Submission in response to

Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper 3 – Child Safe Institutions

October 2013

This submission was prepared by the ACT Children & Young People Commissioner

Contact: Alasdair Roy
                ACT Children & Young People Commissioner

                GPO Box 158
                CANBERRA   ACT   2601

                (02) 6205 2222
                alasdair.roy@act.gov.au

1. Australian Children's Commissioners and Guardians

The Australian Children's Commissioner and Guardians (ACCG) aims to promote children's rights and participation and ensure the best interests of children are considered in public policy and program development across Australia.

This submission is made by the following members of the ACCG:

- Children and Young People Commissioner, Australian Capital Territory
- Acting Commissioner for Children & Young People, New South Wales
- Commissioner for Children and Young People, Northern Territory
- Commissioner for Children and Young People and Child Guardian, Queensland
- Guardian for Children and Young People, South Australia
- Commissioner for Children, Tasmania
- Commissioner for Children and Young People, Victoria
- Commissioner for Aboriginal Children and Young People, Victoria
- Commissioner for Children and Young People, Western Australia

2. General comments on Child Safe Organisations

In broad terms, a 'child safe organisation' is one which consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people,
- creates conditions that increase the likelihood of any harm being discovered, and
- responds appropriately to any disclosures, allegations or suspicions of harm.

The actions and strategies that an organisation can adopt to promote child safety are described in a range of resources published by:

- Community and Disability Services Ministers' Conference
  - *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers* ('National Framework')[1]
  - Schedule 1, *Guidelines for Building the Capacity of Child Safe Organisations* ('National Guidelines')[2]

- Child Wise
  - *Choose with Care* program[3]
  - *Choose with Care: 12 Steps to a child safe organisation*[4]

- Victoria Commission for Children & Young People
  - *A Guide for Creating a Child Safe Organisation*[5]
  - *Information for Parents: Things to look at when selecting child safe activities or services for your child*[6]

---

[1] (http://www.ccyp.vic.gov.au/childsafetycommissioner/publications/childsafe_pubs.htm)

[2] (http://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/protecting-australias-children/working-with-children-checks/guidelines-for-building-the-capacity-of-child-safe-organisations)

[3] (http://www.childwise.net/page/25/choose-with-care)

[4] (http://childwise.blob.core.windows.net/assets/uploads/files/Online%20Publication/12_Steps_to_building_child_safe_orgs.pdf)

[5] (http://www.ccyp.vic.gov.au/childsafetycommissioner/downloads/childsafe_organisation.pdf)

[6] (http://www.ccyp.vic.gov.au/childsafetycommissioner/downloads/childsafe_parent_guide.pdf)

- o *Wise Choices: safe children* (DVD and fact sheet in eight languages)[7]
- Queensland Commission for Children & Young People and Child Guardian
  - o *Creating Safe and Supportive Environments for Children and Young People: Child and youth risk management strategy toolkit*[8]
- NSW Office of the Children's Guardian
  - o *Become a Child Safe Organisation* (training program and online resources)[9]
  - o *Participation Resources*[10]
- Western Australia Commissioner for Children & Young People
  - o *Involving Children & Young People: Participation Guidelines*[11]
  - o *Are you Listening? Guidelines for making complaints systems accessible and responsive to children and young people*[12]
- Australian Children's Foundation
  - o *Safeguarding Children* program[13]
- NSW Ombudsman
  - o *Reviewing Child Protection Policies: An agency self assessment checklist*[14]
  - o *Child Protection in the Workplace: Responding to allegations against employees*[15]
  - o *Guidelines for Dealing with Youth Complaints*[16]
- NAPCAN
  - o *How Can I Play My Part?* (online resources)[17]

As this list demonstrates, some members of the ACCG have previously contributed to the literature and resources on child safe organisations, and actively worked to assist organisations to become more child safe and child friendly.

In this submission, the ACCG has prepared for the Royal Commission a set of detailed principles that outline the actions that an organisation should adopt in order to build its capacity to provide a child safe environment (see the document accompanying this submission, *ACCG Principles for Child Safety in Organisations*). We have done so in order to promote and develop community discussion of child safe and child friendly organisations, and to contribute to reflection upon, and review of, the existing guidelines for good practice in this area.

The National Framework and National Guidelines were developed by an inter-jurisdictional committee in 2005, and are described as 'nationally agreed good practice' in building the capacity of organisations to maintain child safe environments.[18] They include the following recommended strategies:

---

[7] (http://www.ccyp.vic.gov.au/childsafetycommissioner/publications/cald_strategy.htm)

[8] (http://www.ccypcg.qld.gov.au/pdf/bluecard/rmst/RMS-toolkit-update-081012.pdf)

[9] (http://www.kids.nsw.gov.au/Working-with-children/Become-a-Childsafe-Organisation)

[10] (http://www.kids.nsw.gov.au/Publications---resources/Participation-resources)

[11] (http://www.ccyp.wa.gov.au/files/Participation%20Guidelines.pdf)

[12] (http://www.ccyp.wa.gov.au/content.aspx?cID=741)

[13] (http://www.safeguardingchildren.com.au)

[14] (http://www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/child-protection/reviewing-child-protection-policies-an-agency-self-assessment-checklist-cp08)

[15] (http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/child-protection/child-protection-in-the-workplace-responding-to-allegations-against-employees)

[16] (http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/youth/guidelines-for-dealing-with-youth-complaints)

[17] (http://napcan.org.au/resource-hub/what-role-can-i-play/)

National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers
Schedule 1, Guidelines for Building the Capacity of Child Safe Organisations

1. **Systems to ensure adaptation, innovation and continuous improvement**
   a. *Mechanisms to regularly review, update and refine policies and procedures*
   b. *Accountability for maintaining child safe practices and systems is allocated to all levels of the organisation*
2. **Governance and culture**
   a. *A Child Safe Policy*
      - Child protection awareness training for employees
      - Processes for reporting and managing concerns/incidents
      - Disciplinary processes and grievance procedures
      - Guidelines for physical contact between adults and children
      - Guidelines for outside hours contact with children and their families
      - Standards for adult/child ratios
      - Cyber safe guidelines
      - Support and guidance for employees, children and their families when concerns are expressed about harm to a child
      - Attention to situations where a child may harm another child
   b. *Risk Management*
   c. *A Code of Conduct*
   d. *Privacy and Data Collection*
3. **Participation and empowerment of children**
   a. *Enabling and promoting the participation of children*
      - Seriously consider children's views
      - Create opportunities for children to participate in planning, policy development and decision making
      - Create opportunities for children to take on leadership roles
      - Engage children in the review of policies, practices and systems improvement
   b. *Inclusive and empowering language*
   c. *Strategies to reduce the potential for undiscovered or ongoing harm*
      - Ensuring children are aware of the organisation's commitment to child safety
      - Providing protective behaviours training adapted to the needs of children in particularly vulnerable situations
      - Encouraging children to speak out
      - Develop strategies to communicate and engage with all children involved with their services and programs
      - Providing information about the availability of independent advocacy or persons with whom children may discuss concerns about their treatment or experience
      - Consulting with children and seeking their views about their safety in dealing with organisations
4. **Human Resource Management**
   a. *Recruitment and selection practices acknowledge the importance of child safety*
      - An explicit statement of commitment to child safety in all advertising
      - In information packages for potential applicants, include the organisation's child safety policy, code of conduct and screening and complaints/grievance procedures
      - In the statement of appointment to a position, include a reference to what is expected in terms of commitment and responsibility for child safety
      - In addition to criminal history checks, confirm the applicant's identity, and verify their qualifications and professional registration
      - During interviews with applicants, highlight the priority of child safety
      - Undertake work history reports and thorough reference checks

---

[18] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations, page 1.

2.1 Sexual abuse and other forms of harm to children and young people

The Royal Commission has been asked to focus on sexual abuse of children. It is important to note, however, that most of the resources promoting child safe organisations are relevant to all forms of harm to children and young people. For example, the National Guidelines aim to assist organisations to prevent and respond to 'physical, sexual, emotional or psychological, abuse and neglect of children'.[19]

The Royal Commission has also been asked to focus on abuse in institutions. Most cases of child sexual abuse occur in the private domain, and the victim has a prior relationship with the offender, such as a family member or friend or neighbour. [20] While only a small proportion of child sexual abuse occurs in organisational settings, the public nature of organisations means they can implement preventive strategies, and ensure a certain level of transparency, accountability and protection for children and young people. Hence resources on child safe and child friendly organisations aim to assist organisations to build their capacity to provide a safer environment for children.

2.2 'Child safe' and 'child friendly'

The Royal Commission Issues Paper discusses 'child safe' organisations. In contrast, some of the resources on child safe organisations give equal priority to organisations being 'child friendly'. It is open to the Royal Commission to consider a slight alteration to its use of language, to acknowledge the value and significance of children's perspectives in this context.

A fundamental component of improving child safety within an organisation is the participation and empowerment of children and young people:

- empowering children and young people to participate in decisions which affect their lives, and
- establishing pathways and mechanisms which enable children and young people to raise concerns safely and with confidence (ie. ensuring both that they know the options available to them, and they feel comfortable taking those options).

ACCG explains the importance and value of listening to children and young people in Principle 3 and Principle 8 of *ACCG Principles for Child Safety in Organisations*.

---

[19] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations
[20] Kelly Richards (2011) 'Misperceptions about child sex offenders', *Trends & Issues in Criminal Justice* no.429, Australian Institute of Criminology.

Participation of children and young people

It is not possible to become a 'child safe' organisation without seriously considering the views of children and young people. Children and young people have knowledge and experience which is different to that of the adults in the organisation, and they can make a unique contribution to planning, policy development and decision making.

Consulting with children and young people is an essential task if we are to understand safety issues in organisations, particularly as '[c]hildren and young people can identify strengths, weaknesses, risks and dangers in activities that may go unreported'.[21]

Organisations should engage children in the review of policies, practices and systems improvement. Similarly, the Royal Commission should consult directly with children and young people during the course of their work, to understand their perspectives on safety and communication.

Empowerment of children and young people

Underlying the abuse of children is 'the exploitation of power in order to gain submission or silence'.[22] If children and young people feel they cannot express themselves in an organisation, there is a risk that any harm that is occurring will remain undiscovered and ongoing.

Becoming a 'child safe' organisation means developing strategies to communicate and engage with all children who are involved with the organisation. It is important to ask children and young people when they feel safe, and when they feel unsafe. 'Their comments and insight will always be different from the adult perspective'.[23]

The then Child Safety Commissioner of Victoria, and now the Victoria Commissioner for Children & Young People, describes the concept of 'psychological safety':

> The concept of 'safety' is very broad and means different things to different people, especially children. It is much easier to understand the concept of 'physical' safety and the need for safe practices around hygiene, road and water safety, slippery surfaces, pool fencing, sign-in and sign-out procedures and staff supervision ratios. All of these contribute to the physical protection of children.
>
> In a child safe organisation, we also want to promote 'psychological' safety because even if the physical environment is as safe as we can make it, when children feel unsafe we need to understand why and respond to their needs. Psychological safety means children… know they can speak to people if they feel unsafe or are unhappy and that something will be done to address their concerns. Knowing these things… empowers them to speak up when necessary.[24]

---

[21] Child Wise (undated), *Choose with Care: 12 steps to a child safe organisatio*n, page 19.

[22] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations, page 3.

[23] Child Safety Commissioner, Victoria (2006) *A Guide for Creating a Child Safe Organisation*, page 14.

[24] Ibid.

2.3 Government support for organisations in building, maintaining and strengthening child safe capacity

In agreeing to the National Guidelines in 2005, the State and Territory governments committed to resource community service organisations to implement child safe organisation strategies. The National Guidelines state '[t]he responsibility for implementation of this Schedule resides with each of the States and Territories' and governments should adopt 'programs and mechanisms for ensuring that organisations are aware of, and able to fulfil, their responsibilities'.[25]

> Appropriate resourcing will be required for education and training, and initiatives to create and maintain safe organisational environments. Each State and Territory and the Australian Government will determine the nature and extent of resourcing required in the context of existing supports and local needs.[26]

Across Australia, State and Territory governments adopt different approaches to promoting child safe organisations in their jurisdictions:

- *Legislative obligations* – In some States, such as NSW, Queensland and South Australia, certain community service organisations have a statutory obligation to:
    - develop and implement a minimum standard of policies and procedures,[27]
    - review these policies and procedures (at regular periods or when a breach occurs) to ensure that they remain relevant and effective,[28] or
    - demonstrate an appropriate response if a serious allegation is made about an employee.[29]
  (These legislative provisions are discussed further in part 3.8 of this submission.)

- *Contractual requirements* – In some States and Territories, community or private organisations that are contracted by governments to provide community services are, as part of their funding agreements:
    - required to demonstrate a minimum standard of policies and procedures,
    - required to provide a minimum level of staff training, or
    - subject to independent audits of their child safety policies, procedures and practices.

- *Funding of projects* – Some State governments have provided funding which has contributed to the development of resources or programs that promote child safe organisations, either by:
    - commissioning or funding specific child 'child safe organisation' projects, or
    - providing general funding to the independent organisations that have developed the resources or programs.

In its deliberations, the Royal Commission may wish to examine the options available to the Australian Government and the State and Territory governments in promoting and resourcing the development of child safe organisations. A Royal Commission is well placed to make recommendations on the most appropriate and effective role for government in this context.

---

[25] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations, page 1.

[26] Ibid., part 5.2.

[27] *Commission for Children and Young People and Child Guardian Act 2000* (Qld); *Ombudsman Act 1974* (NSW); *Children's Protection Act 1993* (SA).

[28] *Commission for Children and Young People and Child Guardian Regulation 2011* (Qld).

[29] *Ombudsman Act 1974* (NSW).

3. Comments in response to Royal Commission Issues Paper

3.1 The essential elements of establishing a 'child safe organisation' that protects children from sexual abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?

The National Guidelines constitute the current standard of 'good practice' for organisations seeking to build their capacity to provide a child safe environment. A range of toolkits, guides, and training programs (listed above in part 2 of this submission) provide accessible and practical guidance to organisations to implement the National Guidelines in their particular context.

All strategies mentioned in the National Guidelines and other resources are complementary and intersecting; there is no suggestion of a hierarchy of importance. As there is wide variety in organisational settings, and as 'capacity building' is an ongoing process, individual organisations will likely prioritise for themselves the order in which they undertake specific actions.

If one element of a child safe organisation were to be prized above others, it might be (in the words of the Royal Commission Issues Paper) 'an organisational culture that is committed to child safety'. A 2005 literature review of the organisational risk factors for child maltreatment concluded:

> Organisations can best manage risk of child maltreatment by developing policies and procedures that extend far beyond screening for criminal history at the time of employment. Developing a child centred, child safe culture of respect within an organisation that supports early disclosure, accountability by all adults, and challenging unacceptable behaviour is now identified as the future direction in managing organisational risk.[30]

For most organisations, however, such a culture would develop gradually over time, as the other – more specific and tangible – actions and strategies recommended in the National Guidelines are implemented. In particular, in order to be 'child safe', an organisation must also be 'child friendly', and embrace the participation and empowerment of children and young people.

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

There is limited research into the effectiveness of child safe organisation strategies. Even the National Guidelines purport only to be 'nationally agreed good practice to guide organisational development', rather than 'best practice' or 'evidence based practice'. [31] Indeed, the National Guidelines acknowledge reliance on a pre-existing training program:

> The development of these Guidelines has been directly informed by the national work of the Child Wise 'Choose with Care' program in assisting organisations to increase child safety.[32]

While the effectiveness of the strategies recommended in the National Guidelines has not been measured, the strategies are grounded in research literature on maltreatment of children in organisations. This body of evidence allows us to identify organisational factors which allow harm to occur, and factors which may prevent harm occurring:

---

[30] Irenyi, Bromfield, Beyer, Higgins (2006) 'Child maltreatment in organisations: Risk factors and strategies for prevention', *Child Abuse Prevention Issues* no.25, page 21.
[31] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations, page 1.
[32] Ibid., page 5.

Environmental conditions play an influential role in facilitating child abuse. Child abuse and maltreatment can be minimised through appropriate organisational management. There is a greater risk of child maltreatment in the absence of clear guidelines and protocols for dealing with accused or convicted perpetrators.[33]

Research has identified factors within organisations (both barriers and facilitators) that can impact on:

- an organisation's capacity to identify and address risks,
- people's capacity to identify signs of harm or raise concerns about another person's behaviour,
- a child's capacity to disclose their fear of harm or experience of harm, and
- an organisation's capacity to respond appropriately to disclosures, allegations or suspicions of harm.

For example, '[i]t is firmly established that a central dynamic in the abuse of children is the exploitation of power in order to gain submission or silence', therefore the Community and Disability Services Ministers' Conference found it possible to conclude that:

Practices focused upon empowerment and participation of children and organisational structures and systems which encourage children to be listened to are key aspects of building capacity for child safe organisations.[34]

The research literature describes examples of poor organisational practices in responding to disclosures of abuse, such as:[35]

- staff ignoring signs of abuse, or dismissing or failing to act upon disclosures,
- managers attempting to protect reputations of institutions by not reporting abuse, and
- reluctance by employees to cooperate with investigations.

The research literature also suggests that, in contrast, a positive organisational culture is one in which:[36]

- adults and children have high confidence that disclosure will be treated seriously and acted upon promptly and appropriately,
- children are treated as individuals with rights,
- high risk offender-like behaviour is not accepted and is challenged directly and immediately,
- all people connected to the organisation are empowered and feel confident to raise concerns, including children and young people,
- environments are monitored to avoid situational risks developing,
- all employees and volunteers are comprehensively trained in aspects of child abuse such as child and adult grooming, and
- there is a focus on being 'child friendly' not just 'child safe'.

Thus there is some evidence of the organisational factors which place children at risk of harm, and which prevent appropriate responses to harm. The strategies designed to assist organisations to build their capacity to provide child safe environments are based on this body of knowledge. While this is an adequate

---

[33] Lorraine R Beyer, Daryl J Higgins and Leah M Bromfield (2005) *Understanding organisational risk factors for child maltreatment: a review of the literature*, Australian Institute of Family Studies, page 2.

[34] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations, part 3.

[35] Sullivan & Beech (2002) and Nunno (1999) cited in Irenyi, Bromfield, Beyer, Higgins (2006) 'Child maltreatment in organisations: Risk factors and strategies for prevention', *Child Abuse Prevention Issues* no.25.

[36] Various publications cited in Irenyi, Bromfield, Beyer, Higgins (2006) 'Child maltreatment in organisations: Risk factors and strategies for prevention', *Child Abuse Prevention Issues* no.25.

starting point, the next necessary step is to develop an evaluation framework to test the effectiveness of current strategies.

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

It is difficult to comprehensively test and measure the effectiveness of 'child safe organisation' strategies. The intended outcome is the prevention of harm to children and young people, and as harm is underreported, we have insufficient baseline data, and cannot ensure that future reported rates of harm in organisational contexts are an accurate reflection of outcomes.

Despite these challenges, however, an evaluation framework is an essential consideration for governments and community service organisations:

> To solve the problem we must first understand it. Conducting quality research on child abuse and neglect and evaluating the effectiveness of actions and programs to prevent it is essential. Too little research has been conducted into the wellbeing and safety of children and young people. For example in Australia we do not measure the prevalence of child abuse and neglect, we use the substantiated notifications to our eight State and Territory Child Protection Systems as a proxy, knowing it is a significant understatement. NAPCAN believes it should be a national research priority to increase the knowledge of the prevalence of child abuse and neglect and effective strategies of preventing it in Australia.[37]

ACCG suggests three approaches to help us begin to think about the evaluation of 'child safe' strategies:

- *Review the National Guidelines* – Given the passage of time since 2005, the Australian Government, with the State and Territory Governments, should revisit the National Framework and National Guidelines, review the literature, update the National Guidelines as appropriate, and begin to consider possibilities for an evaluation framework for the implementation of the National Guidelines.

- *Improved data collection and analysis* – Currently the State and Territory justice systems do not aggregate data according to the institutional context in which a criminal report, charge, prosecution or conviction arises. State and Territory justice authorities, the police, and the courts should adjust their record keeping systems to identify those reports, criminal charges, prosecutions and convictions which involve an allegation of harm to a child in an organisational context. Data on convictions involving harm to children could then be analysed systemically, to identify organisational factors which contributed to the events or which may have prevented the events (similar to the mechanisms for child death review in the States and Territories).

- *Program specific evaluations* – While it is difficult to measure the outcomes of child safe strategies in terms of impact on child safety, we can evaluate certain aspects of the existing resources promoting child safe organisations. For example, it might be possible to measure the extent to which organisations find the current resources useful.

---

[37] NAPCAN website, http://napcan.org.au/prevention/ (accessed 18.9.13).

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

As mentioned above, the strategies outlined in the National Guidelines (and in the other child safe organisation resources) broadly aim to help organisations:

- create conditions that reduce the likelihood of harm occurring to children and young people,
- create conditions that increase the likelihood of any harm being discovered, and
- respond appropriately to any disclosures, allegations or suspicions of harm.

Examples of the ways in which 'child safe' policies and procedures can reduce the likelihood of harm occurring include:

- Pre-employment screening (working with children checks) prevents known offenders from becoming employees or volunteers with an organisation.
- Rigorous recruitment and selection practices may deter unsuitable people from applying to the organisation and is an organisation's first opportunity to ascertain a person's suitability to work with children in their organisation (for example, by asking for a referee that is a recent employer, and asking the referee if they can provide an example of a time when they have observed the applicant managing a child with challenging behaviours). An applicant who does not have a criminal history may still pose a risk to children.
- Staff support and supervision can provide opportunities for the organisation to obtain information about an employee's values, attitudes, expectations and workplace practices which may otherwise remain hidden (for example, by asking 'what techniques do you use to motivate clients', or 'how do you find out from clients whether or not they are enjoying the activities').
- Codes of conduct and job descriptions which clearly spell out acceptable and unacceptable behaviour when working with children will 'leave no room for the exploitation of ambiguity'[38] if an allegation is made of harm to a child (for example, if it is clear to an employee that they must not contact clients out of hours, or give gifts to clients, or transport clients to appointments in a private vehicle, they cannot claim they thought such behaviour was reasonable in the circumstances).
- A child safety audit can identify environmental risks to children (such as toilets being out of sight of the main activity area) and procedural risks (such as a lack of induction for new volunteers). The organisation can then identify ways to address those risks in order to prevent harm, including where the physical design of an environment is unable to be altered.

Examples of the ways in which 'child safe' policies and procedures can increase the likelihood of any harm being discovered include:

- Child protection training for employees, volunteers, families and children can help them understand how child abuse can occur within organisations, and teach them how to identify signs of harm. 'Children often do not speak up when they are unsafe; however their behaviour will change, and it is very important that staff and volunteers are 'in tune' with this and in a position to act in a preventive way.'[39]
- Listening to children and young people can provide insights into their perceptions of safety in the organisation, and reveal risks that were not previously identified by the organisation.
- By understanding how children and young people prefer to communicate, the organisation can establish mechanisms to ensure children and young people are more likely to come forward with their concerns.

---

[38] R Wortley & S Smallbone (2006) 'Applying situational principles to sexual offenses against children', in R Wortley & S Smallbone (eds.) *Situational prevention of child sexual abuse* Criminal Justice Press, New York.
[39] Victoria Commissioner for Children & Young People (2006) *A Guide for Creating a Child Safe Organisation*, page 21.

- Ensuring that children understand what is acceptable and unacceptable behaviour and how to articulate any concerns they may have.

Examples of the ways in which 'child safe' policies and procedures can assist organisations to respond appropriately to any disclosures, allegations or suspicions of harm include:

- Clear and detailed triage procedures can provide clear guidance on how to respond to different types of complaints, allegations or reported suspicions (for example, whether the organisation should immediately contact police, or make a child protection report, or conduct an internal investigation).
- Complaint procedures which require a prompt response, and which require the organisation to report outcomes to the complainant, help build a sense of trust in the process, and make it more likely it will be trusted and accessible to others in future.
- Strong recordkeeping practices ensure there is a proper record of the process and outcome of complaints, so the organisation can fulfil their responsibilities to children, families, employees and external authorities.

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

The National Guidelines offer a universal framework for a child safe organisation, because of the 'broad scope' and 'complexity and cultural diversity of community services'.[40] It is intended that organisations apply the general principles to their particular circumstances:

> The precise strategies and methods… which organisations adopt are likely to be service specific, reflecting variations in the nature of activities, organisational structure and resources, and differences between jurisdictions.[41]

The toolkits, guides and training programs produced by Child Wise, Victoria Commissioner for Children & Young People, Queensland Commissioner for Children & Young People and Child Guardian, and NSW Office of the Children's Guardian (listed above at part 2 of this submission) are similarly targeted universally to the wide range of organisations who work with children, because of the limited resources available to these agencies to inform and train the community.

Resources should be made available to tailor 'child safe child friendly' strategies to particular types of organisational settings. ACCG suggests three approaches:

- Child safe organisation strategies could be refined and developed *according to the risks evident in particular organisational contexts*, such as schools, residential holiday camps, swimming clubs, or art classes. There is potential for the national associations for various sports and recreation activities to develop template child safety guidelines and procedures, and to provide training for their State and Territory associations and their local clubs, so that each individual club or group is not expected to interpret the National Guidelines in isolation.

- Child safe organisation strategies could be refined and developed *according to the needs and circumstances of particular groups of children and young people*, such as children and young people

---

[40] Community and Disability Services Ministers' Conference (2005) *National Framework for Creating Safe Environments for Children: Organisations, Employees and Volunteers*, Schedule 1: Guidelines for Building the Capacity of Child Safe Organisations, pages 1 and 2.
[41] Ibid., page 1.

with a disability, Aboriginal or Torres Strait Islander children and young people, children and young people from refugee or migrant backgrounds, and children and young people in out of home care. Different groups of children and young people will have different communication needs, abilities and preferences. Organisations could be provided with strategies that are accessible and tailored to the particular group of children and young people they work with.

- Child safe organisation strategies could be refined and developed *to address the risk of harm presented by some children and young people in some contexts*. There are different considerations when the potential perpetrator of harm is not an adult but another young person involved with the organisation.

3.6 The role of staff performance management systems and disciplinary processes in a 'child safe organisation'

Human resource management plays an important role in preventing harm to children and young people, and uncovering harm if it does occur.

As mentioned above in part 3.4 of this submission, staff support and supervision provides opportunities for the organisation to obtain information about an employee's values, attitudes, expectations and workplace practices which may otherwise remain hidden.

Staff performance management processes also provide an opportunity for employees and volunteers to share workplace observations and problems, and to discuss questions about child safety. This provides the organisation with information about potential risks that can then be addressed.

Complaint procedures and disciplinary processes have a similarly important role in a child safe organisation. They provide fair and transparent mechanisms to address concerns about behaviour towards children and young people:

- *Complaints procedures* – Every organisation should have clear procedures for listening to children, families, employees and volunteers about any concerns, suspicions or allegations they may have.

- *Disciplinary processes* – The organisation's code of conduct, job descriptions and duty statements should provide employees and volunteers with a clear understanding of the behaviours that are expected of them, and the behaviours that are not permitted. If there is evidence or a suspicion that an employee or volunteer has acted outside these clear rules, there should be procedures to address this immediately.

Staff supervision and disciplinary processes are discussed further by the ACCG in principles 6, 7 and 9 in *ACCG Principles for Child Safety in Organisations.*

3.7 The role and characteristics of governance and management leadership in creating and maintaining a 'child safe' organisational culture

As mentioned above in part 3.1 of this submission, research shows that a child safe organisational culture is a key asset in preventing harm to children and young people:

Organisations can best manage risk of child maltreatment by developing policies and procedures that extend far beyond screening for criminal history at the time of employment. Developing a child centred, child safe culture of

respect within an organisation that supports early disclosure, accountability by all adults, and challenging unacceptable behaviour is now identified as the future direction in managing organisational risk.[42]

The key components of a positive organisational culture are described by the ACCG in principles 1, 3, 4, 8 and 11 in *ACCG Principles for Child Safety in Organisations.*

Fundamentally, the most important characteristics for management and governance systems to demonstrate are:

- accessibility to clients and their families ('child friendly'),
- accountability and openness to input from external authorities (transparency), and
- accessibility and fairness to staff and volunteers (natural justice and procedural fairness).

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

While there are national 'good practice' guidelines for building the capacity of child safe organisations, adoption of the National Guidelines is broadly voluntary. It should be mandatory for organisations to develop and implement policies and procedures which identify and manage risks of harm to children and young people.

Enforcement could take different forms, including:

- legislation or regulation,
- licensing or registration procedures for different service sectors,
- contractual funding agreements, or
- a national 'child safe organisation' accreditation scheme.

The requirements imposed on organisations could include:

- minimum standards for policies and procedures,
- minimum standards for staff training,
- requirement to report suspected abuse or neglect to child protection authorities,
- requirement to report certain allegations made about employees or volunteers to an external authority,
- requirement to demonstrate appropriate response and investigation if a serious allegation is made about an employee or volunteer,
- requirement to formally register the use of certain restraint practices, and
- independent auditing of child safe policies and procedures.

Current examples of enforceable requirements on organisations

There are existing examples of enforceable requirements for particular organisations to maintain a child safe environment. Some of these are statutory obligations under State and Territory law, others are policy or contractual funding requirements imposed by State and Territory governments.

---

[42] Irenyi, Bromfield, Beyer, Higgins (2006) 'Child maltreatment in organisations: Risk factors and strategies for prevention', *Child Abuse Prevention Issues* no.25, page 21.

All States and Territories impose a mandatory obligation on certain community workers to report any knowledge or suspicion of child abuse or neglect.

Some states (such as Qld, NSW and SA) impose legislative requirements on community service organisations to:

- implement a minimum standard of policies and procedures, and review these (at regular periods or when a breach occurs), and
- demonstrate an appropriate response if a serious allegation is made about an employee.

The *Commission for Children and Young People and Child Guardian Act 2000* (Qld) requires that organisations within the scope of the Queensland working with children check (known as the 'blue card' system) develop a child and youth risk management strategy and update this strategy annually. These strategies must include the following eight minimum requirements:

1. Statement of commitment
2. Code of conduct
3. Procedures for recruiting, managing and training staff
4. Policies for identifying and reporting disclosures or suspicions of harm
5. Managing breaches of the risk management strategy
6. Policies for compliance with blue card legislation
7. Risk management plans for high risk activities and special events
8. Strategies for communication and support

The *Ombudsman Act 1974* (NSW) requires NSW Government agencies, and some non-government agencies, to report to the NSW Ombudsman if a particular allegation is made about one of their employees:

- any sexual offence or sexual misconduct committed against, with or in the presence of a child, including a child pornography offence,
- any assault, ill-treatment or neglect of a child, or
- any behaviour that causes psychological harm to a child, even if the child consented to the behaviour.

The NSW Ombudsman will then oversee the agency's investigation into the allegation, to ensure it is properly conducted, and appropriate action is taken as a result of the investigation.[43] The NSW Ombudsman also conducts audits of agencies' child protection systems; assessing the policies and practices within an agency and providing them with direct advice about best practice and areas for improvement.

The *Children's Protection Act 1993* (SA) requires that government and non-government organisations providing health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services for children have the necessary policies and procedures to establish and maintain a child safe environment.

Other jurisdictions impose obligations on organisations through funding agreements. In some States and Territories, community or private organisations that are contracted by governments to provide community services are, as part of their funding agreements:

- required to demonstrate a minimum standard of policies and procedures,

---

[43] Some employee allegations reported to the NSW Ombudsman must also be reported to the NSW Office of the Children's Guardian for the purpose of a WWCC risk assessment.

- required to provide a minimum level of staff training, or
- subject to independent audits of their child safety policies, procedures and practices.

National accreditation scheme

There is potential in considering the possibility of a national accreditation system for child safe organisations. Consideration would need to be given as to whether such an accreditation system be voluntary or mandatory. Currently the enforcement of child safe standards is partial and fragmented across States and Territories. A single national set of standards and guidelines, with a centralised monitoring and compliance regime, and strong communication with peak bodies, may be an efficient and effective means of promoting the development of child safe organisations across Australia.

The Australian Childhood Foundation (ACF) currently offers a voluntary accreditation scheme, however it is based on a model of payment of consultancy fees to the ACF.

Capacity building process

While accountability and quality control are important goals that we should work towards, it is important to recognise that most organisations do not have the capacity to implement the full suite of child safe strategies immediately. Many organisations working with children are small, local, and operated by volunteers.

Governments and peak bodies should identify how they can resource and support these small organisations to build their capacity to provide a child safe environment.