

Review of the Victorian Child Safe Standards Submission

The Centre for Excellence in Family Welfare (the Centre) is the peak body for child and family services in Victoria. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 Community Service Organisations (CSOs), students and individuals throughout Victoria working across the spectrum of child and family services, from prevention and early intervention to the provision of out-of-home care. We believe in the right of all children to grow up in a safe and nurturing environment and emphasise the importance of child-centred practice when engaging with children.

We welcome the opportunity to submit a response to the Review of Victoria's Child Safe Standards. We have included some general comments about the implementation of the Child Safe Standards in the out-of-home care and youth detention sectors before addressing the series of questions posed in the Review. We consulted widely with our members to inform our response to the Review. The answers to the questions that came out of that consultation are in Appendix 1.

Child Safe Standards: Out of Home Care and Youth Detention

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) and the Victoria Betrayal of Trust Inquiry has highlighted how our institutions have consistently failed our most vulnerable children. Children have the right to be and feel safe. The Child Safe Standards are an important tool to assist organisations to reorient their service delivery to become child focused and committed at all levels to the safety and wellbeing of children. However, keeping Victoria's vulnerable children safe requires a lot more than a set of standards.

The out-of-home care system in Victoria is in crisis. In less than a decade the number of children who have been removed from their families and placed in out-of-home care in Victoria has doubled. Based on current trends, it is expected increase by a further 50 per cent in the next four years.¹ Once these children enter the out-of-home care system they are subjected to multiple placements,² disrupted schooling and poorer mental health outcomes. Some children are victim to further abuse while in care. The starting principle for

¹ Australian Institute of Health and Welfare 2018. Child protection Australia 2016–17. Child welfare series no. 68. Cat. no. CWS 63. Canberra: AIHW. Appendix A, Table A1, p. 63.

² Australian Institute of Family Studies, Children in Care Resource Sheet, <https://aifs.gov.au/cfca/publications/children-care>

each and every child must be whether we are doing all we can to promote their safety and wellbeing. For many children the answer is no.

The situation is even more serious for our children and young people in residential care. Due to system pressures, children as young as seven years of age are being placed with much older children, including fifteen to seventeen year-olds. By its very nature residential care places extremely vulnerable children and young people, who have no connection other than that they are in state care, together in the one house.

All children and young people in residential care have been exposed to trauma and abuse, which is generally why they have been removed from their families. The act of removal is itself a source of trauma. However, this exposure to trauma does not stop once children are placed in a residential care home. Here they are frequently exposed to extreme behaviours, including significant mental health crisis, sexualised behaviours and violence in the place where they live.³ Young people continue to experience all forms of abuse, including sexual abuse while in residential care.⁴ On any measure it is difficult to say that residential care promotes the safety and wellbeing of children and young people.

A key component of the child safe standards is to promote the cultural safety of Aboriginal children. In Victoria there continues to be a significantly higher proportion of Aboriginal children in out-of-home care than their non-Aboriginal peers. There were 2,091 Aboriginal children in out of home care in Victoria at 30 June 2017.⁵ Twenty-two per cent of these children have not been placed with relatives or kin, other Indigenous caregivers or in Indigenous residential care, which is contrary to the Aboriginal Placement Principle.⁶ At the current rate of growth, the number of Aboriginal children in out-of-home care is likely to double in the next four years. The child protection system in Victoria does not adequately promote cultural safety and connection for Aboriginal children in out-of-home care'.⁷

On an average night in Victoria there are 123 young people aged 10-17 years in detention.⁸ Those with present or past child protection involvement account for 36 per cent of the total detention and parole population in youth justice⁹. Of the young people in custody aged ten to seventeen years, 18 per cent were

³ Victorian Auditor General's Office (VAGO) (2014) Residential care services for children, Melbourne: Victorian Government.

⁴ Royal Commission into Institutional Responses to Child Sexual Abuse, vol. 12, Contemporary out-of-home care. <https://www.childabuseroyalcommission.gov.au/contemporary-out-home-care>.

⁵ Australian Institute of Health and Welfare 2018. Data tables: Child protection Australia 2016–17. Child Welfare series no. 68. Cat no. CWS 63. Canberra: AIHW. Data Tables 2.1, S43.

⁶ Australian Institute of Family Studies, Child Protection and Aboriginal and Torres Strait Islander Children Resource Sheet, <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children>.

⁷ Commission for Children and Young People (2016) 'Always was, always will be Koori children': Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria, Melbourne: Commission for Children and Young People.

⁸ Australian Institute of Health and Welfare 2017. *Youth detention population in Australia 2017*. Bulletin 143. Cat. no. AUS 220. Canberra: AIHW. Table S8: Young people aged 10–17 in detention on an average night by sex, states and territories, June quarter 2013 to June quarter 2017.

⁹ Victorian Youth Parole Board Annual Report 2016-2017.

on current child protection orders.¹⁰ This trajectory from child protection to youth justice for nearly one in five young people in detention must be addressed as a matter of urgency.

Young people in detention have not been receiving the rehabilitation services they are entitled to and that are necessary to meet their needs.¹¹ The Victorian Auditor-General's Office found that 51 per cent of young people on remand did not have a case plan and that there has been poor attendance at class and health appointments for inmates.¹² Young inmates continue to experience an environment of high staff turnover and casualisation of the workforce.¹³

Research conducted for the Royal Commission examined what being safe means for children and young people. Children and young people defined safety in relation to how they felt and behaved in response to a person, place or experience. They defined 'unsafe' in relation to feelings of being frightened, worried, anxious, or angry.¹⁴ In separate research conducted for the Royal Commission, children and young people in residential care stated that they were not safe and did not feel safe.¹⁵ Multiple reviews, inquiries, Royal Commissions and reports over the past ten years show that these institutions have consistently failed to keep our children safe. The State removes children from their families to keep them safe and places them in settings that cause further harm.

The Victorian Child Safe Standards are key to child-serving organisations transforming their operations to focus on child safety. However, the Commission for Children and Young People lacks sufficient oversight powers to effectively monitor government compliance with the standards. Organisations contracted to supply government services, such as out-of-home care or residential care must comply with different reporting requirements depending on their sources of funding. The Centre is of the strong view that compliance with the Child Safe Standards for all out-of-home care services, including residential care and youth detention, should be audited by the Commission for Children and Young People, with annual public reporting of the audit findings.

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¹⁰ Victorian Youth Parole Board Annual Report 2016-2017.

¹¹ VAGO (2018) Managing Rehabilitation Services in Youth Detention, Independent assurance report to Government, Melbourne: Victorian Government

¹² VAGO, 2018.

¹³ Armytage, P. & Ogloff, J. (2017) Youth Justice Review and Strategy: Meeting needs and reducing offending, Melbourne: Victorian Government.

¹⁴ Protection through participation: Involving children in child-safe organisations (Tim Moore, CFCA Practitioner Resource, 2017)

¹⁵ Moore, T., McArthur, M., Roche, S., Death, J., & Tilbury, C. (2016). Safe and sound: Exploring the safety of young people in residential care. Melbourne: Institute of Child Protection Studies, Australian Catholic University. Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, p7.

Appendix 1

Review of the Victorian Child Safe Standards

Review Questions

The Centre consulted widely on the Review of Victoria's Child Safe Standards, including hosting a sector consultation on 12 February 2019.

Their answers to the questions follow:

Implementing the Victorian child safe standards

How have you found implementing the Victorian child safe standards in your organisation? Have any of the standards been particularly difficult or easy to implement?

The Royal Commission helped define the Child Safe Standards and has paved the way for CSS and it would be beneficial to adopt the National Standards.

It has been hard to implement standards that are difficult to measure and evaluate. There have been no strategies suggested that would enable organisations to monitor how the CSS have improved the safety of children.

Participation of children and children's voices being heard has been hard to implement.

Organisations would like more guidance on how to meaningfully empower children and young people and promote their participation. This should be a concerted effort and not just tokenistic. However to truly engage with children and young people staff require training and [support](#).

Is there anything that would have made it easier for your organisation to implement and comply with the Victorian child safe standards? Please tell us what would have helped and what you think would help you to comply in future.

Implementing the CSS has meant that there has been a shift from responsibility for child safety being located in children and family services to a whole of organisation approach.

Internal Auditing of the CSS has had very good results, however monitoring volunteers is less efficient. Organisations need support from DHHS on the WWCC as there is an overreliance on this check for some organisations.

The seven Victorian child safe standards are intended to include the three principles. Please explain how you understand these seven standards and three principles are applied in your organisation.

Effectiveness of the Victorian child safe standards

Do you think the Victorian child safe standards have made your organisation safer for children?

Monitoring and Evaluation

There is no facility to evaluate or monitor the implementation of the CSS across the organisation. Because CSS are about changing the culture of child safety the monitoring of this change has not been possible. The absence of monitoring and evaluation is a gap, there needs to be a framework. There is a movement in the culture of organisations but this is hard to measure.

The organisations in the forum all agreed that having a monitoring/evaluation tool would have been a good idea. There is no record of what things were like before in each organisation. Organisations can't measure improvements and it is not easy to quantify changing the culture of an organisation. If it were

possible to put in place some evaluation when they had started this would have more value, but there is no mention of measuring change or improvements.

Resourcing

Larger and more complex organisations are better organised to make the changes, smaller organisations find it expensive. However, large organisations may deliver a mix of service types, with different regulatory requirements and this is further complicated for organisations that operate across states.

Embedding CSS into organisational processes has cost a lot of money. It is a big investment and there is no way of knowing whether the organisation is getting value for money. Some organisations are paying Child Wise and Safeguarding Children for accreditation but this is voluntary. They would like to have some accreditation from DHHS/CCYP. There needs to be a consistent process across all services.

➤ *Have any of the individual standards been particularly helpful?*

Some standards do not have specific tasks that can be developed and implemented. These standards are much harder to implement. There are some standards that are more tangible.

Standards 5 and 6 have forced them to become a whole organisation approach. These are much more tangible than the others and are useful. They have created one voice in the organisation and there is movement in the organisation's culture.

The Code of Conduct and the CS Policy provide something tangible for organisations to work on and to change.

Standard 4 is about recruitment – this could be implemented faster than the others.

Standard 7 is too hard and not always relevant. Not all organisations work directly with children and many organisations work with children who are very young.

Have Victoria's three-cross cutting principles resulted in changes to improve the cultural safety of Aboriginal children and culturally and linguistically diverse children and the safety of children with a disability within your organisation?

This area is very hard to measure. How do we know if we are making a difference? A flag in the reception area is a tokenistic.

Some organisations do not deal with ATSI or CALD children or parents.

The three principles recognise that Aboriginal children, culturally and linguistically diverse children and children with a disability are especially vulnerable. Are there any other groups of children that should be recognised as being especially vulnerable?

➤ *If so, please tell us which groups of children.*

LGBTIQ, children in out of home care.

Do you have other suggestions for how Victoria could improve the design of its child safe standards to better protect children and young people?

We need all organisations to be far more child-centred, with the child at heart of planning decisions, than is currently the case. Reframing service provision from the parent as client to the child as client would revolutionise the way in which children's needs are prioritised and addressed.

Responsibility for child safety should be community wide. We need dedicated resources for a public awareness campaign. We should all be aware of child safety in the same way that we are aware of occupational health and safety.

Compliance with the Victorian child safe standards

What has been your experience with Victoria's exemptions? Do you understand which organisations would be exempted from the child safe standards? Do you think these exemptions are appropriate? Is there a better way to frame the exemptions to provide greater clarity or certainty about which types of organisations are exempt? Please provide reasons for your answer.

Are there any other types of organisations not identified by the Royal Commission and not currently required to comply with Victoria's child safe standards that you believe should be subject to a mandatory child safe standards regulatory scheme? If so, please tell us which types of organisations and your reasoning.

Are there any types of organisations currently required to comply with Victoria's child safe standards that you believe should not be subject to a mandatory child safe standards regulatory scheme? If so, please tell us which types of organisations and your reasoning. No

Regulation of the Victorian child safe standards

What has been your experience of the monitoring, compliance and enforcement scheme for the child safe standards?

The organisations want strategies now on how to implement the standards not just understanding what they are. CCYP's role is information sharing rather than implementation which is not helpful at this stage. CCYP is all about capacity building and education not regulation then what is the role of the CCYP? Who regulates and who enforces compliance is not clear.

It seems that the CCYP has to work as a third party and this is inefficient. The CCYP needs more legislative power and shouldn't have to audit via funding bodies.

The organisations in the forum have so much monitoring, regulating and reporting in every area. There should be some information sharing and some way of combining the reporting.

A key challenge is to integrate the various compliance requirements required by legislation and funding contracts, such as Family Violence, Aged Care and Rainbow tick. A good example is the approach taken by the VRQA which includes all compliance requirements including CSS in one single audit process.

➤ *What, if anything, do you think could be improved?*

Compliance

Compliance with the CSS is not a good integrated, structured approach. It would have been good to have the compliance checklist from DHHS available at the beginning.

There is a need for accreditation which would keep the CSS a priority. Without accreditation it slips to a lower priority as there is no need for compliance. There is a need for an independent audit and spot checks. Who does this? Is this a structured approach or ad hoc? Seems ad hoc.

There are insufficient mechanisms for individuals to complain about non-compliance with the CSS. It is unclear where staff, families and young people should go to if they have concerns external to the organisation.

For DHHS funded agencies, it has been difficult to locate the DHHS child safety officer.

There needs to be a clear complaints mechanism, so it is clear to families and young people where they can go to if they have a child safety concern about an organisation.

It is unclear who is responsible for holding organisations accountable for child safety. A child safety helpline would be a positive development.

It costs money to be compliant and to drive change. There are no resources made available and it is down to each individual organisation to provide the funding. Some are better equipped.

Some organisations have employed dedicated child safety officers, however this additional cost is not reflected in increased funding from funding bodies. The costs associated with complying with the CSS should be factored into funding.

What has been your experience working with the Commission for Children and Young People and relevant authorities?

The CCYP has the capacity to work with organisations and recognise the huge scope of the standards and that no one size fits all. They are in a very difficult position, due to the broad scope of the standards. The information that they are able to provide is limited. Most organisations are beyond wanting to know about the standards and are at the point where they want some advice on implementing them. The CCYP does not provide this. They are more focused at this point on Reportable Conduct.

Some peaks are taking a more pro-active approach while others are less active.

➤ *Do you consider having two layers of regulatory oversight efficient and appropriate?*

The compliance checklist is open to interpretation. The CCYP should retain oversight over compliance with the CSS. This will ensure consistency of practice across different types of service delivery both within and across organisations.

➤ *Are these functions mutually reinforcing or is there duplication?*

There is a doubling up of these functions and it is not streamlined. Small organisations are repeating the process to all of the individual funders, overarching government organisations etc.

Organisations need strategies to make it accessible without creating more work for people.

Resourcing this is expensive and there are no additional resources coming from outside sources to fund this.

What has been your organisation's experience of having compliance with the child safe standards included as a requirement of government funding agreement or contract?

There has been no guidance provided, they have to do their own and pay for it themselves. Some organisations must comply with multiple reporting requirements. This poses an administrative burden, that could be alleviated if the reporting pathways were streamlined to avoid duplication.

➤ *Please provide reasons for your answer.*

They have wasted time and money on consultants. Everyone is trying to protect themselves so there is extra reporting. It is unrealistic to reach the top compliance without resourcing. Organisations want a resource rather than be told to work it out individually.

Are the role and functions of the Victorian Commission for Children and Young People clearly and appropriately defined in relation to the child safe standards?

No, organisations are ahead of the CCYP's thinking. CCYP is not in step with the organisations who are on the ground and who have been working with the standards for two years. CCYP is not helpful now as these organisations do not need further knowledge – they are beyond that. CCYP do not have the answers required by these organisations.

➤ *What, if anything, do you think could be improved?*

CCYP is now swamped with Reportable Conduct allegations and has no time for CSS. Their role has changed and the scope has changed. It is not clear how they support compliance or implementation of the CSS.

Do you think that the Victorian Commission for Children and Young People has adequate powers to enforce compliance with the child safe standards? NO see introduction for more thoughts on this!

➤ *If not, what powers do you think the Victorian Commission for Children and Young People should have?*

There is information on the website about the standards but not enough about the implementation. CCYP are overworked and at the pointy end of the Reportable Conduct Scheme. They have no time to support thousands of organisations who still have questions.

Are the role and functions of 'relevant authorities' clearly and appropriately defined in relation to the child safe standards?

No, there are too many authorities to deal with in the course of the year. Everyone wants to monitor and organisations have to report to a range of authorities.

➤ *What, if anything, do you think could be improved?*

The CCYP should have the power/authority to monitor and check compliance with organisations who should be compliant. They need to be able to show organisations how to implement. The spot checks seem random. These should be published so that other organisations can ensure compliance and learn from others' mistakes. How do we know what is expected? The compliance checklist is unrealistic. Should we aim for the lowest as it is not possible to achieve the highest without more resources.

With the number of organisations expected to be compliant, it is not possible for the CCYP to oversee and enforce compliance. This runs the risk of waiting for a test case.

On 15 November 2016, legislation was passed to amend the Child Wellbeing and Safety Act 2005 in Victoria. This legislation gives us (CCYP) powers to oversee and enforce organisations' compliance with the standards. The CCYP does not have the time to be able to oversee over 60,000 organisations that should be CSS compliant.

Do you think that relevant authorities have adequate powers to promote and require compliance with the child safe standards? NO

➤ *If not, what powers do you think the relevant authorities should have?*

They need more resourcing to ensure that they can oversee and enforce. If there is no ability or resources to regulate, who does the checking? Who makes sure that all organisations across Victoria are complaint?

There is an absence of frameworks/targets/auditing and then people will become complacent and CSS won't become a high priority.

Towards national harmonisation of child safe standards in Australia

What would be the advantages and/or the disadvantages (including the benefits and costs) for your organisation if Victoria's child safe standards were amended to more closely align with the National Principles?

There is a need for a national data base to be able to record all of the information that is too sensitive to keep in each organisation. Standards 5 and 6 require organisations to record and report. Organisations are doing this but there is no indication of what should be done with this sensitive information? There is no central system and it is not passed on if the report goes no further.

What is the review for? The system needs to be consistent. Families, people, perpetrators move and these are the ones who need a consistent system. It makes sense to have harmony. It is easier to move between states if there is one oversight and one compliance system.

In some organisations, nobody seems to own CSS? Does the CCYP know how each organisation operates? Who is in charge? It is clear with Reportable Conduct but less clear with CSS.

Do you consider that the 'action areas' in the National Principles provide helpful guidance for organisations in relation to the implementation of each principle?

➤ *If so, why?*

There is no clear guide to implementation. It is up to each organisation to implement in its own way. To follow the National standards everything will have to be rewritten. Many organisations are across the national space and all operate in a similar but different way. It is the same with the standards – similar but different. We are likely to end up with multiple conflicting ideas of how to implement without specific guidelines.

National Standards - With the inclusion of Family and Communities, which is a strength based approach and with the engagement of families. These are positive.

Do you consider that the three additional National Principles would improve your organisation's approach to child safety and wellbeing?

➤ *If so, to what extent?*

These could be the dot points under the relevant CSS. They are more specific but could be included in the Victorian standards.

- Principle 3 – Families and communities are informed, and involved in promoting child safety and wellbeing
- Principle 8 – Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed
- Principle 9 – Implementation of the national child safe principles is regularly reviewed and improved.

Do you consider that Victoria should replace its three principles with a standard equivalent to National Principle 4 or keep them as separate cross-cutting principles?

➤ *If so, why?*

Child Safe Standard improvement Suggestions

- The implementation is the major issue
- Victoria should stay with the Victorian Standards as there has been a lot of investment in the Victorian standards.

Are there risks or issues specific to the Victorian contexts that are not addressed by the National Principles?

Advantages

- National Child Principles – informing the state based standards, and there could be state based jurisdiction variation.
- Council child safety standards, implementation – resourcing issues

Disadvantages

- Disrupt the hard work of local governments/& organisations have invested into attempting to embed the essential culture and attitudes shifts that CSS requires to be implemented effectively and improve the safety of kids have done in terms of implementation

Victorian Standards Cons

- Do not include all vulnerable children group
- No Emphasis on physical and online environment

The clear view is that there should be consistency across all states and territories regarding child safe standards. For Victorian organisations, there should be recognition that compliance with the Victorian Child Safe Standards will automatically equal compliance with national standards. In the event that the National principles are adopted in Victoria, the emphasis on the empowerment and participation of children and young people should be retained.

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