their operations or non compliance results in potential penalties for organisational leaders.

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<sup>86</sup> Beyer, et al. (2005): 48

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## **8. Should there be any additional enforceable requirements for institutions or particular institutions to maintain a child safe environment?**

- 1 Several other requirements should be imposed to promote the safety of children in organisations.

### **8.1 A national working with children check**

- 2 The Council's submission to the Royal Commission's first issues paper outlined the need for a nationally consistent WWCC scheme administered by a national body. This scheme would improve the selection of staff for organisations working with children by ensuring that a comprehensive suite of information concerning their suitability, including convictions, criminal charges as well as outcomes of disciplinary processes or any other material relevant to assessing suitability, was available. This reform is an important foundation to implementing national child safety principles.
- 3 The Council notes the opposition to the establishment of a national WWCC authority by the New South Wales, Western Australian and Commonwealth governments. It is our understanding that this opposition is on the grounds of the administrative difficulty involved in accounting for the many differences in the practice of States in this area. However, the Council emphasises that the current discrepancies between States and the limited scope of current WWCC processes, whereby only criminal matters are reviewed, increase the risk that child related organisations will employ unsuitable staff due to the lack of information available to inform the selection decision.

### **8.2 Regulatory body**

- 4 A national independent regulatory authority is required to ensure that child protection measures are met and that there is accountability and meaningful change in Australia. The establishment of a regulatory body will provide:
  - (a) the means to bring about authentic cultural change
  - (b) meaningful scrutiny and accountability for all organisations required to maintain a safe environment for children
  - (c) direction and accountability for the development, implementation and review of the national child safe principles (for example, in relation to child awareness, employment practices, training, policy, recruitment, reporting, investigation and audit)
  - (d) incentive, through legal implications, for organisations to be compliant
  - (e) a level of consistency enabling the closure of gaps that expose children and organisations to risk
  - (f) implicit acknowledgement by Parliament of the need for regulated organisations to be adequately resourced to perform the particular service
  - (g) scrutiny of the systems in place to prevent and respond to concerns about child safety and provision of feedback as to how to improve them, and
  - (h) capture of beneficial, national data in relation to child safe organisations with capacity to develop further best practice approaches from the associated learnings.

### **8.3 Enhancing the consistency of responses by police to allegations of sexual abuse**

- 5 This Submission has stressed the importance of external investigations of concerns and allegations regarding the sexual abuse of children. External reports are generally made to police.
- 6 Organisations have reported discrepancies in relation to how individual police officers and/or stations deal with reported concerns. For example, where an organisation receives an anonymous letter about an allegation of sexual abuse, some police officers will decline to make any investigation as they have no victim or complainant. Other police officers will make a further assessment of the situation or will accept the letter as a complaint. These varying police practices create confusion for organisations about what to externally report. This issue requires further consultation with and between law enforcement agencies and organisations. Existing protocols may need to be reviewed to address this issue.



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## 9. Other issues

- 1 Consideration needs to be given to three further issues in relation to the implementation of child safe strategies.
  - (a) Consultations need to occur with the Indigenous community regarding the application of the essential elements and strategies for child safety. The different cultural relationship issues between children, their extended family and 'skin group' may require the customisation for the Indigenous community of the principles discussed in this Submission. This could be particularly significant in remote communities.
  - (b) The risk of sexual abuse of children by peers within organisational programs needs to be considered. Many organisations are providing services to children who have histories of sexually abusing others. This is of particular concern for schools, residential care and juvenile justice programs. For example, some organisations provide rehabilitative programs to children exiting prisons. These programs are provided to lessen the risk they may present to others and to more positively integrate them into their community. To deny these children a service due to their possible risk to others is in itself a risk and a social justice issue. The development of child safe principles and strategies to respond to the risk of child sexual abuse by peers requires further consultation and research.
  - (c) Although outside the Royal Commission's terms of reference, it is useful to consider the extent to which the child safe principles discussed in this Submission might be expanded to cover organisations supporting and providing services to vulnerable people more generally. It is submitted that for the most part these principles would be readily applicable, and the Council has already highlighted in this Submission the potential for duplication in some sectors, for example those organisations providing services to children to which the Disability Service Standards apply.

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## 10. Conclusion

- 1 The Council submits that the nine essential elements of child safe organisations are: a protective `child centred organisational culture, `child aware` leadership, continuous risk management strategies, implementation of a child protection policy, effective human resource practices, effective investigation processes, accreditation, children`s empowerment and victim support.
- 2 To implement these nine essential elements this Submission calls for a substantial overhaul of governance, accreditation, policies and procedures for organisations in contact with children. This will require further collaboration between the Commonwealth, State and Territory governments and the many sectors in which child-related organisations operate.
- 3 There is no doubt that these reforms will have cost implications for organisations. The amount will vary depending on their current stage of development and their progress with the implementation of child safe strategies. However, the critical question is whether we can afford to ignore the issue. The Council submits that a major shift is required to ensure that organisations become child safe organisations and that investment in this area is warranted. While care needs to be taken not to destroy the good in the search for the perfect, one incident of sexual abuse of a child is abhorrent and is one incident too many. The human toll for the child and their family is unacceptable. There is a strong moral and ethical imperative to commit to ending the sexual abuse of children within organisations. Furthermore, the abuse of children is costly for the community. Children who are abused are at high risk of experiencing long term behavioural, physical and mental health issues throughout their adulthood. Adults abused as children are more likely to experience family disintegration, engage in anti-social behaviour including crime and be chronically unemployed. In 2007 the annual cost nationally of responding to child abuse and its impacts was estimated as \$10.7 billion.<sup>87</sup> Organisations have a social responsibility to take action to prevent child abuse within their areas of responsibility and to reduce this cost for the community.
- 4 The introduction of child safe standards and governance requirements will also increase the administrative workload of organisations. The Council acknowledges this, but notes that this is likely to be reduced over time as cultures change, and systems develop and mature. Further, there is potential for cost reduction if government completes a national audit and review of current organisational standards, with a view to ensuring the incorporation of the child safe principles advocated in this Submission into those existing frameworks. Until this policy work is complete however, the Council submits that there is significant value in establishing a stand-alone set of national child safe principles and standards, to emphasise the importance of this issue and to drive implementation. The implementation of these standards would best be achieved through collaboration across organisations such as those associated with education, community services, sport and recreation and the various Churches.

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<sup>87</sup> Queensland Child Protection Commission of Inquiry (2013). Taking Responsibility: A Roadmap for Queensland Child Protection: 5

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