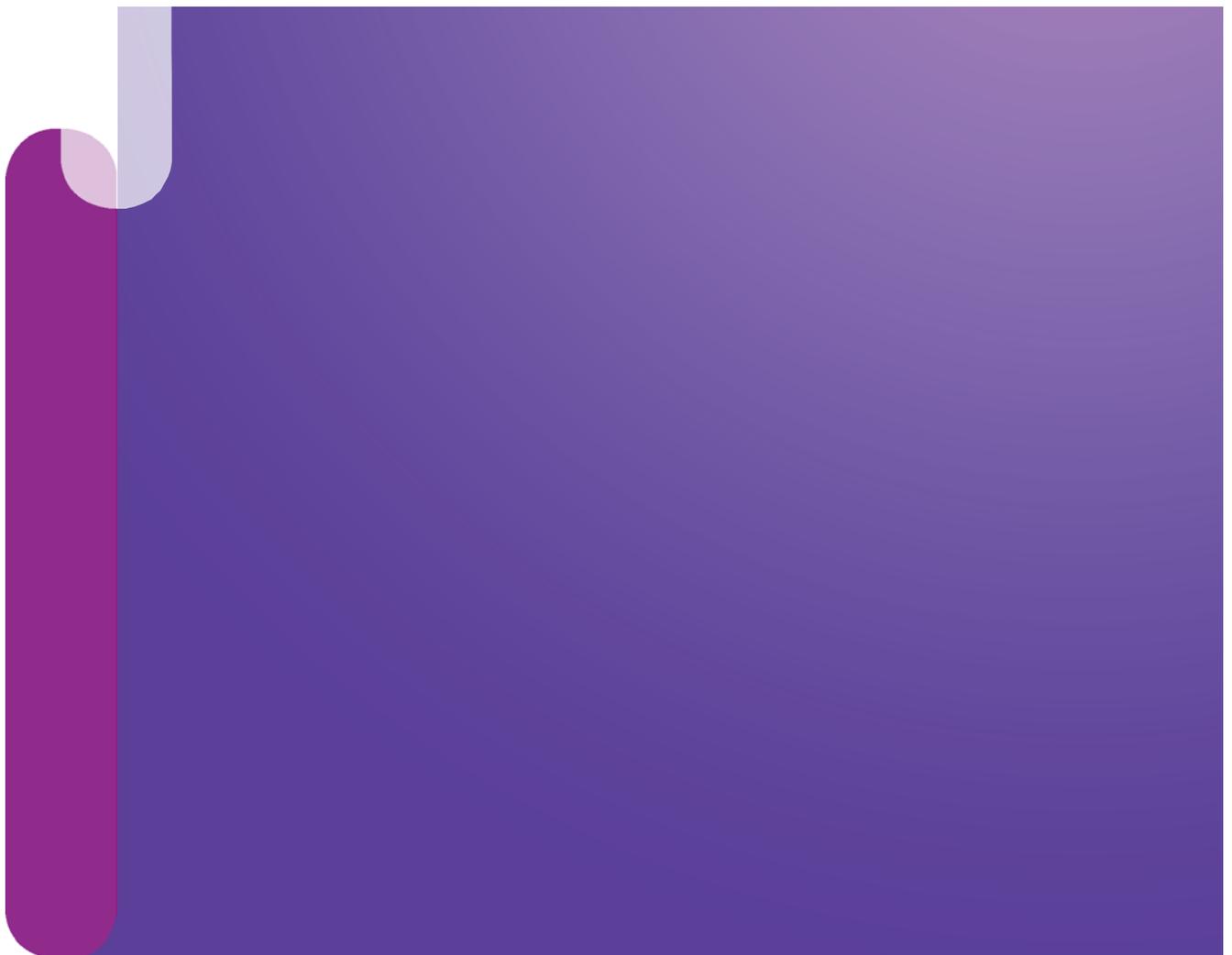


# Royal Commission into Institutional Responses to Child Sexual Abuse

Response to Issues Paper 3 - Child Safe Institutions



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# 1 Executive Summary

The Victorian Government welcomes the opportunity to make a submission in response to the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) issues paper on 'child safe institutions'.

In developing this submission, the Victorian Government has drawn on its experience funding, regulating and delivering services for children across a range of sectors. The submission draws on the theory and evidence underpinning child safe approaches, while also highlighting the practical considerations to be taken into account in implementing child safe strategies. While protecting children from sexual abuse is the paramount concern, a range of factors need to be considered in determining how children might best be protected from abuse within a particular context, including the level of risk associated with the activity or organisation. It is also important to acknowledge that the risk of sexual abuse can never be eliminated, and to avoid creating environments which are so risk averse as to inhibit the development of healthy and positive relationships between adults and children.

Drawing on current research into situational crime prevention, Part 3 of the submission outlines the fundamental elements of a child safe organisation and best practice strategies for creating and maintaining child safe institutions. The submission argues that child safe strategies need to be adapted to the organisational context to account for a number of factors, including an assessment of the risk to children associated with the organisation and the relevant position, and the role of government in relation to the organisation and the children to whom it provides services.

Part 4 summarises the legislative and policy frameworks currently in place, at national and state levels, to protect Victorian children from sexual abuse in institutional contexts. It sets out the roles and responsibilities of national and Victorian bodies in imposing obligations and settings standards and policies for organisations working with, or providing services to, children.

In Parts 5 and 6, the submission demonstrates how a risk-based approach to implementing child safe strategies is operationalised in different organisational contexts by focusing on three case studies: youth justice custodial services; early childhood services and schools; and local community groups (such as sports clubs). The submission also notes the importance of integrating child safe strategies into existing regulatory frameworks, using the regulation of health services and health professionals as an example.

The mandatory requirements and detailed policies in place to protect children in the care of government organisations set out in Part 5 are contrasted with the more facilitative and flexible approach to supporting local community groups to be child safe outlined in Part 6. The Victorian Government takes the view that a partnership approach to supporting community organisations to be child safe is to be preferred to the imposition of additional mandatory requirements, and urges the Royal Commission to exercise caution in considering legislative approaches to address the issue.

In Part 7, the submission proposes a number of areas where future effort to create and maintain child safe institutions might best be directed. It suggests that there are opportunities to continue to support organisations and their employees/volunteers to implement child safe practices, and to support and empower parents, carers and children through education and awareness-raising about sexual abuse. The specific direction of these efforts should be guided by further research to understand the prevalence and dynamics of child sexual abuse in institutional contexts.

It should be noted that the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Organisations is due to report in mid-November 2013. This important inquiry may make findings that bear on the issues discussed in this submission.

## 2 Introduction

This submission is made on behalf of the State Government of Victoria to assist the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) in addressing the issues outlined in the Royal Commission's third Issues Paper, entitled 'Child Safe Institutions'.

Victoria welcomes the opportunity to address the matters raised in Issues Paper 3. In developing this response, the Victorian Government has focused on policies and practices that assist in keeping children safe from abuse, particularly sexual abuse, in institutions. While some of these strategies will

be relevant to reducing the risk of other harm to children through accidental injury or poor quality of care, this is not the focus of the submission.<sup>1</sup> At the same time, strategies to reduce the risk of child sexual abuse in institutions should be considered in the context of broader policy approaches to promoting children's safety, health and wellbeing. This is important to ensure that strategies intended to reduce child sexual abuse do not have unintended consequences that distort the policy response to child safety. For example, it would be counterproductive for a policy response intended to protect children from the risk of child sexual abuse in health care services to have the effect of inhibiting the delivery of appropriate, high quality health care.

Current research suggests that a 'child safe organisation' has the following features: it establishes and maintains a culture of child safety; it has policies and procedures in place which make clear that inappropriate behaviour and child abuse are unacceptable, and actively manages the risk of such abuse occurring; it encourages the participation of children and empowers them to speak up; it has rigorous processes in place for the recruitment and management of staff and for responding to incidents and allegations; its staff are well-trained about how to detect and respond to abuse and other inappropriate behaviour; and its physical environment promotes supervision and minimises opportunities for abuse to occur. With the exception of the physical environment, all of these elements of a child safe organisation are reflected in the 2005 *National Framework for Creating Safe Environments for Children and Guidelines for Building the Capacity of Child-Safe Organisations*. In addition to these elements, the Victorian Government considers that effective governance of community organisations plays a critical role in making sure organisations are child safe. Mechanisms to facilitate the sharing of relevant information are also important to ensure that communities, not just individual organisations, are child safe. Finally, policies and procedures for ensuring any online interactions within the organisation are safe are becoming increasingly important.

The Royal Commission's definition of 'institution' is very broad, encompassing nearly all contexts outside the family. In developing this response, the Victorian Government has considered the spectrum of organisations and groups which may work with children, from statutory services delivered to the most vulnerable children in our community, to universal health and education services, and small community groups and private organisations. The Victorian Government considers that the child-safe practices and strategies outlined above should be applied flexibly depending on the risk posed by the context of the organisation, and tailored to the particular sector, client group and organisation. Risk assessment should consider the type of activities in which the organisation is engaged, the frequency of contact with children, the vulnerability of the children with whom the organisation works, accessibility to potential offenders, and the organisation's history of compliance with relevant laws and policies. The appropriate mechanism/s for supporting an organisation to be child-safe may also differ according to the organisation's relationship with government.

The submission focuses on three types of organisations (youth justice custodial facilities; early childhood services and schools; and local community groups) to demonstrate different approaches to child safe practices in different organisational contexts. The response does not specifically address out-of-home care services, on the basis that preventing sexual abuse in out-of-home care will be addressed in the Victorian Government's response to the Royal Commission's fourth Issues Paper. At one end of the spectrum, government bears a high degree of responsibility for ensuring institutions that it owns and runs (such as government schools and statutory youth justice facilities) are child-safe. For organisations with whom government has funding arrangements in place (for example, youth services) or plays a regulatory role (for example, child care services), government may require adherence to certain high level policies relating to child safety. These organisations need to ensure they keep up to date with best practice in maintaining child-safe environments and adopt strategies appropriate to their organisation.

In relation to community organisations, the Victorian Government believes that a partnership approach between these organisations and government is best able to support these organisations to be child-safe. The role of government in this context is largely facilitative. Government's primary role is to support child-safe practices in community organisations through the dissemination and promotion of guidelines and implementation tools, in addition to enforcing any minimum checks and requirements (such as the Working with Children Check and mandatory reporting requirements). Government may also play a role in promoting good governance within community organisations.

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<sup>1</sup> A child-safe environment is defined by Beyer et al as 'one where there is staff and volunteer awareness and strategies in place to keep children safe from any type of abuse or maltreatment': Lorraine Beyer et al, 'Understanding Organisational Risk Factors for Child Maltreatment: A Review of the Literature', National Child Protection Clearinghouse, Australian Institute of Family Studies, 2005, p 5:  
<http://www.aifs.gov.au/nch/pubs/reports/organisations/organisations.pdf>.

## 3 What is a 'child safe' institution?

### 3.1 The evidence base for child safe strategies

There is little available research on child sexual abuse in an organisational context. Most research to date has focused on the individual and social determinants of child abuse generally and strategies to prevent child abuse in a family/home context, rather than in institutional settings.<sup>2</sup>

What evidence exists suggests that it is not possible to create a reliable 'profile' of a typical perpetrator of sexual abuse in an organisational context, or of a typical victim.<sup>3</sup> For this reason, evidence suggests that a 'situational crime prevention approach', which focuses on creating safe environments rather than creating safe individuals, is likely to be more effective in preventing sexual abuse of children in an institutional context. Situational crime prevention focuses primarily on opportunity reduction, and has been shown to be effective in reducing a range of criminal behaviours.<sup>4</sup> Situational crime prevention approaches should complement a broader approach to preventing child sexual abuse generally, including in family/home contexts. The World Health Organisation uses an ecological model to understand the complex interrelationship between individual, relationship, community and social factors which give rise to child sexual abuse, and recommends an evidence-based public health approach to implementing effective interventions.<sup>5</sup>

Wortley and Smallbone propose four approaches arising from situational crime prevention theory that may be applicable to sexual offending against children, including in an institutional context:<sup>6</sup>

1. *increasing effort* by making the offending behaviour more difficult to carry out, for example, by limiting potential offenders' access to children – in an institutional context, this is likely to involve rigorous background screening of employees and volunteers;
2. *increasing risk* by making it more likely that an offender's behaviour will be observed or detected – in an institutional context, this can include both natural surveillance through the physical design of the institution and formal surveillance through ongoing supervision of staff performance;
3. *controlling prompts* by identifying and removing situational triggers for abuse – in an institutional context, this can include developing codes of conduct that set clear standards and unambiguous boundaries for acceptable behaviour; and
4. *reducing permissibility* by clarifying the offender's role in, and the consequences of, his behaviour – in an institutional context, this can include having a child safe policy affirming the obligation of all employees to protect children from abuse, and processes and structures to support children to be active participants within the organisation and empower them to raise concerns and make complaints.

The approach outlined in the *National Framework for Creating Child Safe Environments* (discussed further below) is largely consistent with this research, but does not include a focus on the physical environment.

In 2005, Beyer et al undertook research for the then Community Services Ministers' Advisory Council to provide an evidence base to inform decision-making in the area of pre-employment screening checks for child-related employment in Australia. They found that 'clear principles for selection of safe, suitable and skilled employees emerged. They focused primarily on the thoroughness of the recruitment process, especially background checks.' They also concluded, however, that 'to be too preoccupied with staff selection and assessment means that other, perhaps more important areas, particularly organisational structures, cultures, policies and procedures, are neglected'.<sup>7</sup> Similarly, Smallbone notes

<sup>2</sup> See, for example, *World Health Organisation, European Report on Preventing Child Maltreatment*, 2013: <http://www.euro.who.int/en/what-we-publish/abstracts/european-report-on-preventing-child-maltreatment>

<sup>3</sup> See, for example, Victorian Parliamentary Inquiry into the handling of child abuse by religious and other organisations, Transcript of Professor Stephen Smallbone, 9 November 2012, p 2.

<sup>4</sup> Mel Irenyi et al, 'Child maltreatment in organisations: Risk factors and strategies for prevention', *Child Abuse Prevention Issues* No 25, National Child Protection Clearinghouse, Australian Institute of Family Studies, 2006, in particular page 13: <http://www.aifs.gov.au/nch/pubs/issues/issues25/issues25.pdf>; Richard Wortley and Stephen Smallbone, 'Applying Situational Principles to Sexual Offences against Children', *Crime Prevention Studies*, volume 19, 2006, pp 7-35.

<sup>5</sup> See *World Health Organisation, European Report on Preventing Child Maltreatment*, 2013, page 4: <http://www.euro.who.int/en/what-we-publish/abstracts/european-report-on-preventing-child-maltreatment>

<sup>6</sup> Wortley and Smallbone, 'Applying Situational Principles to Sexual Offences against Children', 2006, pp 23-30.

<sup>7</sup> Beyer et al, 'Understanding Organisational Risk Factors for Child Maltreatment: A Review of the Literature', 2005, p 98.

that ‘the greatest risk of sexual and other abuse is more likely to come from otherwise “ordinary” people already involved in the organisation’ meaning that prevention approaches such as pre-employment screening ‘will neither identify these people nor prevent them from abusing a child’ and that ongoing supervision and surveillance, grounded in an understanding of the dynamics of sexual abuse, is critical.<sup>8</sup>

## 3.2 The elements of a child safe institution

A number of broad strategies for creating child-safe institutions emerge from the research on situational crime prevention:

### 1. A culture of child safety

The overarching aim of a child-safe strategy should be to embed a culture of child safety awareness within an organisation. Being ‘child-safe’ should be a constant goal of organisations that serve children, and should be driven by the organisation’s leadership. This involves a commitment to continuous improvement through regular review and updating of policies and practices and openness to external scrutiny. As the 2005 Community and Disability Services Ministers’ Conference (CDSMC) *Guidelines for Building the Capacity of Child-Safe Organisations* state, ‘the goal is to ensure that accountability for maintaining child-safe practices and systems is understood and accepted at all levels of [the organisation]’ and that a culture of safety is maintained despite staffing changes.<sup>9</sup>

### 2. Organisational culture

Organisations should clearly document how they will meet their responsibilities as a child-safe organisation and fulfil their duty of care to children. Development of a Child Safe Policy is one way an organisation can set out employees’ and volunteers’ obligations (for example, to prevent and report child abuse) and processes for reporting and responding to concerns and allegations. A Child Safe Policy can also include specific guidelines regarding matters such as physical contact with children, cyber safety and situations where a child may harm another child.

Part of creating a culture of child safety also involves establishing clear boundaries for acceptable behaviour (for example, through a Code of Conduct), which are consistently communicated throughout the organisation using a range of mechanisms including staff recruitment and induction, training and a visual presence (e.g. posters). The Child Safe Policy and Code of Conduct may help to foster a culture of open communication and reporting.

Child-safe organisations also need to understand and manage the risk of harm to children within their organisation. Risk management strategies should focus on preventing harm to children (including through reducing opportunities for offending) as well as responding when incidents occur. The particular strategies adopted by each organisation may differ depending on, for example, its size, funding arrangements, activities, and the vulnerability of the children with whom the organisation works. Where incidents do occur, they should be investigated, outcomes recorded, information shared as appropriate and, where substantiated, have clear consequences within a natural justice framework.

### 3. Participation and empowerment of children

Taking a ‘child-centred’ approach to all the organisation’s activities and integrating a ‘child rights’ and ‘child voice’ perspective into the operation of the institution is also essential. This includes enabling and promoting the participation of children within the organisation, and incorporating their perspectives into the development and review of policies and procedures. It also includes ensuring there are safe avenues for children to speak up about their concerns or report incidents, and providing support for children and families affected by allegations. A child-safe organisation will also ensure it is culturally inclusive of Aboriginal and CALD children.

### 4. Human resources management

Recruitment and selection procedures for new employees and volunteers should clearly signal the organisation’s commitment to children’s safety (for example, in job advertisements). This may act as a

<sup>8</sup> Queensland Child Protection Commission of Inquiry, Statement of Stephen Smallbone, 2 November 2012, p 2: [http://www.childprotectioninquiry.qld.gov.au/\\_\\_data/assets/pdf\\_file/0009/167067/Smallbone\\_Stephen.PDF](http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0009/167067/Smallbone_Stephen.PDF)

<sup>9</sup> <http://www.cryp.vic.gov.au/childsafetycommissioner/downloads/childsafesched01.pdf>. These guidelines are discussed further below.

deterrent for unsuitable candidates.<sup>10</sup> Compliance with the Working with Children Check should be part of an organisation's recruitment and selection processes (where applicable), noting that this is only one element of a broader screening and risk management process. Selection processes should incorporate a range of other checks including work history checks, verification of qualifications and thorough referee checks.

Effective staff support and supervision and performance management is also critical to enable any behaviours of concern to be detected early and breaches of relevant policies and standards to be acted upon. As Beyer et al argue, 'a primary focus on the recruitment stage without other subsequent strategies means there is only one chance to get it right'.<sup>11</sup> Continuous monitoring through the Working with Children Check should be part of this ongoing scrutiny.

Avenues for reporting incidents, complaints or concerns should be well-publicised and accessible to all people involved with the organisation. Children and families must feel confident that any concerns raised or allegations made will be treated seriously and acted on promptly. Employees and volunteers who raise concerns about other workers within the organisation should be protected.

A child-safe organisation also needs to have fair and transparent disciplinary processes (in addition to processes for reporting suspected criminal offences to police) to ensure that children are protected from further harm. The principles of natural justice require that the person against whom allegations are made should be given a fair hearing. However, in deciding what action should be taken within existing legal frameworks, the protection of children should take precedence. Where an allegation is substantiated, processes for recording and lawfully sharing this information with other organisations are important to reduce opportunities for perpetrators to infiltrate other organisations.

In addition to internal staff performance management and disciplinary processes, the organisation might also be subject to regulation, reporting and scrutiny by external regulatory bodies (particularly in the health and education sectors). Institutional arrangements that make behaviour transparent can be powerful influences on preventing abuse in institutional settings, and ensuring that professions caring for children maintain the highest standards and respect the rights of the child.

## 5. Education and training

Staff and volunteers need to understand how abuse can occur within an organisation, how to detect the signs of abuse, and when and how to report concerns. They may also require specific training, for example, on how to respond to a child who discloses abuse or inappropriate behaviour, and/or their legal obligations.

## 6. Physical environment

In addition to creating a culture of child safety, in which children are empowered to speak up about their views and concerns, organisations may also need to consider their physical environments.<sup>12</sup> For instance, options for designing physical spaces in a way which promotes visibility and natural surveillance, while at the same time preserving children's privacy and capacity to engage in creative play and other activities, can reduce the potential for situational/opportunistic abuse.<sup>13</sup>

## 7. Online environment

Contemporary organisations also need to be mindful of the fact that child safety within institutions is no longer limited to questions of physical proximity between potential offenders and children. The ever-expanding reach of the online environment (internet, social media, mobile telephones) can both amplify existing risks (for example, by giving an adult offender greater access to a child) and give rise to new risks (such as sexting among children).

## 8. Effective governance

The child-safe strategies and practices outlined above need to be underpinned by effective governance within the organisation. This includes having the right mix of people overseeing the organisation, including people with experience working with, or delivering services for, children. Effective governance structures are essential for ensuring that the organisation complies with any enforceable requirements (such as Working with Children Checks), and that the types of risk management strategies and child-

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<sup>10</sup> See Schedule 2 to the National Framework on Creating Safe Environments for Children, *Evidence-Based Guide for Risk Assessment and Decision-making when undertaking background checking*: <http://www.cyp.vic.gov.au/childsafetycommissioner/downloads/childsafesched02.pdf>

<sup>11</sup> Beyer et al, 'Understanding Organisational Risk Factors for Child Maltreatment', 2005, p 98.

<sup>12</sup> Assessing the risk of the physical environment is part of the National Safe Schools Framework, Element 3.5.

<sup>13</sup> Irenyi et al, 'Child maltreatment in organisations: Risk factors and strategies for prevention', 2006, pp 11-13, 16.

safe policies and processes described above are implemented and regularly reviewed. Clear accountabilities for different tiers of management within the organisation will assist in ensuring roles and responsibilities are clear. The commitment of the organisation's leadership team is also essential for fostering a culture of child safety awareness within an organisation (as outlined above).

## 9. Information-sharing

Appropriate information-sharing is also essential for ensuring that communities, not just individual organisations, are child-safe. This includes lawful sharing of information about perpetrators of sexual abuse to ensure that they are unable to gain access to other organisations where they might present a risk to children. It also includes sharing information and learnings about child-safe policies and strategies that are operating effectively, so that organisations can learn from each other's experience.

Additional safeguards or strategies may also be relevant to address specific risks faced by particularly vulnerable children, for example Aboriginal children, children with disability, and children living in residential out-of-home care or subject to a youth justice order.

## 3.3 Tailoring child safe strategies to organisations

The child-safe practices and strategies outlined above should be applied flexibly depending on the risk posed by the organisation, and tailored to the particular sector, client group and organisation. A risk-based approach involves proportionate allocation of resources and targeted activity to the highest risks and most poorly performing organisations. Over-regulation in an attempt to eliminate all potential risks can be counter-productive, as it diverts staff time away from focusing on delivering high quality services to bureaucratic compliance.

A risk-based approach to ensuring organisations are child safe could consider, for example:

- the size and location of the organisation and its staffing structure – for example, a larger organisation across multiple locations may need to utilise diverse strategies for embedding a culture of child safety awareness, and require more complex incident reporting and complaints management processes;
- the focus of activity – certain activities are likely to increase the risk to children, for example, activities involving one-on-one contact between adults and children or trips away from home;
- the frequency of contact with children – in organisations with high levels of contact with children, such as schools, kindergartens and child care centres, a large number of children are exposed to risk and there may be greater opportunities for perpetrators to offend;
- the vulnerability of the children with whom the organisation works – particularly vulnerable populations, including children in custodial settings, children under protection orders, and children with disability and Aboriginal children may be at greater risk of abuse;
- the organisation's accessibility to potential offenders – this area of risk could be inversely related to the organisation's level of contact with children as potential abusers may seek out organisations that are less likely to focus on child safety, for example, organisations for which children are not a core client group;
- the organisation's history of preventing and responding to abuse and/or compliance with relevant laws and policies;
- whether there are, or are likely to be, children exhibiting sexually abusive behaviours within the organisation.

In order to match the particular strategies and systems for creating a child safe environment to an assessment of the organisation's risk profile, a realistic risk assessment should be undertaken. This should take into consideration the particular risks, behaviour and culture of the institutions involved. Given the limitations of current data on prevalence of child sexual abuse in organisations, a range of data sources will need to inform the risk assessments, which should incorporate children's feedback on safety issues.

It should be recognised that perpetrators will at times evade any and all rules and practices put in place to protect children from harm. While strategies to prevent harm to children should be proportionate to risk, they should also acknowledge that a level of risk will always exist. It is partly for this reason that creating a culture of child safety within an organisation that promotes continuous learning and improvement is so important.

In addition to risk assessment, the respective roles of government and the community in ensuring organisations are child-safe should also be considered. Ensuring institutions are child-safe is a joint responsibility of governments and the community, and the balance of responsibility may shift depending on the institution’s relationship with government and government’s level of regulation and oversight of the organisation. For example:

- government owns and runs certain institutions (like government schools and statutory youth justice facilities), and therefore has a high degree of responsibility for ensuring these services are child-safe.
- similarly, government bears significant responsibility for ensuring services delivered on its behalf by community service organisations, especially statutory services such as out-of-home care, provide child-safe environments. However, community organisations also have a responsibility to ensure that they comply with relevant child-safe policies and practices.
- for organisations with whom government has funding arrangements in place (for example, youth services) or plays a regulatory role (for example, non-government schools and child care services), government may require adherence to certain high level policies relating to child safety. Community organisations should ensure they keep up to date with best practice in maintaining child-safe environments and adopt strategies appropriate to their organisation.
- finally, there are a range of local community groups which receive no or little government funding, and private organisations. Government generally plays a limited role in respect of these organisations.

**Figure 1: Role of government in ensuring organisations are child-safe**

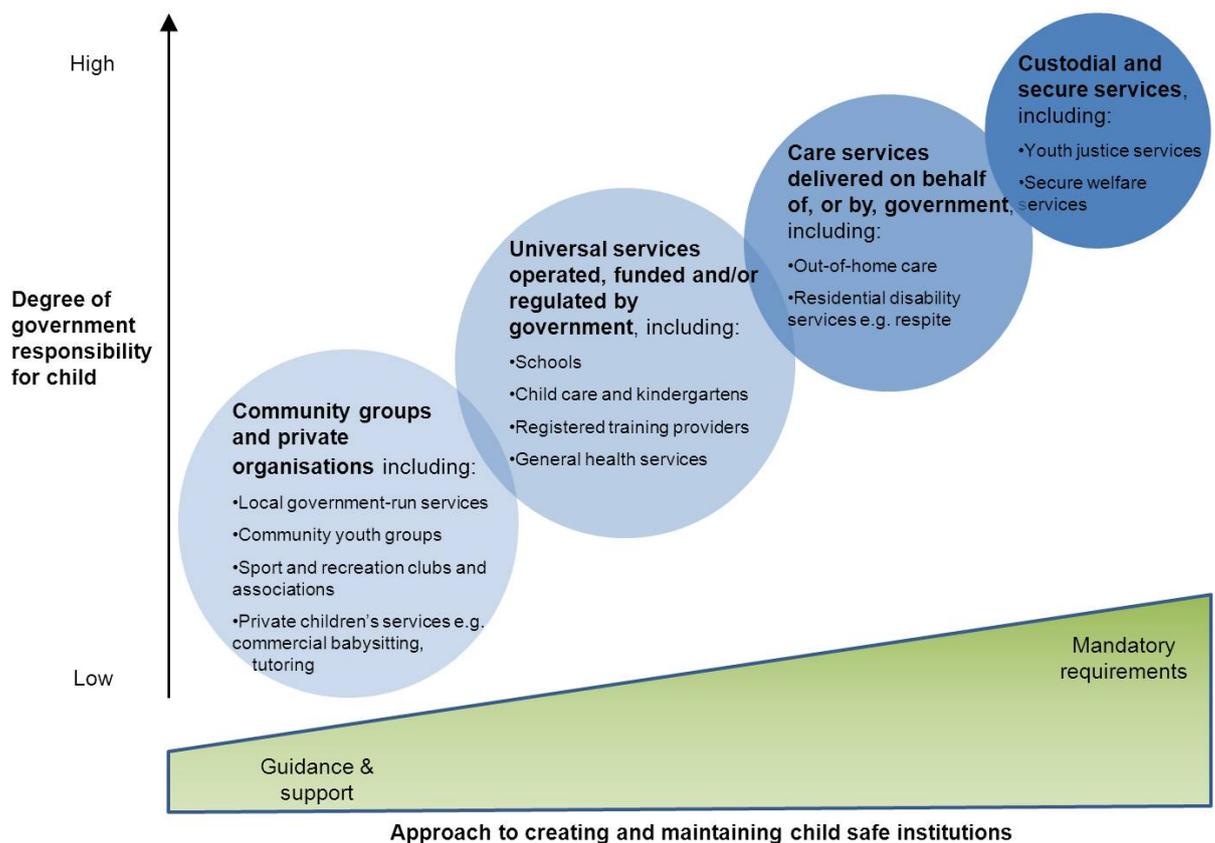


Figure 1 aims to conceptualise the relationship between the degree of government responsibility for a child and the levers or mechanisms that might be used to promote child-safe environments in different types of organisations. These may range from legislative requirements (with penalties for non-compliance) to enforceable requirements set out in funding/service agreements, to the dissemination of guidelines, with more or less support for implementation depending on the organisation’s capacity and relationship with government.

Where regulatory frameworks and oversight bodies already exist (for example, in relation to professional registration), consideration should be given to incorporating child safe requirements within these frameworks. For example, given the central importance of patient safety to the mission, values and practices of the health sector, any framework for ‘child-safe’ health-related organisations is best

delivered through the current health system arrangements. Similarly, rigorous background screening is already undertaken in relation to teachers seeking professional registration through the Victorian Institute of Teaching (described further below).

To give an example of the intersection between risk and government responsibility, a range of enforceable requirements apply to protect children in custodial and secure settings (such as youth justice and secure welfare services) from abuse. For instance, certain legislative requirements apply, and the Victorian Government ensures that potential employees are rigorously screened and receive specialist training, and that clear and robust complaint and disciplinary procedures are in place, involving independent oversight. There is also a high degree of attention to the physical environment. This is appropriate in light of the vulnerability of these client populations and the government's duty of care to children in these settings. (The requirements and policies applying to youth justice and secure welfare services are described in more detail below.)

On the other hand, in relation to local community organisations which receive little or no government funding and may only have incidental contact with children, such as a local drama society, government's role may be limited to promoting child-safe practices, and making resources available and/or assisting these organisations to link with other non-government organisations that can provide support and training.

## 4 Legislative and policy frameworks for creating child-safe environments

### 4.1 National policy frameworks

The *United Nations Convention on the Rights of the Child*, to which Australia is a signatory, provides that:

- institutions responsible for the care and protection of children should conform with relevant standards in relation to child safety, staff suitability and supervision; and
- children should be protected from all forms of violence, abuse, neglect or exploitation, including sexual abuse and exploitation, while in the care of any person who has the care of the child, including through effective procedures for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment.<sup>14</sup>

#### 1. National Framework for Creating Safe Environments for Children

In 2005, the (then) Community and Disability Services Ministers' Conference of COAG (CDSMC), comprising relevant ministers from all states and territories and the Commonwealth, agreed a *National Framework for Creating Safe Environments for Children* (the National Framework).<sup>15</sup> The National Framework outlined the Ministerial Council's vision for a community in which children are safe and protected from harm when they are in the care of community services organisations or involved with their services and programs. It was accompanied by a series of schedules, including the *Guidelines for Building the Capacity of Child-Safe Organisations* and the *Evidence-Based Guide for Risk Assessment and Decision-making when undertaking background checking*.<sup>16</sup>

The National Framework and guidelines represented the national policy consensus on strategies for ensuring community organisations are child-safe. In Victoria, the (then) Child Safety Commissioner built on the National Framework by developing a *Guide for Creating a Child-safe organisation* (2006), as well as a range of other publications and materials to assist community organisations to become child-safe.<sup>17</sup> Non-government organisations like Child Wise have also developed material to support community organisations to adopt child-safe practices.<sup>18</sup>

In 2010, CDSMC identified building the capacity of child-safe organisations and ongoing risk assessment background checking as priorities for further work under the National Framework. The

<sup>14</sup> United Nations Convention on the Rights of the Child, Articles 3, 19 and 34.

<sup>15</sup> <http://www.cryp.vic.gov.au/childsafetycommissioner/downloads/childsafeframework.pdf>

<sup>16</sup> <http://www.cryp.vic.gov.au/childsafetycommissioner/downloads/childsafesched01.pdf>;

<http://www.cryp.vic.gov.au/childsafetycommissioner/downloads/childsafesched02.pdf>

<sup>17</sup> <http://www.cryp.vic.gov.au/childsafetycommissioner/downloads/childsafeguidelines.pdf>

<sup>18</sup> See, for example, Child Wise, *Choose with Care: 12 Steps to a child-safe organisation*:

[http://childwise.blob.core.windows.net/assets/uploads/files/Online%20Publication/12\\_Steps\\_to\\_building\\_child\\_safe\\_orgs.pdf](http://childwise.blob.core.windows.net/assets/uploads/files/Online%20Publication/12_Steps_to_building_child_safe_orgs.pdf)

National Operators' Forum (those responsible for employment screening in each jurisdiction) identified a number of key elements for a nationally consistent approach to promoting child-safe organisations. However, much of the focus in recent years has been on progressing a nationally consistent approach to Working with Children Checks (as described in the Victorian Government's response to the Royal Commission's second issues paper). As outlined in that response, the Working with Children Check represents only part of the overall risk assessment that should be undertaken by organisations in relation to new employees and volunteers, which is in turn only one element of ensuring an organisation is child-safe.

The Victorian Government considers that the National Framework and guidelines continue to provide a useful basis for ongoing work to create and maintain child-safe institutions, noting that there are some additional elements which could be considered for inclusion:

- The National Framework focuses primarily on the interpersonal environment within organisations. However, consideration should also be given to how organisations can ensure their physical and online environments are child-safe.
- The National Framework is also primarily targeted at reducing the risk of child abuse by adults within an organisation, whereas in some organisations, children may also need to be protected from harm by other children with sexually abusive behaviours.
- The Victorian Government considers that effective governance of community organisations is also essential to ensuring that organisations are child-safe, as is information-sharing among organisations.

The Victorian Government also notes that the recommended strategies need to be adapted to the relevant sector and institutional context and the organisation's risk profile, as discussed above. Child-safe strategies should also be incorporated into existing regulatory frameworks, where relevant. For example, existing registration bodies for teachers and health professionals currently incorporate rigorous background screening as part of the registration process.

## 2. National Safe Schools Framework

The National Safe Schools Framework was endorsed by the Ministerial Council for Education, Early Childhood Development and Youth Affairs in December 2010, and was launched in March 2011. The Framework provides a set of guiding principles for safe and supportive school communities that promote student wellbeing and respectful relationships.

The Framework adopts a 'whole school' approach to safety and wellbeing, and identifies nine elements to assist Australian schools to create teaching and learning communities where all members of the school community both feel and are safe from harassment, aggression, violence and bullying. It also responds to new and emerging challenges for school communities such as cyber safety.

The Framework is accompanied by a resource manual to support implementation, which includes the National Safe Schools Framework audit tool, key actions and effective practices for implementing the Framework's nine elements, a review of the literature on student safety and wellbeing in schools, and frequently asked questions.<sup>19</sup>

The strategies outlined in the Framework are not specifically targeted at preventing child sexual abuse, but are broadly consistent with the strategies outlined in Part 2.2 of this submission and the approach set out in the National Framework for Creating Safe Environments for Children.

## 4.2 Legislative and policy frameworks for creating child safe institutions in Victoria

Victoria's laws and policies in respect of child safety are guided by the Victorian **Charter of Human Rights and Responsibilities Act 2006** (Charter), under which 'Every child has the right... to such protection as is in his or her best interests and is needed by him or her by reason of being a child' (section 17(2)).

Victorian criminal laws, primarily the **Crimes Act 1958**, criminalise a range of sexual offences against children. In October 2013, the Victorian Government released a discussion paper entitled 'Review of

<sup>19</sup> <http://deewr.gov.au/national-safe-schools-framework-0>

Sexual Offences containing proposals and options for improving Victoria's sexual offence laws.<sup>20</sup> The discussion paper considers changes to a range of sexual offences, including offences relating to children. Specifically the discussion paper considers changes to offences relating to sexual intercourse with a child, as well as discussing possible new offences of sexual touching of a child, sexual activity in the presence of a child and encouraging and grooming a child to engage in sexual conduct.

Within this framework of rights, responsibilities and offences, a number of Victorian laws relate specifically to the care and safety of children, for example:

The ***Child Wellbeing and Safety Act 2005*** sets out overarching principles for the provision of services for children and families in Victoria, which include that:

- society as a whole shares responsibility for promoting the wellbeing and safety of children (section 5(1)(a));
- those who develop and provide services should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing (section 5(1)(c)); and
- services for children and families should be designed to readily identify harm and damage to children and provide for intervention to remove or ameliorate the causes of the harm or damage (section 5(2)(a)).

The *Child Wellbeing and Safety Act* also establishes the Victorian Children's Council and the Children's Services Coordination Board. The Victorian Children's Council is an external expert group advising the Victorian Government on policies and services that enhance the health, wellbeing, development and safety of children, particularly those who are vulnerable and at risk of poor outcomes. The Council is involved in assisting the Victorian Government to build a stronger evidence base and understanding of how to improve child outcomes and opportunities. The Children's Services Coordination Board comprises heads of relevant Victorian Government departments and is tasked with coordination of government activities relating to children, especially the most vulnerable. The Board reports annually to the Minister for Children and Early Childhood Development and the Minister for Community Services about how Victoria's children and young people are faring. Both the Council and the Board play a role in overseeing and advising on the implementation of *Victoria's Vulnerable Children Strategy* (discussed below).

In addition to the *Child Wellbeing and Safety Act*, there is a range of legislation and regulations relating to particular sectors or types of services for children.

The ***Children, Youth and Families Act 2005*** is founded on a requirement to promote children's best interests. With regard to the safety and wellbeing of children, the Act provides:

- common principles to guide practice and decision making;
- pathways to family support services;
- mandatory reporting requirements;
- processes for the protection of children at risk of harm;
- mechanisms to promote stability in care arrangements and beyond;
- a capacity to intervene in cases where children aged over 10 but under 15 years are engaging in sexually abusive behaviours;
- powers and orders of the Children's Court;
- a framework for registration and quality assurance of community services and carers; and
- clearly authorised information-sharing to promote children's safety, wellbeing and development.

The *Children, Youth and Families Act* also regulates youth justice services.

The ***Working with Children Act 2005*** provides a legislative framework for assessing the criminal history of, and other relevant information about, people who engage in certain types of work to determine their suitability to work with children.

The ***Commission for Children and Young People Act 2012*** establishes the Commission for Children and Young People (the Commission) (replacing the former Child Safety Commissioner). The

<sup>20</sup><http://www.justice.vic.gov.au/home/justice+system/laws+and+regulation/criminal+law/review+of+sexual+offences+consultation+paper>

Commission is charged with oversight of the services that support vulnerable and disadvantaged children in Victoria and has significant powers and functions to fulfil its role. The Commission's functions include promoting children's safety and wellbeing and monitoring out-of-home care services. This includes the capacity to examine the implementation and effectiveness of government strategies and reforms. The Commission also has the capacity to initiate its own inquiries. These could be individual inquiries in relation to the safety and wellbeing of a vulnerable child, or systemic inquiries, where the Commission identifies persistent or recurring issues in health services, human services or schools which are impacting on the safety and wellbeing of children and young people. Australia's first Commissioner for Aboriginal children and young people has also recently been appointed, recognising the particular vulnerabilities and significant overrepresentation of Aboriginal children and young people in the child protection system.

The ***Education and Training Reform Act 2006*** and its regulations provide for the registration and regulation of the Victorian teaching service and the registration, regulation and review of schools. The ***Education and Training Reform Act*** also establishes the Victorian Institute of Teaching (the Institute) and the Victorian Registration and Qualifications Authority (VRQA).

The Institute is the independent statutory authority for the regulation of the teaching profession in Victoria. All teachers in Victorian schools, both government and non-government, must be registered with the VIT and recorded on a register. Other functions of the Institute include:

- approval of teacher education courses;
- recommending qualifications, criteria and standards for the registration of teachers in Victorian schools;
- developing, establishing and maintaining standards of professional practice;
- developing, maintaining and promoting a code of conduct for the teaching profession;
- investigation of the conduct, competence and fitness to teach of registered teachers and imposition of sanctions where appropriate; and
- developing and maintaining a professional learning framework to support and promote the continuing education and professional development of teachers.

The VRQA is the peak accreditation, registration and quality assurance body for school education, senior secondary education, and vocational education and training. VRQA regulatory practices are proportionate to risk and focus on quality assurance. Among other matters, the VRQA is responsible for registration and ongoing monitoring of all schools.

The ***Education and Care Services National Law Act 2010 (Vic)*** (National Law) and its regulations provide for the regulation of education and care services for children. An education and care service is any service providing or intending to provide education and care on a regular basis to children under the age of 13 years, and includes family day care services, long day care services, outside school hours care services and preschools (kindergartens). Most Australian education and care services must meet the requirements of the National Quality Framework (NQF), which operates under the National Law. In Victoria, the Victorian Government (through DEECD) is responsible for granting service and provider approvals, carrying out the quality assessment and rating process, and ensuring education and care services meet the requirements of the National Law and National Regulations.

The ***Children's Services Act 1996*** and its regulations make provision for the licensing and regulation of certain Victorian children's services. A number of Victorian children's services operate under the ***Children's Services Act*** rather than the National Law, including all limited hours and short-term licensed services, occasional care, early childhood intervention, mobile services, and a few school holiday care programs.

In the health sector, 'child-safe' policies and procedures are, in practice, integrated within the broader patient safety and quality care systems. There are extensive systems, institutions and practices in health that aim to ensure patient safety and patient-centred care for both children and adults. These include health practitioner regulation, clinical guidelines, clinical governance systems, health services governance, open disclosure, and national standards and accreditation systems. The Australian Commission on Safety and Quality in Health Care is the primary national organisation, and, in Victoria, the Commission for Hospital Improvement plays a key role in promoting patient-centred care, which requires that clinicians work with patients and carers, and encourage their participation in shared decision-making.

The **Health Practitioner Regulation National Law (Victoria) Act 2009** establishes the system for registration and regulation of health professionals in Victoria under a national scheme. Under this scheme the former state-based health practitioner boards (e.g. Medical Board of Victoria) became National Boards and their administration integrated into the Australian Health Practitioner Regulation Agency (AHPRA). Fourteen professions are regulated through AHPRA, including medical practitioners, nurses and midwives, psychologists and Aboriginal and Torres Strait Islander health practitioners. Health Ministers recently agreed to the development of a consistent national scheme for unregistered health practitioners, such as massage therapists, which will include the first national code of conduct for these occupations.

The **Health Services Act 1988** authorises the governance and delivery of health services in Victoria, including to children through services like the Royal Children's Hospital. It requires health services to meet the highest standards of care and patient safety. The provision of mental health services in Victoria is governed by the **Mental Health Act 1986**. In particular, the *Mental Health Act* sets out requirements relating to concerning involuntary mental health treatment (which is uncommon for children). This legislation is currently being reviewed. The legislative reforms will promote recovery-oriented practice, minimise the duration of compulsory treatment, safeguard the rights and dignity of people living with mental illness and enhance oversight while encouraging innovation and service improvement. The new legislation will embed supported decision-making which is informed and guided by major conventions on human rights including the UN Convention on the Rights of the Child. The **Public Health and Wellbeing Act 2008** outlines obligations relevant to protecting public health and preventing disease, illness and injury in the Victorian community, as well as promoting the conditions in which people can be healthy. It includes requirements relating to the immunisation of children and management of infectious diseases.

In response to the report of the Protecting Victoria's Vulnerable Children Inquiry (the Cummins Inquiry), the Victorian Government has also developed **Victoria's Vulnerable Children Strategy 2013-2022**. The strategy's vision is that 'vulnerable children are kept safe from harm and have every opportunity to succeed in life'. While many of the policy directions under the strategy focus on preventing abuse of children within the family context and intervening early where families need support, at the core of the strategy is a commitment to shared understanding, responsibility and accountability across government for protecting vulnerable children. This involves greater collaboration, coordination and information-sharing by government services to promote the safety and wellbeing of vulnerable children. The strategy also aims specifically to ensure children in out-of-home care experience good health, education and wellbeing.<sup>21</sup>

The **Victorian Children and Adolescent Monitoring System (VCAMS)** is a cross-government initiative that aims to monitor the wellbeing outcomes of 0-18 year olds in Victoria.<sup>22</sup> VCAMS is an outcomes-based framework that allows the Victorian Government to monitor and report on the broad spectrum of children's health, wellbeing, safety, learning and development, throughout the whole span of childhood. It provides the ability to focus on the outcomes achieved by specific cohorts, such as higher needs children and families. Regular reporting against the VCAMS indicators allows for early identification of new and emerging issues for children and their families, and supports policy makers and program planners by identifying emerging issues and areas of greatest need.

## 5 Ensuring services operated or funded by the Victorian Government are child safe

Governments fund and regulate a wide range of organisations which work with children. In order to provide a snapshot of the requirements relating to child safe environments which apply to a range of organisations in Victoria, this submission focuses on three case studies: youth justice; universal educational services, including early childhood services and schools; and community groups providing various services to children at the local level. Detailed information about policies and requirements in place to prevent sexual abuse in out-of-home care will be provided in response to the Royal Commission's fourth issues paper on this topic.

This submission focuses on specific policies and requirements that relate to preventing child sexual abuse, but should be considered in the context of broader regulatory frameworks and requirements, which are designed to ensure the safety, health and wellbeing of children. In considering additional child safety requirements, existing regulatory frameworks should be taken into account, both where

<sup>21</sup> Outcome 3.3, *Victoria's Vulnerable Children Strategy 2013-2022*:  
[http://www.dhs.vic.gov.au/data/assets/pdf\\_file/0010/764281/Victorias\\_vulnerable\\_children\\_strategy.pdf](http://www.dhs.vic.gov.au/data/assets/pdf_file/0010/764281/Victorias_vulnerable_children_strategy.pdf)

<sup>22</sup> <http://www.education.vic.gov.au/about/research/pages/vcams.aspx>

they may already incorporate elements of a child safe strategy (for example, registration requirements for education and health professionals) and where existing frameworks and oversight bodies may provide a suitable vehicle for obligations and monitoring of child-safe practices (rather than through standalone frameworks and oversight bodies).

## 5.1 Youth justice custodial services

The Victorian Government has a statutory responsibility and duty of care to young people in custody, as well as responsibility for the safe operation of youth justice custodial facilities. Under s 483 of the *Children, Youth and Families Act* (2005) (CYF Act), young people in youth justice facilities are in the legal custody of the Secretary of the Department of Human Services. In conjunction with requirements under the CYF Act, the *Standards to guide the delivery of services in juvenile justice custodial centres* (2004) and the youth justice operations manual govern and set benchmarks for all aspects of practice within Victorian youth justice centres. The Victorian Standards are consistent with the *Australasian Juvenile Justice Administrators' Standards for Juvenile Custodial Facilities* (1999) and the *Australasian Juvenile Justice Administrators' Juvenile Justice Standards* (2009).

### A culture of child safety

The obligation of a duty of care to ensure the safety and wellbeing of each young person in a youth justice centre underpins each of the *Standards to guide the delivery of services in juvenile justice custodial centres* (Standards).<sup>23</sup> Key standards important for creating a culture of child safety include:

- Centres will provide an environment that is free of abuse, and where all clients, staff and visitors feel safe and secure (standard 2.1);
- All clients will be treated with respect, and have their individual needs considered, taking into account their age, gender and personal circumstances (standard 2.2);
- Centres will ensure that information is available to the client about their legal rights, and ensure that they are able to access legal processes, as required, to meet their rights and individual needs (standard 2.8);
- Centres will ensure that all staff and clients are familiar with and have access to unbiased mechanisms for complaint and dispute resolution (standard 2.9);
- On admission, each client will undergo a thorough assessment to identify immediate health needs and any risk factors (standard 3.2);
- Centres will conduct an induction and orientation process for all clients entering the system, which clearly explains their rights and obligations during their period of detention (standard 3.3);
- Emergency medical, general health, psychiatric and dental services should be available to all clients in juvenile justice centres as needed (standard 4.3); and
- Programs and services (such as counselling, group work and educational forums) should be provided to clients to address specific issues, including positive sexuality (standard 4.4).

The Standards also place a strong focus on individual case management, behaviour management, and engagement with other professionals and services.

### Organisational culture

Under section 16(1)(d)(ii) of the CYF Act, the Secretary DHS has responsibility to implement or promote the implementation of appropriate requirements for checks to ensure that all persons employed, engaged or appointed to work with children by a community service (which includes services operated by DHS for the care, protection or accommodation of children) comply with appropriate ethical and professional standards.

### Codes of conduct and guidance for appropriate behaviour

The youth justice operations manual provides clear guidance and instruction to staff about their duty of care to young people, and the government's expectations of professional and ethical standards.<sup>24</sup> The

<sup>23</sup> [http://www.cyf.vic.gov.au/\\_data/assets/pdf\\_file/0003/16815/jj\\_custodial\\_standards.pdf](http://www.cyf.vic.gov.au/_data/assets/pdf_file/0003/16815/jj_custodial_standards.pdf)

<sup>24</sup> The operations manual is currently being revised, and is due to be completed in early 2014. The new Practice Manual will be available online.

operations manual also provides clarity about the rights and legal entitlements that must be afforded to young people in the government's care.

Professional boundaries for youth justice services and secure welfare services are informed by the Victorian Public Sector Code of Conduct, which assists staff to understand their responsibilities and obligations in undertaking their work and provides a basis for staff decisions and actions. All staff are inducted in the Code of Conduct, as well as the DHS Values, and assisted to understand how these impact upon their day to day work.

*Promoting positive behaviour* is an evidence-based behaviour change model used in Youth Justice to assist staff to respond effectively to young people's behaviour in custody. Strategies to promote positive behaviour include staff: acting as positive role models, using positive techniques to reinforce appropriate behaviour, and giving useful feedback on progress.

Intrusive activities such as searches, restraint and isolation are closely regulated, documented and monitored, as these activities potentially put a young person at higher risk of harm if not managed appropriately.<sup>25</sup>

### **Risk management**

On admission all young people undergo an initial health assessment, which includes the identification of any immediate safety or risk factors. These safety or risk factors may include risk or vulnerability to other clients due to the nature of their offending (including sexual offending). In addition, ongoing case planning assessment and intervention forms the basis of a documented care plan for the young person which focuses on their needs and supports their safety, well being and development.

Youth Justice has introduced a model of care which aims to enhance the safety and wellbeing of clients and staff through an integrated, intensive therapeutic approach focused on young people who have complex needs. This currently involves outreach services provided by a funded community organisation to the young person and staff in their unit, and in the future will involve a specialist unit where young people will live during intensive intervention and support.

As part of the case planning process, the young person will be referred to a relevant offence-specific or related program such as the Male Adolescent Program for Positive Sexuality (MAPPS) or a violence prevention program. MAPPS is a highly successful intensive group treatment program for adolescent males who have been found guilty of a sexual offence.<sup>26</sup>

### **Responding to allegations, concerns and complaints**

The 2005 DHS Instruction, *Responding to Allegations of Physical or Sexual Assault*, applies to Youth Justice services.<sup>27</sup> It sets out minimum standards for supporting victims and reporting allegations of physical or sexual assault to the police. Under this instruction, all allegations of sexual assault or abuse must be reported to the police as soon as possible. The instruction also includes considerations relevant to client-to-client assault.

Youth Justice services are also required to report to DHS critical incidents involving or impacting upon clients that occur at the service or during service delivery. Category One incidents, which includes all sexual assaults, must be sent to the designated DHS office as soon as possible and at the latest within one working day of the incident or one working day from first being told of the incident.<sup>28</sup> The incident report alerts DHS to the concern and sets in train further assessment, investigation and reporting processes. Depending on the incident, this could involve police investigation, an operational debrief, internal review of the incident, external investigation of misconduct, and/or reports to the DHS Secretary or Minister.

The complaints procedure set out in the youth justice operations manual outlines the process for managing complaints, and adherence to this is monitored by DHS staff who are not involved in client services. The Ombudsman Victoria monitors the management of complaints by Youth Justice. The complaints policy requires, among other things, that:

- clients have access to information that details procedures for dispute resolution;

<sup>25</sup> See, for example, CYF Act, Part 5.8, Divisions 2 and 3.

<sup>26</sup> <http://www.dhs.vic.gov.au/about-the-department/plans.-programs-and-projects/programs/youth-specific/male-adolescent-program-for-positive-sexuality-mapps>

<sup>27</sup> [http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0006/836628/responding-to-allegations-of-physical-or-sexual-assault.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0006/836628/responding-to-allegations-of-physical-or-sexual-assault.pdf)

<sup>28</sup> [http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0004/696658/critical-client-instruction-02-2012.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0004/696658/critical-client-instruction-02-2012.pdf)

- all serious grievances involving criminal matters (including staff on client assaults) are reported to the police for investigation within 24 hours;
- all youth justice centres keep a register of grievances and complaints;
- the CEO is notified immediately of all serious grievances by clients against staff; and
- clients who initiate grievances against staff are informed of the outcome of their complaints.

Clients who are victims of misconduct by other clients have a right to make a complaint to management and to the police for investigation. The complaints policy emphasises the importance of supporting young people to pursue complaints against other clients, recognising that clients who have been victimised by peers will often find it very difficult to initiate grievance proceedings or make a report to the police, due to a fear of retribution, feelings of peer group solidarity, or feelings of shame at having been victimised. Where criminal matters are involved, the CEO must report the incident to the police for investigation within 24 hours, even if the victim has not consented to the matter being reported to police. The CEO must also arrange for a DHS incident report to be completed.

The complaints policy makes clear that most grievances by clients should be resolved between the client and the immediate staff involved in the dispute, and recognises that this requires that the institutional atmosphere be free from intimidation and harassment by staff and others. The complaints policy provides for grievance hearings for the handling of minor grievances and disputes between two or more clients and/or staff and clients in youth justice centres. These hearings give each party a chance to have their say and results in a plan of action for addressing the grievance.

## Participation and empowerment of children

Under s 482 of the CYF Act, young people detained in youth justice facilities are entitled to receive information on the rules of the centre in which they are detained, and on their rights and responsibilities and those of the staff, and are entitled to complain to the Secretary or the Ombudsman about the standard of care, accommodation or treatment which they are receiving in the centre. The Secretary of DHS must report to the Minister on an annual basis regarding compliance with these (and other) requirements.

In accordance with these requirements, all young people entering custody are provided with an information pack which outlines their rights and responsibilities, and provides contact details for seeking help or making complaints.

Since November 2011, Youth Justice Custodial Services have engaged the Commission for Children and Young People (CCYP) to implement an independent visitor program within youth justice centres. This ensures that young people in Youth Justice have the opportunity to speak with an independent person about any issues or concerns that they may have about their treatment in custody. Resolution of issues is monitored by the CCYP, and the Commissioner may choose to lead an investigation into a matter if he believes this is warranted.

The office of the Ombudsman Victoria also conducts regular visits and speaks with young people about their experiences. Young people are also able to make (unrecorded) telephone contact with the Ombudsman at any time, and request a visit or make a complaint.

All young people leaving custody are encouraged to undertake an anonymous exit interview, and the majority of clients take up this opportunity. The interview is conducted by the CCYP to ensure independence. Among the matters discussed during the interview, young people are asked about how safe they felt in the centre, whether staff listened to them when they had something to say, whether they were given information about how to make a complaint, and whether they felt any complaints they made were taken seriously. Outcomes are reported annually and issues raised are used to improve service delivery.

## Human resources management

### Recruitment

Under section 16(1)(d)(i) the CYF Act, the Secretary DHS has responsibility to implement or promote the implementation of appropriate requirements for checks to ensure that all persons employed, engaged or appointed by a community service (including Youth Justice) to work with children are, and continue to be, suitable to work with children.

The *Standards to guide the delivery of services in juvenile justice custodial centres* (Standards) also require that youth justice centres have written policies and procedures that ensure all staff within youth justice centres, specifically those staff who have direct contact with young people, meet the following criteria prior to commencing employment:

- appropriate qualifications and experience ;
- appropriate skills, personal attributes, values and the capacity to support the needs of the young people in their care; and
- completion of a police records check (standard 11.1).

Robust recruitment processes are in place, including psychometric testing, and rigorous screening of previous employment through referee checks. All new Youth Justice staff are required to enrol in and complete the mandatory Diploma in Youth Justice. National criminal history checks and Working with Children Checks are required for all staff in youth justice centres.

### **Staff supervision, support and performance management**

Supervision, induction and ongoing professional development are key components of the overall Youth Justice staff learning and development program, and are underpinned by the Standards (11.3, 11.4, 11.5). Staff receive regular formal supervision, as well as ongoing support by team leaders or coordinators who work alongside them on a day-to-day basis.

The Victorian Government provides clear guidance for managing under-performance of staff in Youth Justice through the DHS policy on managing unsatisfactory work performance and misconduct. DHS Secure Services (which includes Youth Justice) has a discrete human resources service which provides support and direction in working with staff to identify issues and improve performance.

### **Disciplinary procedures**

As outlined above, all allegations of sexual assault or abuse are reported to police. The DHS policy on managing unsatisfactory work performance and misconduct clearly outlines action that will be taken by management if it is alleged by clients or other staff that a staff member is non-compliant with procedures. The discipline process has been strengthened by the availability of CCTV evidence. Youth Justice takes a 'zero tolerance' approach to inappropriate conduct by staff. The zero tolerance regime has been demonstrated to staff where inappropriate staff conduct has been found to have occurred. As part of the disciplinary process, DHS may direct the employee to perform alternative duties or work at an alternative place of work or suspend the employee from the workplace with pay.

### **Education and training**

The Youth Justice Capability Framework clearly articulates the competencies, technical skills and knowledge essential for working in Youth Justice services, and the capabilities, behaviours and personal attributes needed by staff to deliver quality, client-focused services. It has informed the development of the diploma in Youth Justice, and guides recruitment, training and development of staff.

As part of their induction, Youth Justice staff undertake an intensive four week Beginning Practice program which includes specialist training in child-safe practices including working with traumatised and abused children and young people with sexually abusive behaviours. Induction also includes training in professional boundaries (for example, appropriate communications and physical contact with clients), decision-making, and the rights of young people in care.

The Office of Professional Practice (DHS) provides practice leadership for Victorian Youth Justice professionals, among others. It fosters continuous improvement in service delivery and encourages practice excellence. The Office is charged with supporting professionals to provide support and care with foremost regard for the safety and wellbeing of all clients. For example, the Office has provided training to youth justice staff specifically about youth who exhibit sexually abusive behaviours and their families.

### **Physical environment**

Youth Justice Custodial Centres accommodate young people in two distinct centres within the Parkville Youth Justice Precinct: one houses young women and boys under the age of 15 (in separate accommodation), and the other houses boys aged 15 to 17. All accommodation, meals, health,

education and program delivery is separate, with service delivery focused on the particular needs and issues of each group.

The Standards require that youth justice centres provide a physical environment that is safe and secure, and gives due regard to the rehabilitative expectations of custodial care, in accordance with the recommendations of the *Australasian Juvenile Justice Administrators — Standards for juvenile custodial facilities 1999*.

Young people are accommodated in secure bedrooms locked from the outside and alarmed. Once the unit is 'locked down' at night, staff must have authorisation to open a bedroom door, and at least two staff must be present. Unlocking the door will trigger an alarm which registers in the control room of the precinct, as well as generating an automatic electronic report, which is reviewed by the General Manager. All bedrooms have intercoms linked to the staff console of the particular unit, which are backed up to the control room of the precinct. Access to bedrooms during the day is restricted, with bedrooms kept locked, so that no unauthorised access can occur.

CCTV surveillance provides audio and visual coverage of all client areas excluding bedrooms and bathrooms. Footage is streamed live into the precinct control room, and can be live-monitored or played back to review specific activity.

### Online environment

Under the Youth Justice procedure on entertainment materials and internet access, young people in custody are never permitted unsupervised internet access. Supervised internet access may be permitted for educational purposes or for other specific purposes (for example, job-seeking) upon request.

### Information-sharing

Information-sharing within youth justice centres is critical to ensure that all clients and staff are kept safe. Case planning includes assessment of the risk that a client may pose to staff or other clients and strategies for how this will be managed to keep everyone safe. Thorough referee checks are conducted as part of the recruitment process for new staff, and include specific questions about disciplinary matters. In limited circumstances, information about a person's disciplinary history within DHS may also be accessed through internal databases.

Youth justice centres also ensure all allegations of sexual assault are reported to police, in accordance with the DHS Instruction, *Responding to Allegations of Physical or Sexual Assault*, and are required to notify Victoria Police prior to releasing a client who is on the Sex Offender Register from custody.

## 5.2 Early childhood services and schools

The Victorian Government regulates children's services in Victoria through the Department of Education and Early Childhood Development (DEECD) in accordance with its functions under the *Education and Care Services National Law Act 2010 (Vic)* (National Law) and the *Children's Services Act 1996* (CS Act). The Victorian Government also registers and regulates the teaching profession and government schools under the *Education and Training Reform Act 2006* (ETR Act). These Acts provide a strong legislative basis for ensuring Victorian early childhood services and schools are child-safe, and are complemented by a range of Victorian Government policies, which expand on the legislative requirements and provide guidance to children's services and schools to assist them to ensure children are safe. The School Policy and Advisory Guide provides Victorian Government schools with quick and easy access to governance and operational policies and advice.<sup>29</sup>

The following outlines a selection of the legislative mechanisms and policies in place in Victoria that contribute to ensuring early childhood services and schools in Victoria are 'child-safe'.

### A culture of child safety

#### *Early childhood services*

Within the National Quality Framework, National Quality Standard 2.3 ('Each child is protected') requires that every reasonable precaution is taken to protect children from harm, and that educators,

<sup>29</sup> <http://www.education.vic.gov.au/school/principals/spag/Pages/spag.aspx?Redirect=1>

co-ordinators and staff members are aware of their roles and responsibilities to respond to every child at risk of abuse or neglect.<sup>30</sup>

The Victorian Government (through DEECD) and the Australian Children's Education and Care Quality Authority (ACECQA) make available considerable guidance and resources to support early childhood services to be child safe. For example, DEECD promotes the resource 'Wise Up to Child Sexual Abuse' produced by the non-government organisation Child Wise, to education and care services.<sup>31</sup> 'Wise Up to Child Sexual Abuse' assists services to learn about child safe strategies, including how to identify indicators of abuse, how to talk to children if they disclose abuse, how to recognise the strategies of offenders, and how to report concerns. DEECD has also collaborated with the CCYP to develop the web page 'Safe Care for Children'.<sup>32</sup> The page links to a number of resources that encourage parents to carefully consider the safety of their children when arranging care and activities for their children.

### Schools

The Victorian Registration and Qualifications Authority (VRQA) registers all Victorian schools. All schools must comply with the minimum standards and other requirements specified in the ETR Act and its Regulations. These include a requirement that schools ensure that the care, safety and welfare of students is in accordance with any applicable State and Commonwealth laws, and that staff are advised on their obligations under those laws (ETR Regulations Sch.2, 12). The VRQA's *Guide to the minimum standards and other requirements for school registration* provides detail as to the specific evidence required to be provided by schools to demonstrate that they meet the minimum standards. For example, VRQA guidelines in relation to student welfare require that a school's policies and procedures cover bullying and harassment, including cyber bullying; complaints management; on-site and off-site supervision of students; and mandatory reporting.<sup>33</sup>

DEECD's *Supervision and Duty of Care* policies ensure government schools satisfy their duty of care in supervising students. Principals and teachers are held to a high standard of care in relation to students. The duty requires principals and teachers to take all reasonable steps to reduce risk, including through provision of suitable and safe premises, adequate supervision and implementation of strategies to prevent bullying.<sup>34</sup>

The Victorian Institute of Teaching (the Institute) also aims to provide students, parents and the broader community with confidence that only appropriately qualified and suitable professionals are teaching Victoria's school children. One way in which the VIT has sought to build confidence has been to work with the profession to develop codes of conduct and ethics for the teaching profession (described further below).

The Victorian Government also promotes respectful relationships in schools as intrinsic to a positive and engaging school environment. School policies on student engagement must be developed in collaboration with all staff, students and parents, as the process of collaboration is just as important as the policy, and should set out clear, well-defined and agreed expectations of behaviour by all members of the school community.<sup>35</sup> The *Effective Schools are Engaging Schools – Student Engagement Policy Guidelines* provide guidance on developing a Student Engagement Policy which articulates the school community's shared expectations in the areas of student engagement, attendance and behaviour. The policy supports the rights and articulates the expectations of every member of the school community to engage in and promote a safe and inclusive educational environment.<sup>36</sup> (See also 'Empowerment and Participation of Children', below).

All Victorian teachers are transitioning to the Australian Professional Standards for Teachers (APST) as their registration renewals fall due. All graduates from 2013 are assessed against the APST for the purpose of registration with the Institute and the majority of registered teachers will renew against the APST in 2014. Under the APST, teachers are required to create and maintain supportive and safe learning environments (Standard 4). This includes supporting student participation; managing challenging behaviour; maintaining student safety; and using ICT safely, responsibly and ethically. Victoria has had similar professional standards in place since 2004.<sup>37</sup>

<sup>30</sup> <http://www.acecqa.gov.au/Childrens-health-and-safety#sthash.96gEiu70.dpuf>

<sup>31</sup> <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx>

<sup>32</sup> [www.education.vic.gov.au/childhood/parents/childcare/Pages/safecare.aspx](http://www.education.vic.gov.au/childhood/parents/childcare/Pages/safecare.aspx)

<sup>33</sup> [http://www.vrqa.vic.gov.au/Documents/registration-schoolguide\\_1.pdf](http://www.vrqa.vic.gov.au/Documents/registration-schoolguide_1.pdf)

<sup>34</sup> <http://www.education.vic.gov.au/school/principals/spag/safety/Pages/supervisionaccess.aspx>

<sup>35</sup> <http://www.education.vic.gov.au/school/principals/spag/participation/Pages/policydev.aspx>

<sup>36</sup> <https://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/segpolicy.pdf>

<sup>37</sup> [http://www.vit.vic.edu.au/SiteCollectionDocuments/PDF/Standards\\_for\\_Renewal%20June%202013.pdf](http://www.vit.vic.edu.au/SiteCollectionDocuments/PDF/Standards_for_Renewal%20June%202013.pdf)

## Organisational culture

### Codes of conduct

#### *Early childhood services*

National Quality Standard 4.2 ('Educators, co-ordinators and staff members are respectful and ethical') requires that professional standards guide practice, interactions and relationships.<sup>38</sup> To meet this standard, it is expected that early childhood services will adopt the *Early Childhood Australia Code of Ethics 2006* (or develop their own codes of ethics), display their code and make it available to families. It is also expected that services will develop a handbook for new and existing staff that includes a statement of philosophy, the code of ethics, position descriptions and professional standards that apply to educators.<sup>39</sup>

#### *Schools*

A Code of Ethics for the teaching profession was launched by the Institute in September 2005 and a Code of Conduct was launched in June 2008 (the Codes).<sup>40</sup> All registered teachers were provided with the Codes on their launch and each new registrant is provided with a copy of the Codes on gaining registration.

The Principle 1.5 of the Code of Conduct states that teachers are always in a professional relationship with students in their school, whether at school or not. It further states that a professional relationship will be violated if a teacher:

- has a sexual relationship with a student;
- uses sexual innuendo or inappropriate language and/or material with students;
- touches a student without a valid reason;
- holds conversations of a personal nature or has contact with a student via written or electronic means including email, letters, telephone, text message or chat lines, without a valid context;
- accepts gifts, which could reasonably be perceived as being used to influence them, from students or their parents.

Principle 3.2 of the Code of Conduct states that teachers are aware of the legal requirements that pertain to their profession, including in relation to mandatory reporting.

The Institute publishes material on its website designed to assist teachers to understand the Codes and their mandatory reporting obligations.<sup>41</sup> The VIT publishes articles on the Codes as well as decisions and learnings from disciplinary proceedings in the bulletin, *Professional Practice*, to assist teachers in ensuring their practice remains within the accepted framework for the profession.

Since the initial launch of the Codes, over 19,000 provisionally registered teachers and mentor teachers have attended Institute seminars about the Codes. Awareness of the Code of Conduct has grown from 39% in 2008, the year it was launched, to 83% in 2011. In 2011, 92% of teachers indicated that they believed a Code of Conduct was important for the profession.

Teacher training programs will only be accredited by the Institute if there is evidence that graduates will:<sup>42</sup>

- understand the legal and ethical dimensions of teaching, including duty of care and the nature of professional commitment to students; and

<sup>38</sup> <http://www.acecqa.gov.au/Staffing-arrangements#sthash.P8EHW8P.dpuf>

<sup>39</sup> <http://www.acecqa.gov.au/Staffing-arrangements;http://files.acecqa.gov.au/files/National-Quality-Framework-Resources-Kit/NQF03-Guide-to-NQS-130902.pdf>

<sup>40</sup> [http://www.vit.vic.edu.au/SiteCollectionDocuments/PDF/1543\\_Code-of-Conduct-June-2008.pdf](http://www.vit.vic.edu.au/SiteCollectionDocuments/PDF/1543_Code-of-Conduct-June-2008.pdf)

<sup>41</sup> <http://www.vit.vic.edu.au/conduct/victorian-teaching-profession-code-of-conduct/Pages/default.aspx>

<sup>42</sup> Since 2013, the Australian Accreditation Standards have been used by the VIT's Accreditation Committee to accredit initial teacher education programs for preparing teachers in Victoria: [http://www.aitsl.edu.au/verve/\\_resources/Accreditation\\_of\\_initial\\_teacher\\_education.pdf](http://www.aitsl.edu.au/verve/_resources/Accreditation_of_initial_teacher_education.pdf). Understanding and working within relevant legal and ethical frameworks was also a requirement of the Victorian accreditation standards, under which almost all programs in Victoria are still accredited.

- work within the legal and ethical framework expected of all teachers and maintain appropriate professional relationships.

The Institute also presents information sessions to final year teaching students which emphasise the professional obligations of a registered teacher and the importance of the Codes in their future professional life.

The Australian Professional Standards for Teachers also require that teachers meet their professional ethics and responsibilities and comply with legislative, administrative and organisational requirements (Standard 7).<sup>43</sup>

## Responding to allegations, concerns and complaints

### *Early childhood services*

Under their service agreement, early childhood services are required to comply with the DHS instruction *Responding to Allegations of Physical or Sexual Assault*, which includes an obligation to report all allegations of sexual or physical assault to police and to submit an incident report to DHS.<sup>44</sup>

DEECD provides guidance to children's services about obligations and procedures for responding to complaints through its *Responding to complaints: Practice Note 16*.<sup>45</sup> The Practice Note requires the service to have written provisions for managing complaints, which are available at all times the service is operating, identify who within the organisation will receive complaints, identify complaints that must be made directly to DEECD (and contact details for DEECD). The service must also notify parents/carers of any changes or updates to the procedures. The ACECQA *Operational Policy Manual for Regulatory Authorities* includes information about monitoring and compliance and actions a regulatory authority may take.<sup>46</sup> Based on this, DEECD has developed internal guidelines for handling incidents in children's services.

The National Law (s 174) and CS Act (s 29C) require regulated services to report serious incidents (for example, incidents involving serious injury or trauma and requiring medical attention) and complaints about child safety, health or wellbeing to DEECD.<sup>47</sup> These incidents are investigated by DEECD, as the regulatory authority. After gathering and assessing the information relating to the complaint, DEECD will determine what action to take. Depending on the outcome of the investigation a number of actions will be considered, including but not limited to:

- increased monitoring of the service;
- reducing the period of the licence;
- placing a condition or restriction on a licence; and/or
- prosecution.

*Protecting the safety and wellbeing of children and young people* is a joint protocol between DHS Child Protection, DEECD, licensed children's services and Victorian schools outlining roles and responsibilities in relation to mandatory reporting.<sup>48</sup> Key information provided includes:

- reporting requirements in line with the *Children, Youth and Families Act (2005)* including responsibilities of mandated/non mandated persons;
- the obligations and responsibilities of staff in licensed children's services and DEECD authorised officers regarding children at risk of abuse or neglect; and
- how to access appropriate support services for children at risk of abuse or neglect, and their families.

An online training package has been developed to assist children's services to become familiar with the content of the protocol.<sup>49</sup>

<sup>43</sup> <http://www.teacherstandards.aitsl.edu.au/Home>. See also Victorian professional standards:

[http://www.vit.vic.edu.au/SiteCollectionDocuments/PDF/Standards\\_for\\_Renewal%20June%202013.pdf](http://www.vit.vic.edu.au/SiteCollectionDocuments/PDF/Standards_for_Renewal%20June%202013.pdf)

<sup>44</sup> [http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0006/836628/responding-to-allegations-of-physical-or-sexual-assault.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0006/836628/responding-to-allegations-of-physical-or-sexual-assault.pdf)

<sup>45</sup> <http://www.education.vic.gov.au/Documents/childhood/providers/regulation/pracnotesrespcompl.pdf>

<sup>46</sup> [www.acecqa.gov.au](http://www.acecqa.gov.au)

<sup>47</sup> See fact sheet on reporting serious incidents under the National Quality Framework:

<http://www.education.vic.gov.au/childhood/providers/regulation/Pages/nqfactsheets.aspx>

<sup>48</sup> [https://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/protecting\\_children\\_protocol27\\_5\\_10.pdf](https://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/protecting_children_protocol27_5_10.pdf)

## Schools

*Responding to Allegations of Sexual Assault – Procedures for Victorian Government Schools* is a detailed resource that provides guidelines and advice for government schools about responding to allegations of student sexual assault, and inappropriate sexualised behaviours by students under 10 years.<sup>50</sup> The procedures apply where a student is alleged to be involved in a sexual assault either as a victim or perpetrator and the incident is disclosed or occurs in the school context. There must be an immediate response to a disclosure or incident, or where a staff member forms the view that action needs to be taken. This includes a requirement to report all allegations of sexual assault to the police. (This requirement is also set out in the Joint Protocol *Protecting the safety and wellbeing of children and young people*.) In the context of student to student sexual assault, staff have a duty of care towards all students involved, including the alleged victim, the alleged perpetrator and any other students who may have been affected.

DEECD's Student Critical Incident Advisory Unit (SCIAU) is responsible for the above guidelines and for responding to serious incidents occurring in government schools. SCIAU, the relevant regional office and the school manage incidents of sexual assault in partnership. SCIAU prepares statewide procedures for schools to ensure appropriate management of allegations of sexual assault, and provides training to government schools and regional staff in relation to responding to allegations of student sexual assault. SCIAU engages in risk mapping and data analysis, analysing themes emerging from incidents, and attempts to engage stakeholders in harm reduction through localised changes to interactions with students, and more broadly through communication with DEECD student engagement staff.

SCIAU ensures appropriate supports are in place to maximise the health and wellbeing of all students involved in sexually-related incidents. SCIAU works closely with other Victorian Government agencies and with non-government organisations, such as the Centres against Sexual Assault, Childwise, Australian Childhood Foundation, Children's Protection Society, Royal Children's Hospital Gatehouse Unit and the CCYP to support student wellbeing in schools.

An Individual Management Support Plan must be developed for each student involved in an allegation of sexual assault. The plan must be developed with the student, the parents/carers and relevant staff. External agencies providing support may also be involved. The Victorian Government also provides support to students involved in police investigations or court proceedings, including access to specialist counselling support and referrals to external providers as required.

The Victorian Government requires all complaints about government schools to be investigated. Schools must develop local policy and procedures in accordance with the DEECD policy, *Addressing parent concerns and complaints effectively: policy and guides*, and make information about its complaints processes readily available. The Parent Complaints policy for government schools is available on the DEECD website, which also provides links to resources and external agencies and organisations such as the Ombudsman and Parents Victoria.<sup>51</sup>

The underlying premise of the complaints management policy is that concerns and complaints are most effectively managed at the school level. However, it should be noted that this policy does not apply to matters about which there are other processes for review and appeal, such as matters relating to serious employee misconduct, student critical incidents and criminal activities.

The VRQA must investigate complaints against Victorian schools alleging any breach of an obligation to implement the principles underlying the ETR Act by a registered school (ETR Regulations (Part 8)). A breach may result in consequences for the organisation's registration. The VRQA complaints handling process is modelled on the Victorian Ombudsman's guidelines and informed by internal audit and reviews. The VRQA advises all complainants that if they are dissatisfied with the result of an investigation by The VRQA they may take the matter to the Ombudsman.

## Participation and empowerment of children

### Early Childhood Services

The National Quality Standard *Quality Area 5* requires early childhood services to develop respectful and equitable relationships with each child and maintain the dignity and rights of every child at all

<sup>49</sup> <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx>

<sup>50</sup> <http://www.education.vic.gov.au/Documents/school/principals/safety/sexuaassaultp.pdf>

<sup>51</sup> <http://www.education.vic.gov.au/school/principals/spag/community/pages/parentcomplaints.aspx>

times.<sup>52</sup> The National Quality Standard Guidelines provide a range of examples of what this might involve, including, for example:<sup>53</sup>

- staff responding sensitively and appropriately to all children's efforts to communicate; and
- the service ensuring that all children have equal opportunities to engage in one-to-one and small group conversations with educators.

DEECD funds community service organisations and local governments to provide Preschool Field Officer (PSFO) services. The PSFO program provides support to kindergartens to support the access and meaningful participation of children with additional needs in inclusive kindergarten programs through the provision of consultative support, resourcing and advice to early childhood teachers.<sup>54</sup>

### Schools

All Victorian Government schools are required to develop a Student Engagement Policy which articulates the school community's shared expectations in the areas of student engagement, attendance and behaviour. The policy supports the rights and articulates the expectations of every member of the school community to engage in and promote a safe and inclusive educational environment, including through encouraging student participation and student voice. The *Effective Schools are Engaging Schools – Student Engagement Policy Guidelines* aim to assist schools to develop their Student Engagement Policy.<sup>55</sup> Schools are encouraged to undertake an audit of current practices and policies and examine existing data to determine whether the school is demonstrating and supporting respectful relationships.

DEECD's Bullying policy supports schools to create safe and respectful school environments and prevent bullying, cyber bullying and other unacceptable behaviours. Schools must include a statement about bullying and cyber-bullying behaviours in the Rights and Responsibilities section of their Student Engagement Policy.<sup>56</sup>

DEECD's Bully Stoppers program supports parents, teachers and principals to work together to make sure schools are safe and supportive places, where everyone is empowered to help reduce the incidence of bullying in all Victorian schools. The program provides online advice and resources about cyber safety, cyber bullying and bullying for students, parents, teachers and principals.<sup>57</sup>

In Victoria, it is compulsory for government schools to provide sexuality education, including assessment and reporting against the Victorian Essential Learning Standards (VELS). The Victorian Government is committed to supporting sexuality education programs that are accessible and relevant for Victorian young people, and is continually developing further initiatives to support schools. Relevant Victorian Government agencies provide evidenced-based policies, professional training, program development support and curriculum resources.

The Victorian Government's Health Education policy for schools provides that learning and teaching in sexuality education should be developmentally appropriate, and that school councils must develop health education policies to support the health messages being delivered within the classroom, with the input of the whole school community.<sup>58</sup>

The *'Catching on Early'* resource provides guidance and a set of sequential learning activities to support the provision of high quality, age appropriate sexuality education to primary school students.<sup>59</sup> This resource makes clear that sexuality education can be protective against sexual abuse, by:

- giving children a vocabulary to accurately name parts of their bodies;
- giving them permission to talk and ask questions about sexual body parts;
- explaining the qualities of respectful relationships and appropriate sexual relationships;
- identifying a support network of teachers and parents to whom they can turn; and
- giving children an understanding of personal safety, that is, safety for their bodies and how to keep themselves safe.

<sup>52</sup> <http://www.acecqa.gov.au/Relationships-with-children#sthash.GuP5EUR6.dpuf>

<sup>53</sup> <http://files.acecqa.gov.au/files/National-Quality-Framework-Resources-Kit/NQF03-Guide-to-NQS-130902.pdf>

<sup>54</sup> DEECD, 'The Kindergarten Guide 2013', p 22:

<http://www.education.vic.gov.au/Documents/childhood/providers/funding/kinderpolicycriteria.pdf>

<sup>55</sup> <https://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/segpolicy.pdf>

<sup>56</sup> <http://www.education.vic.gov.au/school/principals/spag/safety/Pages/bullying.aspx>

<sup>57</sup> <http://www.education.vic.gov.au/about/programs/bullystoppers/Pages/default.aspx>

<sup>58</sup> <http://www.education.vic.gov.au/school/principals/spag/curriculum/Pages/health.aspx>

<sup>59</sup> <http://safeschoolscoalitionvictoria.org.au/wp-content/uploads/2013/04/catchingonearly.pdf>

A DEECD respectful relationships resource (*Stepping Out Against Gender-Based Violence*) is being finalised and is expected to be released in late 2013. This resource teaches Years 8–10 students about gender expectations and respect in relationships and seeks to prevent violence against women and children.

Consideration is being given to the Victorian Government's response to Recommendation 10 of the Cummins Inquiry relating to a wide-ranging education and information campaign about the prevention of sexual abuse for parents and caregivers of school-aged children. The Victorian Government is also investigating a specific protective behaviours curriculum resource that will provide young people with skills to protect themselves.

Schools also have access to a range of workforces who can support vulnerable children and young people. These include Primary Welfare Officers, Student Welfare Coordinators, the National School Chaplaincy Program, Student Support Services and the School-focused Youth Service. These workforces work with other professionals and agencies outside the school to address student needs.

## Human resources management

### Recruitment

#### *Early childhood services*

Early childhood service providers are required to employ qualified early childhood teachers, holding a qualification that appears on the list of early childhood teaching qualifications approved by the Australian Children's Education and Care Quality Authority (ACECQA), and are required to practise in accordance with professional standards outlined in relevant industrial agreements.<sup>60</sup>

The National Law and *Children's Services Regulations* set out requirements regarding Working with Children Checks, criminal history checks, and 'fit and proper person' assessments of persons seeking to become approved providers or certified supervisors of education and care services registered under the National Quality Framework, or licensed operators of children's services under the CS Act. DEECD provides fact sheets on these requirements for relevant education and care services.<sup>61</sup>

In determining whether a person is a 'fit and proper person' under the National Law, DEECD as the regulatory authority must have regard to their criminal and employment history (including past compliance with relevant legislation). DEECD may ask the person to provide further information and undertake inquiries in relation to the person.

Similarly, in determining whether a person is a fit and proper person to manage a children's service under the CS Act, the Secretary DEECD must verify the person's identity and consider their criminal history (including whether they hold a Working with Children Check or are registered with the Institute, and their charges and convictions declaration), as well as checking references and relevant experience. The Secretary may also require the applicant to submit to any tests, provide references and submit to any medical and psychiatric examinations. The fit and proper person assessment is current for a maximum period of five years. When a person is first nominated to manage or control a service, they are generally required to attend an interview with DEECD to assess their understanding of managing a children's service and their knowledge of relevant Victorian legislation. Where a licensed operator under the CS Act nominates another person to manage the service, the licensee must make a declaration that they consider that the proposed nominee is fit and proper to manage or control the children's service, having verified their identity, and considered their criminal history (including their Working with Children Check assessment), relevant experience, qualifications and references.

#### *Schools*

##### 1. Suitability

The ETR Act requires that all teachers in Victoria obtain registration or permission to teach from the Institute before they can be employed in any Victorian school. The Institute meets its public protection obligation by ensuring that only those with a suitability to teach are granted registration. Suitability to

<sup>60</sup> [www.acecqa.gov.au/qualifications/approved-early-childhood-teaching-qualifications](http://www.acecqa.gov.au/qualifications/approved-early-childhood-teaching-qualifications)

<sup>61</sup> <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/nqffactsheets.aspx>;  
<http://www.education.vic.gov.au/childhood/providers/regulation/Pages/vcsfactsheets.aspx>;  
<http://www.education.vic.gov.au/childhood/providers/regulation/Pages/vcspracnotes.aspx>

teach is defined in the ETR Act as whether a person is fit to teach and physically and mentally able to teach (ETR Act s 2.6.1).

The Institute can refuse registration where the character of the applicant renders them unfit to teach in a school, where they have been convicted or found guilty of a sexual offence or an indictable offence, had their registration cancelled or suspended in another jurisdiction or are seriously incompetent (ETR Act s 2.6.8).

The Institute is required to maintain a public register recording a teacher's name, their registration status, their qualifications, details of adverse findings (including cancellation, suspension and the imposition of conditions) and the date of initial registration. The Institute also maintains a searchable extract of the register on its website so that members of the public, principals and other employers of teachers may quickly determine whether a person is permitted to teach in schools. The Institute audits employers to determine whether any person is employed to teach without registration.

The Victorian Government's *Suitability for Employment* policy outlines Working with Children Check and criminal record check requirements for employees and persons working with children in Victorian Government schools.<sup>62</sup>

Under the ETR Regulations (Sch 2, 15(2)), the proprietor, any member of the governing body and any principal of a non-government school must be of good character and be able to carry out their responsibilities in relation to the operation of the school. Amongst other things, they must not have been found guilty of an offence which is, or which would if committed in Victoria be, an indictable offence. There must be evidence in the form of a completed *Declaration of Good Character*.

## 2. Criminal history

Applicants for teacher registration are required to undergo a police record check (ETR Act s 2.6.7(2A)). This check provides criminal history information from all Australian jurisdictions and includes findings of guilt, convictions and in some cases charges. A routine national police check is conducted every five years.

A person who has at any time been convicted or found guilty of a sexual offence is not eligible to be employed in any position in the government teaching service (ETR Act s 2.4.7) or as a teacher by a school council (ETR Act s 2.3.9).

The spent convictions scheme of Victoria does not apply to applicants for teacher registration which means that all criminal history occurring in Victoria is revealed no matter when it occurred. Different spent conviction schemes operate in other jurisdictions, but specific offences are released where the check is required for specific purposes regardless of the age of the conviction.

Once a teacher is registered, the Institute undertakes a weekly checking process conducted through Victoria Police in respect of Victorian offences. This process provides updated criminal history information and enables identification of registered teachers who have matters in Victoria under police investigation or awaiting court hearing.

Victorian registered teachers, including those working in other jurisdictions, are required to notify the Institute within 30 days if they are committed for trial, convicted or found guilty of a sexual or other indictable offence (ETR Act s 2.6.57). Failure to do so can attract a penalty of 60 penalty units.

Criminal record checks are required for all school-based and non-school based staff employed under the ETR Act and the *Public Administration Act 2004*, casual relief teachers, student teachers, contractors and home-stay families. The Victorian Government also requires all non-teaching school-based staff to have passed a Working with Children Check irrespective of whether the *Working with Children Act 2005* requires them to do so.<sup>63</sup> Government schools are also required to establish and implement policies to assess and verify the suitability of volunteers who will work with children, including requiring all volunteers to provide evidence of their suitability. This evidence is generally a Working with Children Check.<sup>64</sup>

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<sup>62</sup> [http://www.education.vic.gov.au/hrweb/Documents/Suitability\\_for\\_employment.pdf](http://www.education.vic.gov.au/hrweb/Documents/Suitability_for_employment.pdf)

<sup>63</sup> This requirement is outlined in *Teaching Service (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 2009* (Order 199), which applies to Teaching Service employees including the Education Support class.

<sup>64</sup> <http://www.education.vic.gov.au/school/principals/spag/community/Pages/volunteers.aspx>

### 3. Other requirements

In addition to criminal record checks, the Victorian Government's *Recruitment in Schools* policy provides comprehensive information concerning recruitment in schools including selection panel composition, interviews and detailed referee checks. Referee reports are a critical part of the assessment of the relative merits of each short-listed applicant, and allow for a rigorous checking of claims made by applicants and the gathering of evidence on work performance. The views of referees nominated by the applicant are sought, together with those of non-nominated referees.

#### **Staff supervision, support and performance management**

##### *Early childhood services*

The Victorian Government does not employ staff in this sector. The roles and responsibilities of early childhood teachers and assistants are governed by relevant industrial agreements. These set out, among other things, the expectation that more experienced early childhood teachers and staff will provide support and guidance to other teachers and staff.

All service providers in receipt of kindergarten funding are required to ensure teachers complete professional development each year, linked to the teacher's professional development plan and in accordance with applicable employment agreements.<sup>65</sup> Service providers must notify the appropriate DEECD regional office if, on any day, the usual teacher is absent, or if there is a change in the teacher delivering the program.<sup>66</sup>

##### *Schools*

A consistent and robust approach to employee supervision and performance management supports the establishment and maintenance of a child safe and child friendly environment in Victorian Government schools. It establishes clear expectations of appropriate behaviours and best practice by employees. Various Human Resources Guides, Performance Procedures and Codes of Conduct establish a framework of supervision and performance management of teachers in government schools.

For example, DEECD's *Guidelines for Managing Complaints, Unsatisfactory Performance and Misconduct in the Teaching Service* (Guidelines) set out DEECD best practice and policies to assist with complaints against employees and unsatisfactory performance and misconduct involving employees.<sup>67</sup> The Guidelines support a culture that promotes high standards of conduct and encourages performance improvement in government school education. They uphold the position that misconduct and unsatisfactory performance is expected to be dealt with promptly and fairly and with a focus on improving performance.

The Joint Protocol *Protecting the safety and wellbeing of children and young people* underpins a culture in which school employees have a duty of care to protect and preserve the safety, health and wellbeing of children and young people in their care and must always act in the best interests of those children and young people. If an employee has any concerns regarding the health, safety or wellbeing of a child or young person, they are expected to take immediate action. The Institute Code of Conduct also promotes an environment of collegial oversight to ensure that Victorian teachers share information relating to the wellbeing of students, communicate appropriately with students, maintain objectivity and professionalism in their relationships with students and maintain a safe learning environment.<sup>68</sup>

DEECD's *Performance and Development Guide (Teacher Class)* (PD Guide) outlines the process by which a government school teacher's performance is annually reviewed, and details the standards against which teachers are assessed. The Principal has ultimate responsibility for approving the assessment of each teacher, and the process is conducted continually through the year. The PD Guide outlines consequences for unsatisfactory performance by a teacher.<sup>69</sup>

<sup>65</sup> DEECD, The Kindergarten Guide 2013 pg. 32,

<http://www.education.vic.gov.au/Documents/childhood/providers/funding/kinderpolicycriteria.pdf>

<sup>66</sup> DEECD, The Kindergarten Guide 2013, p 31:

<http://www.education.vic.gov.au/Documents/childhood/providers/funding/kinderpolicycriteria.pdf>

<sup>67</sup> Human Resources Guidelines for Managing Complaints, Unsatisfactory Performance and Misconduct – Teaching Service, page 4:

[http://www.education.vic.gov.au/hrweb/Documents/Complaints\\_Misconduct\\_and\\_Unsatisfactory\\_Performance.pdf](http://www.education.vic.gov.au/hrweb/Documents/Complaints_Misconduct_and_Unsatisfactory_Performance.pdf)

<sup>68</sup> VIT Code of Conduct, <http://www.vit.edu.au/conduct/victorian-teaching-profession-code-of-conduct/Pages/ReadtheCode.aspx>

<sup>69</sup> Human Resource: Performance and Development Guide Teacher Class –

<http://www.education.vic.gov.au/hrweb/Documents/Teacher-Performance-and-Development-Guide.pdf>

DEECD's *Roles and Responsibilities (Principals and Teacher Class)* guide outlines position responsibilities which detail supervisory practices within Victorian government schools.<sup>70</sup> Specific collegial supervision is also detailed by the Professional Standards outlined in the PD Guide which require, for example, that 'Accomplished Teachers' provide effective supervision and training of student teachers, and high level support and professional assistance to other teachers in classroom related areas.<sup>71</sup>

## Disciplinary processes

### *Early childhood services*

Under the National Law and CS Act, the Victorian Government may impose statutory sanctions such as compliance notices, prosecutions, enforceable undertakings and suspension and cancellation of approvals and certificates where an approved provider of children's services has allegedly breached legislation regarding health, safety or well-being of children.<sup>72</sup> A 'fit and proper person' determination may be revoked at any time if that person ceases to be fit and proper to manage or control a children's service.

The National Law and CS Act also provide for a range of actions to be taken against individuals. For example, nominated supervisors and family day care educators may be prosecuted as individuals if they fail to protect children from harm and hazard (National Law, s.167). The CS Act has a similar provision (s.26) which applies to all staff members. There is also an ability to suspend a family day care educator (National Law, s.178) and Emergency Action notices (National Law, s. 179) have been utilised to remove a staff member from a service pending a police investigation. The National Law (s.182) also provides for the issuing of a Prohibition Notice to any person involved in the provision of an education and care service (including staff members and volunteers) if the Regulatory Authority (in this case, DEECD) considers there would be an unacceptable risk of harm to a child or children if that person were allowed to remain on the education and care services premises or provide education and care to children. It is an offence to contravene a prohibition notice.

### *Schools*

Disciplinary action for misconduct in the government teaching service is taken under Division 10 of the ETR Act.

The Victorian Government has comprehensive guidelines available to all employees, principals and managers in relation to the management of complaints, misconduct and unsatisfactory performance in government schools (*DEECD Guidelines for Managing Complaints, Unsatisfactory Performance and Misconduct – Teaching Service*).<sup>73</sup> Principals and managers must contact DEECD's Conduct and Ethics Branch for procedural advice and support regarding allegations of misconduct involving sexual abuse or a sexual offence.<sup>74</sup>

School-based employees who are the subject of allegations of sexual misconduct will be removed from duty while an investigation takes place. In most instances, including where there are concerns about student well-being and safety, they will be suspended from duty, with or without pay, but in some instances they may be re-assigned to a non-school location while suspension is being considered.

If an employee accused of a sexual offence is not charged, convicted or found guilty, DEECD may still take disciplinary action in relation to the person's conduct. If the employment relationship ends before the discipline procedure is concluded, an employment limitation will usually be imposed on the employee. The *Employment limitation policy* ensures disciplinary processes are not circumvented by a person resigning from one workplace and being employed in another or gaining re-employment following termination. A government school cannot process the employment of a person who is subject to an employment limitation as it is blocked on the central payroll system. DEECD also notifies the Institute when an employment limitation is placed on a teacher, irrespective of whether an investigation was completed. This is to avoid a teacher being able to move from the government to the non-government sector without the registration body being made aware of unresolved conduct or performance issues.

<sup>70</sup> Human Resource: Roles and Responsibilities Principal and Teacher Class pages 3-7 [http://www.education.vic.gov.au/hrweb/Documents/Roles\\_and\\_responsibilities-TS.pdf](http://www.education.vic.gov.au/hrweb/Documents/Roles_and_responsibilities-TS.pdf)

<sup>71</sup> Human Resource: Performance and Development Guide Teacher Class, page 16.

<sup>72</sup> ACEQA *Guidelines to the National Law and Regulations* (2011) (<http://www.acecqa.gov.au/>) include an outline of the standards and reasons to suspend or cancel provider approval and supervisor certificates.

<sup>73</sup> [http://www.education.vic.gov.au/hrweb/Documents/Complaints\\_Misconduct\\_and\\_Unsatisfactory\\_Performance.pdf](http://www.education.vic.gov.au/hrweb/Documents/Complaints_Misconduct_and_Unsatisfactory_Performance.pdf)

<sup>74</sup> Sexual offence is defined in the ETR Act s 1.1.3.

Employers are required to notify the Institute of any action taken against a teacher in respect of serious misconduct or where the person is unfit to be a teacher (ETR Act s 2.6.31). If the Institute becomes aware of sexual offence charges brought against a teacher it may take action without the need for further inquiry (ETR Act ss 2.6.27 & 2.6.29). The Institute is required to cancel the registration of a teacher without a formal hearing if the teacher is convicted or found guilty of a sexual offence in Victoria or elsewhere. The effect of the cancellation of the teacher's registration is that he/she is disqualified from teaching in a Victorian school. Since the commencement of teacher registration in 2003, there have been 63 teachers who have had their registration as a teacher cancelled under these provisions.

The Institute must notify teacher registration authorities in Australia and New Zealand when a teacher's registration is cancelled, suspended or conditions are imposed. The Institute is also required to make a number of other notifications, including to the Victorian Government's Working With Children Unit (Department of Justice) (ETR Act s 2.6.50).

## Education and training

### *Early childhood services*

Child protection training is a mandatory unit of the Certificate III in children's services, which is the minimum level qualification required of all early childhood education and care staff from 2014. As part of the *Protecting the Safety and Wellbeing of Children and Young People* protocol, DEECD has developed training packages, which can be used to assist early childhood teachers and service providers in understanding their role in implementing the protocol.<sup>75</sup> Consideration is being given to adapting the content of the mandatory reporting eLearning module available to schools for staff in early childhood settings.

As outlined above, the Victorian Government (through DEECD) and ACECQA make available considerable guidance and resources to support early childhood services to be child safe, including resources like Child Wise's 'Wise Up to Child Sexual Abuse', which assists services to learn about child safe strategies, including how to identify indicators of abuse, how to talk to children if they disclose abuse, how to recognise the strategies of offenders, and how to report concerns.<sup>76</sup>

### *Schools*

The Victorian Government provides training for school teachers about their responsibilities in relation to the reporting of child abuse. This includes training in identifying the behavioural signs of child sexual abuse. In 2010 and 2011, the Victorian Government conducted a statewide professional learning program linked to the *Protecting the safety and wellbeing of children and young people* protocol (outlined above), with all school staff required to attend a revision session in each semester. In July 2012, DEECD introduced a mandatory reporting eLearning module, which all mandated reporters in government schools are required to undertake once a year. Since its introduction, over 70,000 teachers in government and non-government schools have undertaken the eLearning module, contributing to increased school and community awareness of child abuse. An online information and training program about mandatory reporting is also available.<sup>77</sup>

Registered teachers are required to undertake 20 hours of professional development annually, based on the Australian Professional Standards for Teachers (or 100 hours over five years) to maintain registration as a teacher.

The Office of Professional Practice in DHS responds to requests for training, practice strategies and general support from schools and community organisations. For example, as part of their broader community training program, the principal practitioners have provided training sessions about youth exhibiting sexually abusive behaviours to primary, secondary and special development schools.

The recent Victorian Parliamentary Inquiry into Sexting found that Victorian teacher participation in cybersafety education initiatives, such as eSmart and Cybersmart, was high, and that Victoria compares favourably with other states for participation in these initiatives.<sup>78</sup>

<sup>75</sup> <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx>

<sup>76</sup> <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx>

<sup>77</sup> <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx>

<sup>78</sup> [http://www.parliament.vic.gov.au/images/stories/committees/lawrefrom/isexting/LRC\\_Sexting\\_Final\\_Report.pdf](http://www.parliament.vic.gov.au/images/stories/committees/lawrefrom/isexting/LRC_Sexting_Final_Report.pdf), page 70.

## Physical environment

### *Early childhood services*

The National Regulations (r 115) require that early childhood premises are designed to facilitate supervision of children at all times, having regard to the need to maintain the dignity and rights of the children. A compliance direction may be issued for failure to comply with this regulation.

The National Quality Standard *Quality Area 3 - Physical Environment* requires, among other things, that the indoor and outdoor spaces, furniture and equipment at children's services are safe and appropriate for the operation of these services.<sup>79</sup>

The Victorian Government's *Environments Policy for early childhood services* provides that all early childhood professionals are responsible for creating an environment that supports children's positive mental health.<sup>80</sup> For services that operate under the CS Act, the proprietor and educators are responsible for ensuring that the early childhood setting is operated in a way that protects the health, safety and wellbeing of all children attending the service. Education and care services operating under the National Law and the National Quality Framework are similarly required to operate in a way that ensures the safety, health and wellbeing of children and to protect children from harm (National Law, ss 51 and 167; Standards 2.1 and 2.2).

### *Schools*

The *Building Quality Standards Handbook* developed by DEECD provides detailed design requirements to ensure that schools provide a safe and secure environment for students, staff and visitors. Section 2.9 *Security and Safety* provides that designers should consider, among other things, design which promotes good supervision of all areas by teachers.<sup>81</sup> All completed projects undergo a post-occupancy evaluation to ensure that all design requirements have been met and any new learnings can be applied to future projects.

The Victorian Government, through DEECD's Security Services Unit, delivers a range of security and crime prevention services to schools, including advice on physical and electronic measures (alarm and duress systems); personal safety; closed circuit television monitoring; fencing; lighting and glazing; car park safety; signage; trespass management and computer security.

## Online environment

The Victorian Government is funding the roll out of The Alannah and Madeline Foundation's eSmart Schools program to help schools improve cyber safety and reduce students' exposure to cyber risks, and deal with cyber bullying. Over 1400 Victorian schools are currently working towards becoming eSmart. The Victorian Government has made eSmart Schools available to every government school and 300 Catholic and independent schools at no charge. In addition, each of these schools will receive a \$2,000 grant to assist with the implementation of the framework. As outlined above, DEECD's *Bully Stoppers* program provides online advice and resources about cyber safety and cyber bullying for students, parents, teachers and principals. DEECD also provides links to the Australian Communication and Media Authority's Cybersmart program, which offers web-based resources such as sample lesson plans and online training, as well as outreach to schools and professional development sessions.<sup>82</sup>

*Using Social Media Tools: Guide for Department Employees in Schools* has been developed as a practical resource to support DEECD employees in schools to understand and meet their obligations and standards for behaviour.<sup>83</sup>

Victorian Government policy regards misuse of internet and mobile phones in government schools relating to child pornography and sexting as critical incidents requiring immediate reporting to Victoria Police and DEECD Security Services Unit. DEECD has issued *A step-by-step guide for responding to online incidents of inappropriate behaviour affecting students*, which is activated when a school employee is concerned about a student because he or she has:

- received a disclosure from the student who has been subjected to inappropriate behaviour that is occurring or has occurred in the digital world; or

<sup>79</sup> <http://www.acecqa.gov.au/Physical-environment>

<sup>80</sup> <http://www.education.vic.gov.au/childhood/providers/health/Pages/environments.aspx>

<sup>81</sup> <https://www.eduweb.vic.gov.au/edulibrary/public/propman/facility/BuildingQualityStandardsHandbook.pdf>

<sup>82</sup> See <http://www.education.vic.gov.au/school/teachers/health/Pages/loresdigital.aspx>

<sup>83</sup> <http://www.education.vic.gov.au/about/programs/bullystoppers/Pages/socialmedia.aspx>

- received a report from an adult or another student about inappropriate behaviour that is occurring or has occurred in the digital world.

Should this occur, the school employee is required to approach the situation with regard to the school's student engagement policy, refer the matter to the school's leadership or student wellbeing team, or, if a criminal offence may have occurred, refer the matter to the DEECD Security Services Unit and Victoria Police.<sup>84</sup>

## Effective governance

### *Early childhood services*

The DEECD Kindergarten Guide 2013 stipulates that service providers in receipt of kindergarten funding are expected to operate in accordance with good governance principles. Governance of private sector organisations is subject to corporate law requirements. In addition, approved education and care services under the National Quality Framework are required to meet the governance standards under National Quality Standards *Quality Area 7 – Leadership and service management*, specifically:

- effective leadership that promotes a positive organisational culture and builds a professional learning community;
- a commitment to continuous improvement; and
- administrative systems that enable effective management of a quality service.<sup>85</sup>

The Victorian Government funds the Early Learning Association of Australia (ELAA) to provide advice, guidance, training and intensive support where required to services delivering a kindergarten program.<sup>86</sup> This includes advice on effective governance, staffing and performance management. In addition, the Victorian Government has funded ELAA to develop a range of resources to support services to undertake effective staffing and performance management activities.

### *Schools*

Under the ETR Act, all providers of school education must be registered with the VRQA, which requires adherence to certain governance standards. The ETR Act requires the governance of a school to be structured to enable the school to develop its strategic direction, effectively manage its finances and fulfil its legal obligations.<sup>87</sup> The Victorian Government, through DEECD, monitors adherence to standards defined in the ETR Act for government school councils. Non-government schools must provide evidence that they meet the governance standards including an outline of the governing body's structure and membership, the constitution or rules of association, the most recent financial statement; the school's governance charter (outlining the key functions and responsibilities of the school board), and the school's strategic plan.<sup>88</sup> If the VRQA determines that a registered school does not comply with minimum standards it may take several actions, including prohibiting the school from enrolling new students, or suspending, cancelling or imposing conditions on the schools registration.<sup>89</sup>

The Victorian Government, through DEECD, provides schools with a range of advice so that they can meet the various legislative and policy requirements relating to school governance.<sup>90</sup> This includes advice relating to:

- school council arrangements;
- accountability and continuous improvement activity;

<sup>84</sup> <http://www.education.vic.gov.au/about/programs/bullystoppers/Pages/teachrespond.aspx>

<sup>85</sup> DEECD, 'The Kindergarten Guide 2013', p 26:

<http://www.education.vic.gov.au/Documents/childhood/providers/funding/kinderpolicycriteria.pdf>

<sup>86</sup> Only those children's services which provide an approved kindergarten program are funded by the Victorian Government. Most other education and care services are funded (directly or indirectly) by the Commonwealth Government.

<sup>87</sup> Sch. 2, 15(1) *Education and Training Reform Act 2006* 'School Governance', [http://www.vrqa.vic.gov.au/Documents/registration-schoolguide\\_1.pdf](http://www.vrqa.vic.gov.au/Documents/registration-schoolguide_1.pdf) page 5

<sup>88</sup> VRQA Guide to the minimum standards and other requirements for school registration, [http://www.vrqa.vic.gov.au/Documents/registration-schoolguide\\_1.pdf](http://www.vrqa.vic.gov.au/Documents/registration-schoolguide_1.pdf) page 5

<sup>89</sup> VRQA Guide to the minimum standards and other requirements for school registration, [http://www.vrqa.vic.gov.au/Documents/registration-schoolguide\\_1.pdf](http://www.vrqa.vic.gov.au/Documents/registration-schoolguide_1.pdf) page 4

<sup>90</sup> <http://www.education.vic.gov.au/school/principals/spag/governance/Pages/governance.aspx> While the Victorian Government does not have responsibility for the management of independent and Catholic schools, these schools are able to access the

- archives and records keeping;
- management and maintenance of safe school premises and equipment;
- management of and response to actual or threatened violence at school;
- development and implementation of effective risk management strategies; and
- meeting obligations and recommended standards of behaviours when using social media tools for personal or professional purposes.

### Information-sharing

Early childhood services and schools undertake a range of background checks to ensure teachers and staff employed in these organisations are safe to work with children. These background checks involve the lawful sharing of information about the person's criminal and employment history among relevant agencies and organisations.

Early childhood services and schools are required to report all allegations of sexual assault to police (in accordance with the Joint Protocol *Protecting the safety and wellbeing of children and young people*, as well as under the DHS Instruction *Responding to Allegations of Physical or Sexual Assault* in the case of early childhood services and the DEECD policy *Responding to Allegations of Sexual Assault – Procedures for Victorian Government Schools* in the case of schools). The principal of a school is also required to notify parents/guardians unless instructed by police to the contrary. Early childhood services and schools also report protective concerns to DHS under the Joint Protocol *Protecting the safety and wellbeing of children and young people*.

Employers are required to notify the Institute of any action taken against a teacher in respect of serious misconduct or where the person is unfit to be a teacher (ETR Act s 2.6.31). DEECD's *Employment limitation policy* ensures disciplinary processes are not circumvented by a person resigning from one workplace and being employed in another or gaining re-employment following termination. A government school cannot process the employment of a person who is subject to an employment limitation as it is blocked on the central payroll system. DEECD notifies the Institute when an employment limitation is placed on a teacher, irrespective of whether the employment investigation was completed. This prevents teachers from moving from the government to the non-government sector without the Institute being made aware of unresolved conduct or performance issues.

In addition, DEECD provides information about former employees and any sexual offences, improper conduct or employment restrictions to other state and territory education departments in response to National Check Employment Status requests.

## 5.3 Health sector

In the health sector, the Department of Health's best practice framework and intervention guide for vulnerable babies, children and young people sets out many of the expectations about how health services will translate broad aspirations of child safe organisations into practice.<sup>91</sup> Freely available training supports these guides. The framework and guidelines have been designed primarily for professionals in acute health, but are widely accepted within the health sector in Victoria.

The best practice framework sets out the expectations that health services will:

- foster a culture and working environment where the safety of babies, children and young people, and their protection from harm, is paramount;
- ensure protocols and procedures are in place to manage vulnerable babies, children and young people;
- provide staff with education and training on the identification and management of child abuse and neglect; and
- support staff in undertaking their duties as mandatory reporters.

The framework also outlines the essential components of an effective health service response to vulnerable babies, children and young people, which should be incorporated into each health service's

<sup>91</sup> <http://www.health.vic.gov.au/childrenatrisk/framework.htm>

program (adapted to the organisation's environment, population and resources). These elements include:

- A core responsibility: Protecting babies, children and young people from child abuse and neglect needs to be seen as integral to the provision of health services to babies, children, young people and their families, and a core responsibility for all health service staff;
- Protocols, policies and programs: Health services should have in place specific protocols, policies and programs that detail the service's response to child abuse and neglect.
- Early identification: Health service staff should be able to recognise child protection issues at all entry points to health services.
- Staff support and consultation: All health service staff should have access to support and consultation regarding child abuse and neglect.
- Staff training and education: Training and education programs in child protection issues are essential for health service staff and should be developed and delivered according to the ongoing needs of the unit and the health service.
- Evidence-based care: Research and emerging good practice should inform service delivery and health services should contribute to the evidence base.
- Continuous improvement: Policies, programs, processes and outcomes for vulnerable babies, children and young people should be regularly reviewed and evaluated to enhance practice and improve the organisational response to babies, children and young people at risk of abuse and neglect.

The Framework also provides guidance to assist health professionals to identify signs of possible abuse and guidance about how to talk to and respond to children who may have experienced abuse. Health professionals bear a general professional obligation to report sexual assault to the police.

The Victorian health sector also has established incident reporting policies and systems that promote a culture of open disclosure, and a range of practice guidelines that promote sensitivity to the rights of patients, gender sensitivity and safety (especially as it relates to sexual assault), sensitivity to trauma, and the specific health needs of children. These policies and guidelines are not discussed in detail in this submission, but contribute to a culture within health organisations supportive of child safety.

The health sector provides a useful example of the role of regulation, reporting and scrutiny by external regulatory bodies, over and above internal staff performance management and disciplinary processes. Health practitioner regulation imposes significant obligations on health practitioners, their educators and employers to keep children safe including through:

- a general ethical obligation, reinforced by professional codes of ethics, care standards, policy documents and the governance of health services;
- a specific legal and professional obligation to report child abuse relevant to child protection;
- a specific legal and professional obligation to report professional misconduct (including sexual misconduct or placing the public at risk of harm) by another health practitioner.

The Boards of the 14 health professions regulated through the Australian Health Practitioner Regulation Agency (AHPRA) issue guidelines and codes of conduct relevant to protecting children from sexual abuse. For example, the Medical Board of Australia's *Good medical practice: a code of conduct for doctors in Australia* sets out specific expectations in relation to treating children and young people including 'being alert to children and young people who may be at risk, and notifying appropriate authorities, as required by law.'<sup>92</sup> The Medical Board of Australia has also issued *Sexual boundaries: guidelines for doctors*, and other Boards under AHPRA have or are preparing similar documents on appropriate boundaries.<sup>93</sup> The Medical Board's guidelines document makes clear that good medical practice requires 'never using your professional position to establish or pursue a sexual, exploitative or other inappropriate relationship with anybody under your care.'

All health practitioners, health education providers and employers are required to notify AHPRA or national boards of any serious misconduct (including sexual misconduct or a significant departure from accepted standards) by any member of the 14 registered health professions.<sup>94</sup> Individuals can also

<sup>92</sup> <http://www.medicalboard.gov.au/Codes-Guidelines-Policies.aspx>

<sup>93</sup> <http://www.medicalboard.gov.au/News/2011-10-28-Sexual-Boundaries-Guidelines-for-doctors-released.aspx>

<sup>94</sup> <http://www.ahpra.gov.au/Legislation-and-Publications/Legislation.aspx> ;  
<http://www.ahpra.gov.au/Notifications/Fact-sheets.aspx>

voluntarily notify AHPRA of concerns about a registered health practitioner's health, conduct or performance. AHPRA publishes data on notifications in its annual report. A similar national scheme for unregistered health practitioners (including the first national code of conduct for these occupations, such as massage therapists) is now being developed, and builds on some state-based schemes (for example, in NSW) that publicly report notifications of unregistered health practitioners.

## 6 Child-safe community organisations

A number of levers are available to government to work towards ensuring all community organisations are child-safe.<sup>95</sup> While some states (most notably Queensland and South Australia) have legislative requirements in place requiring organisations working with children to implement a range of child-safe practices, there is no clear evidence demonstrating whether legislative mechanisms are more or less effective than non-legislative mechanisms in promoting child-safe practices and creating a culture of awareness.

In considering additional regulation of community organisations, a broad cost-benefit analysis should be undertaken. For example, a significant increase in the regulatory burden on community organisations could result in some organisations diverting resources away from other activities that contribute to positive outcomes for children, or even withdrawing from the field. Monitoring compliance would also impose a significant administrative burden and cost on government, without necessarily leading to better outcomes for children. In addition, there is a risk that imposing additional requirements on community organisations could lead to organisations focusing on ticking off a checklist of regulatory requirements rather than taking an ongoing, whole-of-organisation approach to preventing child abuse, which aims for continuous improvement and innovation.

Consistent with the framework outlined above, the Victorian Government believes that a partnership approach between community organisations and government is best able to support community organisations to be child-safe. The role of government in this context is largely facilitative. Government's primary role is to support child-safe practices in community organisations through the dissemination and promotion of guidelines and implementation tools, in addition to enforcing any minimum checks and requirements (such as the Working with Children Check and mandatory reporting requirements). Government may also play a role in promoting good governance within community organisations.

A well-functioning organisation will have clear structures, processes and policies in place to assist all members of the organisation to understand their child protection responsibilities and to make appropriate decisions. The Victorian Government, through the Office for the Community Sector in DHS, provides extensive resources to support community organisations to implement effective governance structures and processes.<sup>96</sup> These include the Not-for-Profit Compliance Support Centre, a one-stop portal where organisations can find up to date information about legislative requirements (across all levels of government), and the Community Sector Governance Capability Framework and toolkits. The Victorian Government also funds PilchConnect, a specialist legal service that utilises the pro bono resources of the private legal profession to deliver free and low cost advice to Victorian not-for-profit organisations.

A risk-based approach should also apply to community organisations. Some organisations may require support and assistance to understand and analyse the risks to children in their organisation. At the same time, we need to ensure that the broader purpose of the organisation to promote the health, education and/or wellbeing of children is taken into account, and that we do not create overly risk averse environments that discourage appropriate engagement between children and responsible adults.

A large number of resources to support community organisations to be child safe already exist. For example, the Victorian Commission for Children and Young People (Commission) provides a range of resources to assist community organisations to implement child-safe practices. These include an easy-to-use, detailed Guide for Creating a Child Safe Organisation, which contains a Child Safety Review checklist, a sample Child Safe Policy and Code of Conduct, a guide to enabling the participation of

<sup>95</sup> In the context of this section, 'community groups' and 'community organisations' is intended to refer to local community groups such as sport and recreation groups, religious groups, neighbourhood houses etc, that are predominantly volunteer-based. It is not intended to include community service organisations that provide out-of-home care services, early childhood services etc, which are subject to additional enforceable requirements (either legislative or through a service agreement).

<sup>96</sup> <http://www.dhs.vic.gov.au/for-business-and-community/not-for-profit-organisations/governance-community-organisations>

children in creating a safe environment, and a checklist to assist with selecting suitable staff.<sup>97</sup> The Commission is also available to provide advice to community organisations on request about creating child-safe environments.

The Victorian Government has also funded the non-government organisation Child Wise to conduct 'Choose with Care' training for community organisations. This training has built participants' skills for creating child-safe environments, teaching them, for example, how to conduct child-safe recruitment and how to manage complaints and concerns of abuse.

In relation to sporting clubs and associations in particular, in 2008, the Victorian Government introduced the *Keeping Junior Sport Safe toolkit*, delivered through Sport and Recreation Victoria, to assist clubs and associations to implement the Working with Children Check and create safe junior sport environments.<sup>98</sup> The toolkit includes guidance about complying with legal requirements such as the Working with Children Check, choosing suitable volunteers and responding to incidents and allegations, and contains helpful advice about 'things to think about' such as physical contact, change rooms, use of images, and overnight trips. In addition, the Victorian Government, through Sport and Recreation Victoria, publishes information about protecting club members from abuse, harassment, discrimination and other forms of inappropriate behaviour, and offers training on member protection on a regular basis.<sup>99</sup> This includes helping sporting organisations to understand and comply with their legal obligations, identify the risks to children within their organisation, and develop strategies to reduce these risks. The Victorian Government-funded non-government organisation VicSport also publishes an online risk identifier and guide for development of risk management plans.<sup>100</sup> These resources are complemented by those provided through the interactive website for sport and recreation clubs, *Play by the Rules*, which is jointly funded by all Australian Governments. *Play by the Rules* provides a comprehensive toolkit for sporting clubs, including a sample Member Protection Policy and code of behaviour, and guidelines for working with children, as well as free online training.<sup>101</sup>

## 7 Opportunities to enhance approaches to child-safe organisations

The Victorian Government considers that national regulation of government and/or non-government organisations working with children would be inefficient, ineffective and unwieldy. It would duplicate and potentially undermine existing national and state-based regimes for protecting children from abuse in institutional contexts, for example, national health practitioner regulation and state-based regulation of education professionals. The cost of national regulation would also be likely to far exceed any benefit, and lead to diversion of resources from more effective strategies to promote child safe organisations, such as additional training and resources to support community organisations to implement child safe practices (see below). Should a nationally consistent approach be considered desirable, a principle-based rather than prescriptive approach should be taken, building on the 2005 *National Framework for Creating Safe Environments for Children*. States and territories should have flexibility to adopt and implement any national principles in a way which is tailored to local needs.

Consistent with the elements of a child safe institution outlined in Part 3.2, and taking into account the strengths of existing systems and strategies to protect children from sexual abuse in institutional contexts, the Victorian Government proposes that the Royal Commission consider the following opportunities to enhance existing approaches to ensuring institutions are child-safe:

### 1. Advice and support for community organisations to implement child safe practices

Many resources, tools and training programs to assist community organisations to implement child-safe strategies already exist. However, there may be opportunities to consider whether existing materials need to be adapted to meet the needs of particular organisations, and whether they are sufficiently easy to access, particularly for smaller organisations.

Advice and support for smaller organisations needs to be focused on practical actions they can take to make their organisation more child-safe. This might include advice about:

<sup>97</sup> [http://www.ccpv.vic.gov.au/childsafetycommissioner/downloads/childsafesafe\\_organisation.pdf](http://www.ccpv.vic.gov.au/childsafetycommissioner/downloads/childsafesafe_organisation.pdf)

<sup>98</sup> [http://www.dpcd.vic.gov.au/\\_data/assets/pdf\\_file/0019/39160/Keeping\\_Junior\\_Sport\\_Safe\\_PDF.pdf](http://www.dpcd.vic.gov.au/_data/assets/pdf_file/0019/39160/Keeping_Junior_Sport_Safe_PDF.pdf)

<sup>99</sup> <http://www.dpcd.vic.gov.au/sport/publications-and-research/publications/club-resources/member-protection>

<sup>100</sup> <http://www.vicsport.asn.au/Page.aspx?ID=18>

<sup>101</sup> <http://www.playbytherules.net.au/>

- the basic steps needed to ensure their organisation is child-safe, in addition to minimum requirements like the Working with Children Check;
- how to interview prospective employees and volunteers;
- how to detect the signs of child sexual abuse;
- situations where they may be unsure whether a mandatory report is required;
- how to respond when an incident occurs (for example, how to notify parents); and
- how to conduct disciplinary procedures in a fair and transparent manner.

Resources and tools need to be simple, accessible and easy to use. Examples include:

- online tools to assist organisations to assess their risk and provide basic strategies for mitigating identified risks – see, for example, VicSport’s online risk identifier and guide for development of risk management plans;<sup>102</sup>
- free online training in implementing child-safe practices – see, for example, the online training available at the sport and recreation website *Play by the Rules*;<sup>103</sup>
- an advice line (particularly to assist organisations to respond appropriately when an incident occurs).

## 2. Education and awareness-raising about child sexual abuse

Because the implementation of child-safe practices within organisations cannot guarantee that child sexual abuse will not occur, it is important to provide children with age-appropriate training in protective behaviours and ensure parents, carers and teachers are better equipped to recognise and respond to sexual abuse.

This may include educating parents and those working in child-related services about unsafe and predatory behaviour, including grooming (of both children and parents), and the particular risks posed by online and social media environments. The Victorian Government is considering its response to the recent finding of the Victorian Parliamentary Inquiry into Sexting that there are further opportunities to improve sexting education and cyber safety education more generally in the school curriculum, together with training for current and pre-service teachers.<sup>104</sup>

Child-safe strategies are only as good as the people implementing them. Professional development for staff should incorporate training to help staff understand what ‘normal’ child development looks like and how to recognise the signs of sexual abuse in this context. As discussed above, practical training about how to interview prospective employees in a way which is likely to detect behaviours of concern, and how to respond when concerns are identified or allegations made, is likely to be beneficial. Equipping professionals and caregivers with the tools to detect abuse, or the risk of abuse, is particularly important in light of the low levels of disclosure by children. The intensity and focus of training for staff should be tailored to the organisation’s risk assessment, and should take into account the particular vulnerabilities of certain groups of children with whom the organisation may work, such as children with disability and Aboriginal children.

In the health sector, the Commonwealth Government plays the major role in educating and raising awareness among health practitioners of issues such as the prevention of child sexual abuse, It can allocate resources to education programs targeting health practitioners through the National Health and Medical Research Council (research and clinical guidelines), and through its various programs targeting the health workforce and higher education for health practitioners. Given the importance of health practitioners responding appropriately to child sexual abuse, there may be an opportunity for the Commonwealth Government to allocate additional resources to improving training and support for health professionals in relation to protecting children from sexual abuse.

In order to educate children, parents and caregivers, teachers and others working with children about sexual abuse, we also need to be sure that we understand its dynamics. This is addressed further below.

<sup>102</sup> <http://www.vicsport.asn.au/Page.aspx?ID=18>

<sup>103</sup> <http://www.playbytherules.net.au/interactive-scenarios/free-online-training>

<sup>104</sup> [http://www.parliament.vic.gov.au/images/stories/committees/lawrefrom/sexting/LRC\\_Sexting\\_Final\\_Report.pdf](http://www.parliament.vic.gov.au/images/stories/committees/lawrefrom/sexting/LRC_Sexting_Final_Report.pdf), Chapter 3, Recommendations 2 and 3. Information on the legalities of sexting will be incorporated into the *Catching On Later* and *Respectful Relationships* resources being prepared by DEECD.

### 3. Empowerment and participation of children

It is well-understood that rates of disclosure by children of sexual abuse are low. There is significant scope for further research and implementation of strategies to create more empowering environments for children, in which they will feel safe to disclose abuse or raise concerns, and where they are listened to and believed when they do. This is particularly important in institutional contexts where children are more vulnerable.

In contexts where children are more vulnerable and/or may experience greater barriers to disclosing concerns or abuse, this is likely to be more complex, and may involve exploring ways in which children who may not have a concerned and connected caregiver can develop trusting relationships with responsible adults or 'safe communities' and feel safe about raising their concerns.<sup>105</sup>

Empowering children also involves equipping them with the awareness, understanding and confidence required to protect themselves from abuse. Non-government organisations such as Bravehearts offer resources and training to teach children protective behaviours.<sup>106</sup> Smallbone argues that a 'resilience-building' approach, which boosts confidence and assertiveness, reduces children's vulnerability to abuse and is likely to be more effective in preventing abuse than teaching children how to recognise and resist sexual advances.<sup>107</sup>

The Victorian Government is currently considering its response to Recommendation 10 of the Cummins Inquiry relating to a wide-ranging education and information campaign about the prevention of sexual abuse for parents and caregivers of school-aged children. The Victorian Government is also investigating a specific protective behaviours curriculum resource that is currently available through the Queensland Department of Education, Training and Employment that will provide young people with skills to protect themselves. Protective behaviours training programs should consider the cultural and other needs of particular groups, including Aboriginal children, CALD children and children with disability.

Empowering children to disclose sexual abuse can also involve creating an approach to police investigation that addresses the reluctance of victims of sexual assault, including child sexual assault, to come forward.<sup>108</sup> Victoria Police has put in place a range of initiatives to minimise the trauma for victims that can be associated with reporting sexual assault to police. This includes, for example:

- The 'Whole Story' approach to investigating sexual assault: 'Whole Story' teaches investigators to see sexual offending not as a series of abusive 'events', but as a part of an abusive 'relationship' orchestrated by the offender. This knowledge is used to guide investigators' understanding of victim behaviour, which can be counter-intuitive and confusing as a result of the offender's actions. This is particularly important when responding to child sexual assault, as it enables investigators to look at the entirety of the abusive relationship constructed by the offender, particularly where the offender has groomed the child. This enhances the likelihood of being able to represent the full context of an incident in court.
- Multi-Disciplinary Centres (MDCs) provide a single point of service for victims of sexual assault, including children. By providing a 'one stop shop' for the needs of victims with wrap-around services, the need for victims to re-tell their stories is reduced, thereby helping to manage the impact of trauma. The co-location of Child Protection practitioners with police and support services enables seamless service delivery and support for the child when disclosing sexual abuse.
- Sexual Assault and Child Abuse Investigation Teams (SOCITs) are comprised of specialist detectives trained to investigate child sexual abuse. There are 27 SOCITs around Victoria, supported by a comprehensive education and training regime. The recognition of sexual assault and child abuse as a specialised theme is essential to empowering children, as it recognises the need for a differential approach to interviewing, investigation and support. As with MDCs, this offers a single point of contact for children to minimise the impact of trauma and reduce the need to re-tell their story multiple times.

<sup>105</sup> Irenyi et al, 'Child maltreatment in organisations: Risk factors and strategies for prevention', 2006, p 7.

<sup>106</sup> <http://www.bravehearts.org.au/pages/product-information.php>

<sup>107</sup> Wortley and Smallbone, 'Applying Situational Principles to Sexual Offenses against Children', 2006, pp 24-25; Stephen Smallbone, William L Marshall and Richard Wortley, *Preventing Child Sexual Abuse: Evidence, Policy and Practice*, Willan Publishing, Devon, 2008, chapter 7.

<sup>108</sup> Smallbone et al, *Preventing Child Sexual Abuse*, 2008, chapter 7.

#### 4. Better understanding the dynamics and prevalence of child sexual abuse in institutional contexts

Development and dissemination of a multidisciplinary evidence base about sexual abuse perpetrators and victims, which makes use of academic expertise and police intelligence, would be invaluable to inform further development of child-safe practices and training programs for people working with children and to help counter stereotypes about offenders as predatory strangers. Further research into the prevalence of child sexual abuse in institutional contexts would also assist in understanding the impact of child safe strategies.

Further research into the dynamics of sexual abuse in an institutional context could include research into the factors that increase and decrease the risk of sexual abuse for children, and enablers and barriers to child disclosure of sexual abuse. It could also draw on existing evidence about adult perpetrator profiles and behaviours, including how they infiltrate institutions, and evidence about young people with sexually abusive behaviours. There is already a significant body of research available about managing children with sexually abusive behaviours, which informs the Victorian Government's policies and practice in relation to sexual abuse of children by other children, and the training provided by the Office of Professional Practice (DHS) to schools and other organisations.

In 2005, as part of their research into risk factors for child abuse in institutional contexts, Beyer et al proposed a range of areas for further research including:<sup>109</sup>

- an examination of the circumstances in which organisational child abuse has occurred to inform about criminogenic organisational environments;
- collection of data on current practices and experiences to build a database that may increase the validity of any risk assessment tools that may be developed;
- testing of psychological assessment tools currently used on known extra-familial child abusers to establish if they would screen out abusers from among a general population; and
- identification of the characteristics and behaviours of 'professional' child sex perpetrators to better understand their motivations to abuse children within the work setting.

The Victorian Government understands that the Australian Institute of Family Studies and PricewaterhouseCoopers have been commissioned by the Commonwealth Government to undertake a research project to identify policy and program responses that would have the greatest impact on preventing child sexual assault. This research may go some way to addressing these topics.

The research on prevalence being undertaken by the Royal Commission may assist in establishing a 'base line' by which the success of child safe strategies could potentially be measured, acknowledging that prevalence and risk are likely to vary across organisation types. Further work would be required to determine how the impact of child-safe strategies on the risk and incidence of abuse could usefully be measured using any data generated.

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<sup>109</sup> Beyer et al, 'Understanding Organisational Risk Factors for Child Maltreatment: A Review of the Literature', National Child Protection Clearinghouse, Australian Institute of Family Studies, 2005, p 99.

## Appendix 1

### Responses to Royal Commission Issues Paper 3 on Child-Safe Institutions

1. What are 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?

Refer to Part 3.2 of this submission.

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

Refer to Part 3.1 of this submission.

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

Refer to Part 7 of this submission.

4. How do 'child safe' policies and procedures work in practice?

Refer to Part 3.3, Part 5 and Part 6 of this submission.

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

Refer to Parts 3.1-3.3, Part 5 and Part 6 of this submission.

6. What is the role of staff performance management systems and disciplinary processes in a 'child safe organisation'?

Refer to Part 3.2 and Part 5 of this submission.

7. What is the role and characteristics of governance and management leadership in creating and maintaining a 'child safe' organisational culture?

Refer to Part 3.2 and Part 6 of this submission.

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

Refer to Part 3.3, Part 5 and Part 6 of this submission.