

23 April 2021

Strategic Policy and Legislation  
Department of Children, Youth Justice and Multicultural Affairs  
Locked Bag 3405  
BRISBANE QLD 4001

Via email: [RC\\_SPAL@cyjma.qld.gov.au](mailto:RC_SPAL@cyjma.qld.gov.au)

### **Child Wise response to the Growing Child Safe Organisations in Queensland: Consultation Paper**

Thank you for the opportunity to respond to the *Growing Child Safe Organisations in QLD Consultation Paper*. This submission responds to all consultation questions for consideration.

Child Wise supports public, private and not-for-profit organisations to establish and sustain child safe environments. In Australia, Child Wise introduced the use of child safeguarding standards for organisations whose work impacts children and young people, and we continue to see the significant benefits that clear, outcome-focused expectations can have in creating child safe culture. Child Wise has participated in both the NSW and WA Governments' public consultations into the development of child safe standards; in these submissions we expressed our strong support for a rigorous legislative approach which would sharpen a collective focus on the safety of children and young people. Child Wise again welcomes the opportunity to contribute to the implementation of child safeguarding standards and reportable conduct in QLD by providing feedback on the Department of Children, Youth Justice and Multicultural Affairs' *Growing Child Safe Standards in Queensland consultation paper*.

*Q1. Are there other principles or elements, not currently referred to in the child safe standards and National Principles, that will achieve safer organisational environments in the QLD context?*

Child Wise shares the view that the child safe standards and National Principles for Child Safe Organisations represent a comprehensive framework for how organisation must prevent, detect and respond to child abuse. Child Wise has extensive experience in supporting a diverse range of organisations to implement safeguarding standards, and it is based on this experience that we would advocate for specificity as to the indicators and evidence requirements that leaders and regulators would look for to determine whether child safeguarding policy and practice are effective. Our recommendation therefore does not relate to adding new standards or principles, but rather relates to ensuring that in implementing child safe standards, the Qld government ensures clarity about indicators and evidence of effective practice against which in-scope organisations will be benchmarked.

*Q2. Do the categories recommended by the Royal Commission appropriately represent those that should be subject to a potential child safe standards system? Is this scope too broad or too narrow, and why?*

Child Wise is of the view that the scope is too narrow. We recommend that child safe standards and the National Principles should apply not only to those organisations that provide direct

services to children and young people, but rather to any organisation whose work impacts children and young people. This would, for example include organisations that provide services to adults who care for children, such as adult focused Corrections, Alcohol and other Drug, and Mental Health services.

Child Wise also recommends that child safe standards and National Principles should apply to sectors and organisations that employ young people such as the retail and hospitality sectors. Young people spend considerable time in these organisations and may be exposed to people and situations which could pose risk. Child Wise is of the strong view that employers of young people have a duty of care to safeguard young people who work for them and ensure workplaces are safe, open, aware and free from exploitation and abuse.

*Q3. If a regulatory response to child safe standards is implemented, should some sectors be subject to regulation and oversight before others? Why, or why not?*

Child Wise would advocate for a regulatory response in the implementation and monitoring of child safe standards and would recommend that such a response is introduced across *all sectors at the same time*. Our rationale for this position is that there has been considerable time since the conclusion of the Royal Commission and COAG endorsement of the National Principles, and a staggered approach to regulation could hinder full implementation of standards in some sectors. Instead of staggering regulation, Child Wise would advocate for the Qld government to take a targeted, intelligence-led approach to capacity building, to support sectors with less capacity to rise to the expectations of the standards and comply with regulatory expectations.

*Q4. Is the voluntary compliance model or mandatory compliance model likely to be the most appropriate for QLD? If you consider a particular model is more preferable, why is that the case?*

Child Wise is of that view mandatory compliance with child safe standards would be the preferred model. Our rationale for this is based on our extensive experience in Victoria where compliance with standards is mandatory, and other jurisdictions where this has now come into place (such as NSW and the upcoming legislation in WA). We have experienced this as an effective approach to focusing leaders on their safeguarding obligations, encouraging the investment of resource to build capacity and raising the profile of child safety. It should also be noted that even with a mandatory approach, there continues to be variability in the extent to which organisations have fully embedded the standards. Our concern is that a voluntary approach would lead to inconsistency, misinterpretation of threshold and a culture of optionality. Child Wise does, however, hold a fundamental belief that all organisations should prioritise child safety not only because they 'have to', but because it is morally the right thing to do. Child Wise believes that the Qld government could achieve both mandatory compliance and a collective belief in the moral imperative of child safeguarding through its messaging and implementation. By communicating regularly, supporting effectively and building sector capacity, we believe that it is possible to explain the need for a mandatory model, whilst also tapping into the range of other factors – values, ethics, morals – which motivate organisations to improve safeguarding practice.

*Q5. If a co-regulation approach was adopted, which existing bodies or regulatory mechanisms may be suitable to co-regulate the child safe standards?*

Where child-focused organisations are already regulated, properly coordinated co-regulation between the Qld government and relevant sector regulators (e.g. the Queensland College of Teachers for education etc) would be of immense value. Child Wise has experience of working with organisations that report to multiple regulators and has observed the challenges which can arise when various regulatory functions are not sufficiently coordinated, leading to both

duplication and gaps. Where co-regulation is relatively seamless, however, it can have the benefit of providing child-focused organisations with effective support and challenge which recognises both the broad child safety landscape and sector specific issues. Child Wise would also encourage the Qld Government to explore the potential for non-government sector leaders to contribute to co-regulation through the provision of targeted support and capacity building. Organisations such as Child Wise and several other sector leaders have expertise, flexibility, knowledge and skills to augment the work of government regulators and contribute to capacity building. Should the Qld Government opt for such an approach, Child Wise would support the implementation of a rigorous framework which assures the quality, reliability and integrity of any organisation involved in this type of co-regulation. Child Wise first raised this proposition to the Royal Commission in 2017 as part of a public consultation on sector best practice in relation to complaints of abuse; the full detail of this submission can be found <<add hyper link to CW submission>>. In this submission, Child Wise highlighted the potential benefits of non-government sector leaders contributing to building the capacity of child-focused organisations. At the same time, Child Wise also called for transparent scrutiny of such organisations, including itself, to ensure quality, consistency and public confidence.

*Q6. Which sectors do not have existing peak bodies, oversight bodies or sector regulators that could take a role in requiring implementation of the child safe standards?*

Child Wise is aware that not all religious organisations or their school affiliates have regulatory bodies. This is an area where Child Wise is continually being called in to review child safe practice. The lack of regulation in these areas creates at best, inconsistency in child safe practice, and at worst serious prejudices to child safety in the school environment. While the Catholic education sector has sought to address this through CPSL and its successor, many other religious education bodies could benefit from regulation.

While Education Queensland has internal bodies that regulate aspects of the government schooling system, it would benefit deeply from an external regulator of child safe practice. There are a number of other government sectors where regulation does not occur through a formal mechanism, but it is desperately required with respect to child safe practice. Some examples of these are:

- Queensland Health, and in particular the child and youth mental health sector;
- Youth detention centres
- Prisons where children reside with parents.

Additionally, there is a great need to develop a system that protects children in the workforce, in study or apprenticeship roles.

*Q7. Should there be a staged approach to implementing child safe standards focusing on awareness and capacity building before imposing regulation and oversight?*

Child Wise agrees that a staged approach is appropriate and that this should include awareness and capacity building, prior to introducing regulation.

Based on our experience of the Victorian implementation of child safe standards, it will be essential that the designated regulatory body has in place adequate, transparent and consistent structures, guidance and capacity building supports. This includes a clear compliance framework that outlines regulatory expectations for how organisations and how they will be supported to meet these, as well as the consequences of failure. The regulatory body will also need to build in time to develop its own capacity to fulfil its mandate. The regulatory body and the framework must be sufficiently resourced to create and provide capacity building and training resources to organisations.

*Q8. How prepared is your organisation or sector to implement the child safe standards?*

Child Wise actually drafted the original child safe standards upon which the current National Principles are based. Given our extensive experience of developing and implementing child safe standards, Child Wise is confident that it is already adhering to the National Principles and is prepared and well positioned to be on the forefront of supporting organisations to implement child safe standards in Qld.

*Q9. What will your organisation need to do to implement the child safe standards?*

As per above, Child Wise is confident that it is already operating in line with the National Principles. We have responded to this question from our position as an organisation that will be supporting other organisations to implement child safe standards. To this end, Child Wise would welcome timely communication, sector consultation on significant changes/at key milestones, and clarity regards capacity building support that will be offered to sectors/organisations. We would also value clarity regards regulatory requirements, consequences of non-adherence and timescales for full implementation.

*Q10. How much time would your organisation need to implement the child safe standards (if you started today)?*

As the architect of the National Principles and based on our primary function supporting organisations to embed child safe standards, Child Wise's existence revolves around implementation of the standards. Child Wise assists organisations to understand the child safe standards and how they can be implemented in their own contexts. In our experience, there are numerous variables that impact the timeliness of full implementation including but not limited to:

- Existing sector regulatory frameworks
- Child safeguarding maturity of the organisation
- Leadership, governance and culture
- Scope and complexity of the organisation, including whether it operates in multiple jurisdictions
- Resourcing

*Q11. How could an oversight body target monitoring and compliance activities to where they are most needed?*

In order to target and monitor compliance activities, Child Wise recommends the development of a quality assurance framework that draws upon a range of qualitative and quantitative data which can be triangulated to identify strengths, risks and priorities for more targeted intervention. Child Wise has extensive experience in conducting reviews which integrate quantitative and qualitative data sources and would recommended such an approach in monitoring and compliance of the child safe standards. Such an approach could include:

- Self-assessment
- Cross-referencing with other regulators
- Child Safeguarding dataset which may include (but is not limited to) – complaints; child safeguarding reports, incidents and reportable conduct notifications; staff training; policy compliance.
- Targeted visits/assessments where above-noted data sources indicate concerns. Note that such targeted intervention should include engagement with children, young people and families,

Once child safe standards are legislated, an oversight body could monitor the understanding and application similar to that of an auditing body – be able to provide assessment of how the

standards are being implemented, where the organisation has gaps in implementation, and provide advice on compliance.

The system needs to be based on a child rights approach that recognises, respects and protects children and young people's agency and includes mechanisms to promote participation in the decisions that affect them. Recognising the need for a supportive, learning oriented approach, the system must also include a clear and proportionate approach to organisations which fail to comply with requirements.

*Q12. Which monitoring and enforcement powers would be most effective in ensuring compliance?*

An enforceable compliance system is required to ensure that organisations adopt the proposed child safe standards and strengthen their child safe culture and practices. The compliance system must be supported by external monitoring against a defined framework.

In NSW, the Office of the Children's Guardian NSW's Community Awareness and Education sliding scale model provides a useful risk based approach, where monitoring and enforcement increases proportionately with an organisation's risk profile.

In our submission to the Royal Commission, Child Wise recommended a compliance approach that incorporates both preventative and reactive monitoring. In summary, this would include:

**Preventative Self-Compliance Monitoring Mechanisms.**

If a self-compliance approach is taken, it should consist of a documented assessment against an established framework. At a maximum it should include a review of protection policies, complaints procedures and codes of conduct as well as engagement (either through surveys or focus groups) with stakeholders (children and young people, families, staff, volunteers {including governance}). Representatives with the highest authority within organisations must be required to sign off on self-compliance.

**Preventative Third Party Monitoring Mechanisms**

In Child Wise's opinion, independent monitoring by a regulatory body is integral. Third party monitoring of compliance should be conducted periodically by a Regulatory Body itself – based on the self-compliance process, risk assessments or incident/complaint reporting, it should identify organisations that require site visits and representative interviews to assess compliance. *It is our view that all organisations should be compelled to participate in preventative monitoring and that both third party and self-compliance assessments must go to the Regulatory Body for approval.*

Child Wise suggests that the regulatory body is explicitly enabled to consult with children and young people, families, staff and volunteers as part of monitoring (either preventative or reactive) an organisation's compliance. In our experience of assessing organisational compliance with child safety standards, it is communication with these stakeholders which helps us to more effectively understand whether policy, procedure and systems have resulted in meaningful, sustained improvements in child safety practice.

The Oversight System should embed and require (not encourage) these monitoring requirements into procurement processes, contract creation and ongoing contract management.

Any non-compliance that heightens the risks of harm to children would be subject to enforced rectification. Providing organisations are monitoring and working towards compliance and yet fail to meet the requirements or set tasks within a regulated timeframe, it might be suggested that a penalty-approach apply, similar to that of the NSW Children's Guardian Amendment (Child Safe Scheme) Bill 2021.

*Q13. In your sector, which bodies have a role to play in the regulation and oversight of the handling of employee-related child protection matters (such as allegations of child sexual abuse)? How could these functions align with a separate body overseeing a reportable conduct scheme?*

Around Australia, as you would be aware, the central regulatory bodies have been Children's Commissions or Children's Guardian Offices. In Western Australia, it would appear the Ombudsman will hold a number of powers in relation to regulation in this area. In our opinion, an ombudsman is well positioned to cover this type of regulation. Any body charged with regulation must have commensurate enforcement powers to ensure it is not a 'toothless tiger'.

*Q14. How prepared is your organisation or sector to implement a reportable conduct scheme?*

Child Wise is very well prepared. As a social enterprise of Save the Children, we are bound by their approach to reportable conduct which is linked to the HR systems and processes. Child Wise works with organisations across sectors to build capacity and knowledge to meet the requirements of reportable conduct schemes where they exist through training, consultation, and coaching.

*Q15. How mature are your organisation's or sector's complaints and investigative processes for responding to allegations of employee or volunteer conduct that raises child protection concerns?*

Child Wise works with state and national organisations as well as across sectors. We have made observations through our work that some organisations are well prepared and informed, whereas others have less maturity and capacity in this space.

In our experiences, the lack of maturity of organisations to respond to allegations of employee or volunteer conduct lies in limited awareness of the system and the processes required, limited or no funding to support the changes that are required to policy, procedures and training. Building capacity to support organisational change is imperative as we have also seen a stressed and underfunded workforce, some with limited capabilities to plan, implement and embed those changes.

Another contributing factor to implementing change is knowledge. Some organisations understand the context of abuse when it occurs within families but have limited understanding of abuse in an organisational setting. As such, they are often unprepared and underinformed when asked about their risk management structures, for example and require knowledge transfer and training for all staff and volunteers to understand the complexities of abuse in an organisational setting.

*Q16. What will your organisation or sector need to do to implement and comply with a reportable conduct scheme?*

See answers 14 & 17

*Q17. How much time would your organisation or sector need to develop policies and procedures that implement a reportable conduct scheme?*

Child Wise is a national organisation, as such all child safeguarding policies and procedures are adhered to at the highest level. Three states already committed to the Reportable Conduct Scheme, as is Child Wise.

As stated above, in our experience, organisations need to create awareness and develop and implement a child safeguarding framework that includes, but is not limited to:

- Child safeguarding policy
- Code of Conduct
- Risk assessment and management
  - o Identifying and responding to risks
  - o Responding to allegations, concerns and disclosures
- Recruitment and selection policy and guide
- Training to support the implementation and embedding of above

Child Wise would recommend an awareness campaign to let organisations and sectors know the scheme is coming, along with the anticipated yet realistic timeframe so organisations can be prepared for when the scheme is live.

We would welcome further engagement to support the development and implementation of child safe standards and reportable conduct scheme in Queensland.

Kind Regards,



Natalie Siegel-Brown  
Child Wise Managing Director