

South Australian Government Submission to Issue Paper 3 – Child Safe Institutions

Overview

The South Australian government welcomes the opportunity to make a submission to the Royal Commission Issues Paper 3 - Child Safe Institutions.

The *Children's Protection Act 1993* requires all organisations providing health, education, welfare, sporting or recreational, religious or spiritual, child care, or residential services wholly or partly for children to develop policies and procedures to create and maintain a safe environment for children and young people.

In this context, a child safe environment is an environment which is both child-safe and child-friendly, where children feel respected, valued and encouraged to reach their full potential.

The Department for Education and Child Development (DECD), as lead organisation for advancing child safe environments, provides advice to organisations and sectors to assist them with developing their policies and procedures for child safe environments. The Department has developed principles, standards and guiding templates and placed these on a child safe environments webpage (www.families.sa.gov.au/childsafes). To this end, DECD provide access to online forums and resources to assist organisations in implementing sector-specific child protection policies and procedures. Organisations are also required to lodge a statement about their child safe environment policies and procedures with DECD.

In addition, the Department for Communities and Social Inclusion (DSCI) which consists of (amongst others) agencies such as Housing SA, Disability SA, Disability and Domiciliary Care Services and Youth Justice, has a major focus on child safety and child safe organisations. Programs and services within Youth Justice aim to support children and young people to desist from offending and access opportunities to participate safely and productively in the community while the Homeless Children Support Service as part of Housing SA's Specialist Homelessness Services focusses on the need for safe housing for children who are currently, or at risk of becoming, homeless.

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?

Developing and maintaining child safe environments requires a 'child safe organisation' to adopt a comprehensive approach to risk management and a governance arrangement subject to independent scrutiny and assessment of its policies procedures and practices and a formal quality assurance process.

DECD

DECD abide by the Child Safe Environments: Principles of Good Practice pursuant to section 8A *Children's Protection Act 1993* (SA) based on the National Framework "Creating Safe Environments for Children – organisations, employees and volunteers".

Critical to ensuring an appropriate risk management approach are the following interconnected elements:

- Risk management plans that identify and assess all potential areas of risk to children and reviews of the effectiveness of the strategies in place;
- Child safe policies that address both children's' rights and adults' obligations to ensure child safety and wellbeing
- Codes of conduct that specify expected standards of conduct for working with children
- A comprehensive recruitment procedure that incorporates face-to-face interviews, referee reports, reference checks, criminal history assessments and other relevant checks
- Support, supervision and professional development opportunities for staff awareness of the development and maintenance of child safe environments
- Empowering staff and volunteers in their responsibilities for reporting and responding to suspected child abuse and neglect such as through mandatory notification training
- Access to support and practical guidance to develop quality risk management plans, child safe policies, codes of practice, workforce recruitment and development practice

It is also essential for states and territories and the Commonwealth to identify an agency to have lead responsibility for advancing child safe environments provisions within each jurisdiction. These responsibilities include:

- Developing principles (see below), standards and guidance for establishing child safe organisations
- Monitoring progress towards child safe environments.

In South Australia, the Chief Executive DECD, has issued "Child Safe Environments: Principles of Good Practice pursuant to section 8A, *Children's Protection Act 1993 (SA)*. These Principles of Good Practice are based on the National Framework, "*Creating Safe Environments for Children – organisations, employees and volunteers*" and include:

1. Identify and analyse risk of harm
2. Develop a clear and accessible child safe policy
3. Develop codes of conduct for adults and children
4. Choose suitable employees and volunteers
5. Support, train, supervise and enhance performance
6. Empower and promote the participation of children in decision-making and service development
7. Report and respond appropriately to suspected abuse and neglect.

Guidance as to how to implement good quality policies and procedures is provided in written form through the "Child Safe Environments: Principles of Good Practice" resource and through online assistance, including practical steps, and templates for developing processes and documents that incorporate all of these principles. The Department for Education and Child Development also provides guidance in response to telephone and email inquiries made by organisations seeking to implement appropriate policies and procedures.

While all of the elements outlined above are essential, DECD consider the development and review of risk management plans as of particular importance. This process ideally engages management, staff, volunteers, children and parents in identifying areas of potential risk, assessing severity and determining strategies to manage risk.

This serves to develop practical strategies particular to each organisational context which address the criteria for child safe environments, while at the same time building collective awareness and sense of responsibility for children's safety and wellbeing.

Regular review processes for risk management plans are also important to ensure this awareness and these strategies are embedded within the workings of the organisation, and in the consciousness of its members.

DCSI

In addition to complying with the above in relation to the *Children's Protection Act 1993 (SA)*, DCSI, with a focus on the delivery of youth justice services, are also governed by the agreed national principles and standards, *Australasian Juvenile Justice Administrators (AJJA) Juvenile Justice Standards*. Key principles include requirement to:

- Recognise vulnerability;
- recognise developmental level;
- recognise gender;
- recognise cultural and religious belief;
- promote procedural fairness while paying regard to legislative and service rights; and
- separation of children and young people from adult populations.

The AJJA Juvenile Justice Standards take into account:

- *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*;
- *United Nations Standard Minimum Rules for Non-Custodial Measures*;
- *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*.

The Standards establish 10 domains of relevance to the creation of child safe institutional environments (criminal justice setting). Key standards that are important to consider in the context of creating child safe environments include:

- Procedural Fairness (Standard 1) - purpose to deliver services that are procedurally fair and acknowledge the rights and responsibilities of those involved. For example, children and young people have a right to information about their rights and responsibilities; human rights need to be protected; access to an advocate is necessary; an individual's age, sex, gender, culture and personal circumstance needs to be taken into account; feedback, review and complaint procedures need to be in place.
- Family and Community (Standard 4) - purpose to reduce offending by working with families and/or support networks. For example, services need to be delivered within the context of family and support networks; families and support networks need to be active participants in planning and decision making; families and communities need to come into the institution environment so as children can continue to be involved in their community.
- Partnerships (Standard 5) - purpose to work in partnership with other organisations and services. This is not only important to enable coordinated service delivery but also transparency around what is happening for the child.
- Infrastructure (Standard 7) - purpose to provide facilities and other resources to deliver effective services. For example, physical resources need to specifically target and support safe and positive environments; physical environments need to be safe, secure and promote rehabilitation.
- Workforce (Standard 8) - purpose to implement an effective workforce. For example, competency development; addressing of values, ethics and behaviour; supervision; establishment of mandatory training; ongoing learning and development of staff; attention on recruitment of staff.

- Security (Standard 9) - purpose to ensure safe and secure environments. For example, requirement for management of emergencies and critical incidents; methods for responding to security and risk to safety; monitoring of restraint, separation etc of children within populations.
- Health and Wellbeing (Standard 10) - purpose to optimise health and wellbeing. For example, requirements for health care; access to health services; requirement to create safe environments eg; minimise harassment and other risk.

How 'child safe' policies and procedures work in practice.

DECD

Under the Child Safe Environments provisions of the *Children's Protection Act 1993* (SA), all government, non-government and local government organisations providing health, welfare, education, sport or recreation, religious or spiritual, childcare or residential services wholly or partly to children are required to:

- have policies and procedures in place for ensuring child safe environments are established and maintained within the organisation, and for the appropriate reporting of child abuse and neglect; and
- conduct criminal history assessments for people working or volunteering with or around children or their records, in prescribed positions.

Both of these are important enablers for creating child safe organisations.

As described above, in South Australia the requirement to establish child safe policies and procedures applies to a broad range of organisations (including sole traders). Whilst the essential elements for establishing a child safe environment are consistent across all affected organisations and sectors, the manner of implementation will vary depending on the size, nature and resources of the specific organisation. For this reason, individual organisations are best placed to make an accurate assessment of how the child safe policies and procedures work in practice.

As also described in the overview, as lead organisation for advancing child safe environments, the Department of Education and Child Development provides advice to organisations and sectors to assist them with developing their policies and procedures for child safe environments. The Department has developed principles, standards and guiding templates and placed these on a child safe environments webpage (www.families.sa.gov.au/childsafe). In addition, organisations are also required to lodge a statement about their child safe environment policies and procedures with the Department.

Smaller organisations and those in the volunteer sector in particular, face difficulties in implementing these requirements, and providing participatory processes for policy development. These organisations may access the online resources provided by the Department for Education and Child Development and may also contact the Department for information and advice. Other Government partners, such as the Office for Recreation and Sport within the Department for Transport, Planning and Infrastructure, also play a key role in supporting specific sectors to implement sector-specific child protection policies and procedures.

DCSI

DCSI, in implementing principles and standards undertake a number of strategies and have in place formal mechanisms to ensure implementation and monitoring processes enable a means of determining effectiveness of the policies and standards. DCSI consider a holistic approach for organisations to be 'child safe', which requires development of organisational culture (education, staff development, supervision, etc) and strong commitment to the enactment of child safe practices.

The DCSI strategies to reduce potential risks for children and their families to keep them safe from harm or neglect include but are not limited to:

- Mandatory Reporting: Early identification and reporting of suspected child abuse or neglect ensures that an assessment can be made and appropriate intervention strategies provided to ensure the safety of the child or young person.

Under the terms of Section 11(1) and (2) of *Children's Protection Act 1993*, Housing SA officers for example, who provide or deliver services directly to families with children (or hold management positions which include responsibility for, or direct supervision of, the delivery of services to families with children) are required by law to notify Families SA if they suspect on reasonable grounds that a child or young person has been or is being abused or neglected, and the suspicion is formed in the course of the Housing SA officer's work.

DCSI is committed to ensuring that all service delivery staff attend appropriate Child safe Environments training.

- Information Sharing Guidelines: The purpose of which, is to support a wide range of government and non-government service providers and volunteers who include, but are not limited to, those working in health, education, policing, juvenile justice, disability, housing, mental health, family violence, drug and alcohol, corrections and investigations and screening units. They apply to the public sector, and to certain non-government organisations that have contracts with government and have agreed contractually to share information about risks to children and young people. These guidelines support early intervention situations that threaten the safety or wellbeing of children, young people and their families.
- Direct Lease Youth Priority Scheme: Developed by Housing SA assists eligible young people aged 16-25 who may be experiencing severe difficulties in securing and/or maintaining suitable accommodation recognising the difficulties young people, particular those with high needs may face in accessing affordable and appropriate housing. The Scheme recognises the difficulties young people, particularly those with high needs, may face in accessing affordable and appropriate housing.
- Income management: Housing SA can refer people at risk of homelessness due to rental arrears to the Centrelink Income Management program. Income management is available to residents of the Playford local government area or the Anangu Pitjantjatjara Yankunytjara (APY) Lands who are in receipt of a Centrelink approved income support payment.

There are three measures which can be used to refer a person to income management, one of which has a child protection element:

- People referred for income management by state child protection authorities where children are being neglected or are at risk. Under the Child Protection Measure, Families SA can refer people to Centrelink for income management.
- People assessed by Centrelink Social Workers as being vulnerable to factors including financial crisis, which could include people who are at risk of homelessness due to rental arrears. As part of this measure Housing SA can refer customers (with consent) to Centrelink to be assessed for income management using a Vulnerable Measure. Under this measure 50% of income support payments are managed. Centrelink is also able to utilise the Vulnerable Measure for its own clients, independent of Housing SA referrals.
- Voluntary Income Management (VIM) applies to people who willingly volunteer for income management. Under VIM 50% of income support payments are managed and spending is directed to essential items such as rent, food and clothing.

Housing SA views the Vulnerable Measure as an effective tool to support people vulnerable to financial crisis, economic abuse or risk of homelessness. It assists in managing rent arrears and preventing evictions.

Housing SA only make referrals to Centrelink with the client's consent and Centrelink has final decision making authority on whether the individual will be income-managed based on assessment criteria.

- Housing SA Social Work Team: Housing SA Social Workers provide support to customers with complex needs that enable independence and builds upon their individual strengths. Some of this support can occur prior to the customer being housed to ensure early identification of high risk tenancies and provide suitable supports for those tenants. The Social Worker will also provide case support for staff dealing with tenants with complex needs; advocate for service and supports, especially where there are gaps in the wider community; and networking and updating staff on service and agency resources.
- Homeless Children Support Service element in all funding service agreements with the Homelessness Sector: Housing SA funds Specialist Homelessness Services. All children accompanying adults within the Specialist Homelessness Service sector are recognised, registered and respected as a client in their own right; receive an individual needs assessment; and have a case management plan in place.

Homelessness Services take reasonable steps to minimise the impact of a child's homelessness by identifying a child's emotional, physical and developmental needs within the context of the family homelessness experience. They also facilitate connections to education, health, mental health, dental and other community services and refer to other appropriate services, including the Child Focus Support program and child protection agencies where necessary. They consult with parents, carers and other relevant people in the development of a Case Management plan and ensure parents and/or carers receive appropriate assistance, information and resources to support their child.

Homelessness Services ensure staff receive child focused professional development and training; create child focused links, networks and partnerships with other services and agencies. They are accountable for their response to children through reporting and data collection; and understanding their overarching obligation to support and protect children.

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

Child safe environment strategies, standards and guidelines are appropriate. A universal framework for a child safe organisation in the form of the essential elements would provide greater coherence across organisational settings. Specifically, there are a range of universal principles that can apply. However, not all institutions are the same.

There are some very specific aspects of relevance to criminal justice institutions that should not apply in mainstream residential settings.

A specific set of strategies which are dependent on the nature of the institution and its core role and/or demographics (eg; foster care, day care, overnight youth camps, youth training centres, or children with disability), may have core common issues however specific strategies may be required to be adopted.

The process of organisations developing strategies for their specific context (based on a set of essential elements), serves a dual purpose of making strategies context relevant and of strengthening the sense of local ownership and commitment for their implementation.

As mentioned previously, the National Framework: *Creating Safe Environments for Children – organisations, employees and volunteers* and the South Australian *Principles of Good Practice* establish essential elements that should be addressed by any organisation providing services to children.

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

Performance management and disciplinary processes are an important element of maintaining a child safe organisation. However, these processes cannot stand alone and it is vital that they are embedded within an organisational culture which includes robust education, staff development, supervision, and staff performance management among other elements, and a strong commitment to the enactment of child safe practices.

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

Governance and management leadership play a critical role in fostering a child safe and child focused culture within an organisation. Of particular importance is an ongoing commitment to raising staff awareness of their responsibilities to ensure the safety and well-being of children using the service.

This may be achieved through a variety of strategies, including codes of conduct (and appropriate disciplinary action for breaching these standards of conduct); regular employee supervision; ensuring employee access to professional development and training in areas relevant to children's safety and promoting a collaborative and open culture where staff, volunteers, children and their families are encouraged provide feedback on matters which are important to them.

To ensure ongoing awareness of issues relating to child safe environments is achieved across organisations, Government agencies and peak bodies have an important role to play in helping to create and maintain awareness of the importance of creating child safe environments.

Strategies that Government agencies and peak bodies can adopt to assist in raising awareness include offering information sessions/training and practical support and incorporating child safe environment requirements into funding agreements, grants and as a condition of affiliation/registration.

Should there be any additional enforceable requirements for institutions or particular institutions to maintain a 'child safe' environment?

DECD

DECD adopt a supportive and collaborative approach to assisting organisations and sectors to implement appropriate policies and procedures. However, the child safe environment provisions of the *Children's Protection Act 1993 (SA)* are enforceable through:

- Requirement that an organisation ensure that a criminal history assessment in conducted in accordance with section 8B(1) – maximum penalty: \$10,000;
- Requirement that an organisation have in place appropriate child safe policies and procedures – maximum penalty: \$10,000;
- Requirement that an organisation lodge a statement about their policies and procedures with DECD within 10 days of putting them in place – maximum penalty: \$5,000;
- Requirement for an organisation to respond within 10 business days to any written request by the Chief Executive for information relating to an organisations compliance with section 8C – maximum penalty: \$5,000.

Such provisions are considered necessary, but should only be used as a last resort, such as in situations where an organisation is not willing to work with DECD to establish child safe policies and procedures and the Department is of the view that a child or children may be placed at risk as a result.