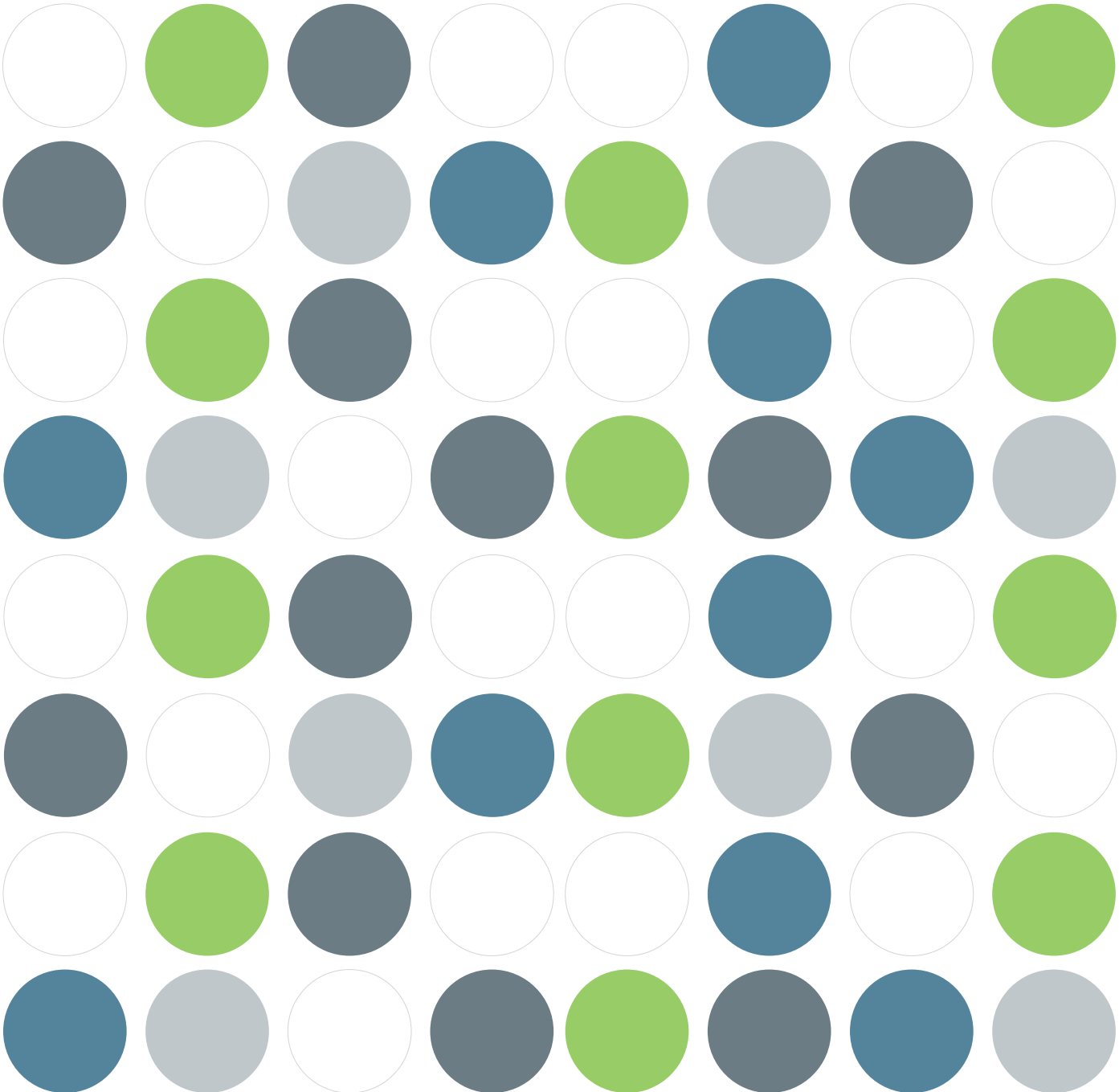


Submission

Terms of Reference: Royal Commission into Child Sexual Abuse



About the Centre for Excellence in Child and Family Welfare

The Centre for Excellence in Child and Family Welfare is a not-for-profit peak body representing nearly 100 Victorian child and family services.

Working for vulnerable children, young people and families, the Centre provides sector training, facilitates and publishes research, advocates through campaigns and media liason and sustains ongoing programs focusing on key areas of the state care system.

These include the voice of children and young people, and specific programs for foster care, kinship care and residential care. We also work and advocate for better transitions for young people leaving state care.

The Centre represents small, medium and large community service organisations across the state, enhancing their capacity to deliver services through engagement and voice in state policy and service development.

An incorporated association, the Centre is guided by a board of 12 directors drawn from our member organisations, together with a chief executive officer and expert academic member.



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Royal Commission into Institutional Responses to Child Sexual Abuse

The Centre for Excellence in Child and Family Welfare – the peak body for over 90 organisations providing family and child welfare services in Victoria (including residential and foster care) – welcomes the announcement of a royal commission into sexual abuse of children.

The royal commission is vital to understand the scale and processes of sexual atrocities committed against children, investigate the scope of institutional cover-ups, and develop national strategies to protect future generations of children and young people from abuse.

The Centre for Excellence in Child and Family Welfare believes that the Commission requires terms of reference that focus investigations, and provide scope for extensive consideration of the services and supports required by victims.

It is vital that the royal commission investigates all sectors, as for-profit organisations provide care for vulnerable children and young people within Victoria.

The information gathered through the royal commission investigations must inform national approaches to addressing the circumstances of children who are being abused, and lead strategies to prevent abuse. It is vital that these strategies include development of community education policies.

We recommend that the royal commission refer to the United Nations Convention on the Rights of the Child and be guided by its provisions, particularly:

- Article 2 The Principle of non-discrimination;
- Article 3 Best interest of the child to be the primary consideration;
- Article 12 Respect for the views of the child;
- Article 13 Freedom of expression;
- Article 19 Protection from all forms of violence;
- Article 25 Review of treatment in care;
- Article 34 Protection from sexual exploitation;
- Article 39 Rehabilitation of harmed children

In response to the Terms of Reference Consultation Paper, the Centre for Excellence in Child and Family Welfare suggests:

Terms of Reference

1. *Organisations and institutions* must include government organisations and institutions.
2. Investigations should not be confined to only organisations and institutions with a perceived responsibility. The commission should have scope to investigate all community organisations and institutions.
3. When *identifying impediments within institutions and organisations to the proper notification, investigation and prevention of child sexual abuse*, it is vital that identification be recognised as the initial barrier.



4. The commission must have the power to investigate state organisations and agencies. This may require formal cooperative commissioning between state and federal governments.

Establishment of the Royal Commission

1. The Chair of the Royal Commission should be a judge appointed from outside government.
2. Other commissioners appointed should deliver a gender balance on the panel, and have expertise in one or more of the following:
 - children's rights
 - dealing with victims of abuse
 - criminology and patterns of sexual offending
 - welfare administration with experience of child protection systems within organisations and agencies
 - policing

Engaging commissioners with expertise in these areas will ensure that the panel has the knowledge and skills required to operate effectively, while able to share workload and deliver continuity over an extended inquiry.

Conduct of the Royal Commission

1. The commission should follow the investigatory inquiry model, while being tasked with making policy recommendations at its conclusion.
2. Witness appearing before the commission should be provided with a financial allowance to cover expenses.
3. The Australian Government should undertake to table the Royal Commission Report in parliament and provide a response to the recommendations.



Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.



Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;*
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;*
- (c) The exploitative use of children in pornographic performances and materials.*

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.



