10 October 2013
CCYPD/13/401

Justice Peter McClellan AM
Chair
Royal Commission into Institutional Responses to Child Sexual Abuse
GPO Box 5283,
Sydney NSW 2001

Dear Justice McClellan

Thank you for the opportunity to contribute to the discussion arising from Issues Paper 3 – Child Safe Institutions, as released by the Royal Commission into Institutional Responses to Child Sexual Abuse. My submission on Issues Paper 1 – Working with Children Checks contained comment on issues relevant to child safe institutions and I welcome the opportunity to further present and expand on this vital and fundamental domain.


The Commission for Children and Young People is constituted by the Principal Commissioner and the Commissioner for Aboriginal Children and Young People. The Victorian Commission is the only jurisdiction in Australia to have a dedicated Commissioner for Aboriginal children and young people.

The objective of the Commission is to promote continuous improvement and innovation in policies and practices relating to the safety and wellbeing of vulnerable children and young persons and children and young persons generally; and in the provision of out of home care services.

Functions of the CCYP include promoting child-safe and child-friendly practices in the Victorian community; reviewing the administration of the Working with Children Act 2005 and, in consultation with the Secretary to the Department of Justice, to educate and inform the community about that Act.

I am firmly of the view that resources need to be appropriately targeted at minimising risk to children by focusing on child safe practices; not managing risks once they have been realised and children have been harmed.

Significant work has been achieved and agreed to nationally in the form of the National Framework Creating Safe Environment For Children – Organisations, Employees and Volunteers. The commitment expressed in the National Framework provides a platform from which jurisdictions can further develop child safe organisational processes.
I am also pleased to be party to the Australian Children’s Commissioner and Guardians
Principles for Child Safety in Organisation and the subsequent joint submission to the Royal
Commission. I look forward to the Royal Commission’s further development and
enhancement of this vital domain.

In addition to this written submission, I would be pleased to answer any questions the
Commission has, or to provide any further information you may require.

If you would like to discuss any of these issues in more detail, please contact myself on tel:
(03) 8601 5886 or at Bernie.Geary@ccyp.vic.gov.au.

Yours sincerely

Bernie Geary OAM
Principal Commissioner

Atts: Creating Safe Environments For Children – Organisations, Employees and Volunteers – National
Framework

A Guide for Creating a Child-safe Organisation

Information for parents - Things to look at when selecting child-safe activities or services for your
child

Wise choices: Safe children
Submission by the Victorian Commission for Children and Young People to the Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper 3 – Child Safe Institutions

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?

Over the past decade, significant investment has been made to identify the elements of a child safe organisation at both the national and local level.

The examples provided below demonstrates a high level of consistency in foundation principles of what constitutes a child safe organisation and guidance, by way of strategies, to enable organisations to protect children from harm. This synergy could be further harmonised into a nationally consistent set of principles and strategies.

Elements that the Commission for Children and Young People (CCYP) would seek to feature are the voice of children and the empowerment of children in all of their dealings with organisations; and an embedded cultural approach in which adults and children alike, actively work to keep children safe.

It is also noted and acknowledged that significant work has been done by Child Wise and NAPCAN as forerunners and precursors to the work discussed below.

Creating Safe Environments For Children – Organisations, Employees and Volunteers – National Framework

Since 2005, there has been national agreement and commitment at Ministerial level for the development of a comprehensive national approach for increasing the safety of children in their dealings with community service organisations. This aspiration is documented in the Creating Safe Environments For Children – Organisations, Employees and Volunteers – National Framework (the National Framework), which was released by the Community and Disability Services Ministers’ Conference in July 2005. A copy of the Framework is attached for your information. The specific guidelines incorporated in this Framework are:

- Guidelines for Building the capacity of Child-Safe Organisations
- An Evidence-Based Guide for Risk Assessment and Decision-Making when Undertaking Background Checking
- Guidelines for Exclusion of Persons from Employment/Volunteering in Child-Related Areas
- Guidelines for Information Sharing across Jurisdictions

---

1 Child Wise, Choose with Care: 12 steps to a child safe organisation
3 Community and Disability Services Ministers’ Conference (2005) National Framework For Creating Safe Environments for Children: Organisations, Employees and Volunteers
Each jurisdiction was required to individually determine how best to locally promote and implement the Framework and associated schedules, taking account of diverse jurisdictional legal and policy contexts.

**A Guide for Creating a Child-safe Organisation**

In 2007, the former Office of the Child Safety Commissioner developed A Guide for Creating a Child-safe Organisation (the Guide) to provide practical guidance to organisations about what they can do to reduce the risk of harm to children in their care. The Guide was designed to encourage organisations to take action:

- to put the right policies into place;
- to empower and promote the participation of children;
- to choose the right staff and to support them to do their jobs well; and
- to ensure everyone knows what to do if concerns about the safety of children are raised.

The central premise of the Guide is that:

> All children have the right to feel safe and to be safe all of the time. A child-safe organisation acknowledges that safety does not just happen. A child-safe organisation takes action to protect children from physical, sexual, emotional, psychological and cultural abuse and from neglect. In a child-safe organisation, this commitment to protecting children is embedded in the organisation’s culture and responsibility for taking action is understood and accepted at all levels of the organisation.

The Guide encourages organisations to consider how well they:

- welcome children and their families/carers
- recognise that children are vulnerable
- recognise and respond to children with special needs, including a disability
- actively encourage the participation of Aboriginal children
- recognise and respond to the particular needs of children from diverse cultural, linguistic and religious backgrounds
- encourage children to participate in making decisions
- recruit and manage staff and volunteers
- ensure the commitment to child safety is clear and shared by all; and
- educate staff and volunteers about child safety.

The CCYP has also produced and distributed several resources for parents and carers to better equip them to assess how “child-safe” an activity, service or organisation is for their children. These resources promote the need for a child-safe and child-friendly organisation to have a range of child-safe policies in place, including robust measures to ensure staff who are required have a Working with Children Check and that the validity of the check is routinely monitored. In particular we have produced:

- *Information for parents* - Things to look at when selecting child-safe activities or services for your child; and

---


Wise choices: Safe children DVD and fact sheets which includes information in English, Arabic, Cantonese, Dinka, Farsi, Mandarin, Somali and Vietnamese.

Copies of the three CCYP resources together with the National Framework are attached for the consideration of the Royal Commission. The CCYP is aware that there are also a range of resources produced by other organisations which are also designed to provide guidance to organisations, as well as to parents.

**Australian Children’s Commissioners and Guardians (ACCG)**

During 2013, the ACCG sought to develop principles for child safety in organisations, reflecting the principles and practice guidelines contained in various ACCG member publications and the National Framework. The eleven principles are listed below. The principles are complemented by extensive explanatory notes which provide greater detail and direction. Both the principles and explanatory notes are provided in the ACCG submission to the Royal Commission.

Organisations will:

1. Take a preventative, proactive and participatory approach to child safety.
2. Implement child safety policies and procedures which support ongoing assessment and amelioration of risk.
3. Value and empower children to participate in decisions which affect their lives.
4. Foster a culture of openness that supports all persons to safely disclose risks of harm to children.
5. Respect diversity in cultures and child rearing practices while keeping child safety paramount.
6. Provide written guidance on appropriate conduct and behaviour towards children.
7. Engage only the most suitable people to work with children and have high quality staff and volunteer supervision and professional development.
8. Ensure children know who to talk with if they are worried or are feeling unsafe, and that they are comfortable to do so.
9. Report suspected abuse, neglect or mistreatment promptly to the appropriate authorities.
10. Share information appropriately and lawfully with other organisations where the safety and wellbeing of children is at risk.
11. Value and communicate with families and carers.

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?

The National Framework contains four Schedules, two of which are particularly relevant to this question.

Schedule one - Guidelines for Building the Capacity of Child-Safe Organisations; and

Schedule two - An Evidence-based Guide for Risk Assessment and Decision-making when undertaking Background Checking.

In building the capacity of child safe organisations, the National Framework identifies that Community Service Organisations work with children who are vulnerable in a multitude of ways; such as being Aboriginal or Torres Straight Islander, having a history of abuse or trauma or having a disability. In Schedule one, practice that has a focus on empowerment and participation of children, together with organisational structures and systems which encourage children to be listened to, are identified as key aspects of building a child safe organisation.

---

6 Australian Children’s Commissioners and Guardians (2013) *Principles for Child Safety in Organisations*
In regard to risk assessment and decision-making, Schedule two identifies that background checking and risk assessment are important steps within a broad suite of policies and practices implemented by a child safe organisation.

At the request of the Community Services Ministers’ Advisory Council Child Safe Organisations Working Group, the Australian Government Department of Families, Community Services and Indigenous Affairs commissioned the National Child Protection Clearinghouse, Australian Institute of Family Studies to undertake the project *Understanding Organisational risk Factors for child maltreatment: A literature review*\(^7\) This work was requested to underpin the development of the National Framework.

This research indicates that high risk environments include those that are ‘home-like’, where employees have time alone with a child and when they are physically isolated from the community.

3. **How should the effectiveness of ‘child safe’ strategies be tested?**

It is acknowledged that it is difficult task to test the effectiveness of child safe strategies, as if they are effective, it is a seamless, cultural approach that underpins everyday interaction.

In *A Guide for Creating a Child-safe Organisation*, the CCYP promotes institutional reflection on their level of child safety and provides a template to assist in this activity. Once systems, procedures and places are in place, a key test of effectiveness is the level of awareness in staff, volunteers, children and families and their access to these strategies.

As sophistication in this domain is evolving, as is the evidence base, it is important to regularly review child safe police to ensure that they remain consistent with the contemporary evidence base as well as ensuring ‘fit’ with the organisation and the children who access it.

4. **How ‘child safe’ policies and procedures work in practice.**

Institutions must strive to embed a universal understanding of what harm to children encapsulates; accept that harm to children occurs within organisations and institutions; and that steps need to occur to mitigate the risk of harm occurring. Reducing the risk of harm to children within organisations requires an effective partnership between government, the community and parents.

The term ‘harm’ can be defined differently in different domains and organisations are encouraged to adopt a definitional statement to ensure clear understanding in their organisation. Examples of definitions in the public domain include:

- The National Framework defines harm as physical, sexual, emotional or psychological abuse or neglect of children.
- The CCYP defines abuse or neglect of children as incorporating physical, sexual, emotional and psychological, racial, cultural and religious harm\(^8\).
- The ACCG Principles for Child Safety in Organisations defines harm as all types of intentional or unintentional abuse, neglect or mistreatment of a child including physical, sexual, emotional, psychological and cultural.

It is vital that child safe policies and procedures are well understood and accepted by all adults and children within the organisation and that a child safe culture is actively nourished. The process of building a child safe organisation is never finished.

\(^7\) Beyer, Higgins and Bromfield, National Child Protection Clearinghouse, Australian Institute of Family Studies *Understanding Organisational risk Factors for child maltreatment: A literature review* November 2005

The strategies provided in the National Framework, together with local guidance, assists organisations to develop the suite of polices and procedures required to reduce the risk of harm to children and to act effectively should issues arise.

Part of ensuring only appropriate people work with children is robust background checking; however, a major component of this that is not frequently raised is the need for rigour and accountability in the provision of honest and ethical references for workers or volunteers.

As there is significant movement within many child related work sectors, there is a responsibility for past employers/managers to provide valid and candid perspectives concerning the person’s suitability to work with children, while ensuring compliance with natural justice and procedural fairness. The safety of children must be the prime concern; not ‘moving on’ a worker or volunteer that you are concerned about.

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

As discussed in part 1 of this submission, significant work has been done to date to identify universal features, if not a universal framework, for child safe organisations.

Characteristics of, and strategies employed by a child safe organisation should be able to be extrapolated to a wide range of child related services, with a particular focus on the needs of the children in that location, such as children with a disability, high risk behaviours or a history of trauma.

All children are vulnerable but some may be more so than others. It would be expected that in undertaking their risk assessment, organisations would identify the particular characteristics of their clientele and develop policies, procedures and staff development as required.

The National Framework Schedule two stated that:

Where a higher than usual duty of care exists, such as in out of home/foster care and residential settings, or where persons will be working with particularly high risk populations, it may be appropriate to include a broader scope of information in background checking.⁹

A child safe policy should incorporate mechanisms for oversight, monitoring and transparency. The level of scrutiny should relate to the risk factors present, including particular vulnerabilities of the children, physical isolation and the level of community involvement. The higher the level of risk, the greater the need for oversight and monitoring.

The CCYP is of the belief that all institutions, whether they be government or community based, must strive to achieve optimum environments for children. There can be no one at greater risk than a child in need of care and protection; however grave concerns are held regarding the safety of residential care facilities for children involved with the child protection system. Past histories of abuse and trauma make these children particularly vulnerable and a high degree of safeguards are required to ensure they are safe, well and thriving.

---

Incident reports, inquiries and reviews undertaken by the CCYP repeatedly identify harm coming to children in the care of the State. A lack of a child safe culture is evident as is an apparent lower bar of acceptable circumstances for these children than would be tolerated for a child living with their family in the community.

In response to inquiries into groups of high risk children and young people, the CCYP has recommended a safety audit be undertaken within residential care services and that audits be undertaken by the CCYP on randomly selected residential facilities.

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

As discussed in part 1 of this submission, there is a need for clearly documented and articulated policy and processes concerning expectations of staff, performance management and disciplinary processes that are known to all. Via a code of conduct, staff and volunteers must understand what is required in their role and what is not acceptable. People responsible for the supervision of staff and volunteers need to provide adequate support and development, as well as on-the-job monitoring of their performance.

Should concerns about the actions of a staff member or volunteer arise; or concerns about the safety of a child emerge, process, such as complaints management and discipline procedures processes, must be robust and transparent.

Although compliant with procedural fairness and natural justice, child safe processes must have the safety of the child as paramount. The National Framework Schedule two: An Evidence-based Guide for Risk Assessment and Decision-making when undertaking Background Checking provides guidance on natural justice and procedural fairness.

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

The role of governance cannot be underestimated in expecting, setting and nurturing a culture of child safety. The National Framework and the work undertaken by the ACCG are thematically consistent in identifying the characteristics of good governance and management:

- A child safe policy
- Risk management plans for high risk events
- A code of conduct
- Privacy and Data Protection

The recently created ACCG Principles for Child Safety in Organisations, as contained in the joint Commissioners and Guardians submission to the Royal Commission, provides further commentary and guidance on management and governance systems.

Given the diverse range of organisations that work with children and their varying levels of governance sophistication, the availability of consultation and assistance would be a step that is both pragmatic and practical. Small organisations that may operate with a committee of management may not have resources to draw on internally and would benefit from a ‘help desk’ approach to both the development of their child safe policy and incident management.

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

Currently in Victoria, child safe organisational, or risk management strategies are not incorporated in regulation or administrative arrangements such as funding and service agreements. Practice guidance, including the National Framework and A Guide for Creating a Child-safe Organisation seek to engender a commitment to child safety and are voluntary.
Victoria has witnessed a strong commitment to the protection of children in the legislatively mandated Working with Children Check (WWCC), in which over compliance is evident. Whilst the WWCC plays a key role in protecting children, it is vital that this approach be supplemented with strategies to enable organisations to be child safe. The Royal Commission may like to consider the benefit of these strategies being incorporated into regulation or administrative arrangements.

Conclusion

The CCYP is firmly of the belief that the most effective way to ensure the safety of children when they are accessing organisations is by the universal adoption of child safe strategies. These strategies must be underpinned by an acceptance that children are vulnerable and that measures are required to mitigate risks.

Within the Australian context, significant work has taken place to identify the characteristics of a child safe organisation and provide guidance on strategies that can be adopted to identify the risk of harm to children and diminish likelihood. I look forward to the Royal Commission taking this work forward.

In addition to this written submission, I have contributed to the ACCG submission and would be pleased to answer any questions the Commission has, or to provide any further information you may require.

If you would like to discuss any of these issues in more detail, please contact myself on tel: (03) 8601 5886 or at Bernie.Geary@ccyp.vic.gov.au.

Yours sincerely

Bernie Geary OAM
Principal Commissioner

Atts: Creating Safe Environments For Children – Organisations, Employees and Volunteers – National Framework

A Guide for Creating a Child-safe Organisation

Information for parents - Things to look at when selecting child-safe activities or services for your child

Wise choices: Safe children