



Survey Submission

WA Independent Oversight System

February 2021



CHILD WISE

creating child safe communities

Tell us about yourself or your organisation

Q1: What best describes your interest in the development of the independent oversight system?

Child Wise is a non-profit subsidiary of Save the Children, who exists to ensure the safety of children and young people in organisations where they spend time. Child Wise supports public, private and not-for-profit organisations to establish and sustain child safe environments and to meet state and national child safety standards and principles. In Australia, Child Wise introduced the use of child safety standards within organisations where children and young people spend time, and we continue to see the significant benefits that clear, outcome-focused expectations can have in creating child safe culture.

Q2: What is your postcode? (Organisations, please specify the postcode of your main office)?

Child Wise's national office is in Melbourne (3000).

Q3: If you are an organisation, what best describes the type of organisation that you work in?

- | | |
|---|---|
| <input type="checkbox"/> Accommodation and residential services | <input type="checkbox"/> Sporting club or association |
| <input type="checkbox"/> Religious institution | <input type="checkbox"/> Coaching or tuition services for children |
| <input type="checkbox"/> Childcare or minding services | <input checked="" type="checkbox"/> Commercial service provider (eg entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions) |
| <input type="checkbox"/> Child protection and out-of-home care services | |
| <input type="checkbox"/> Disability services | <input type="checkbox"/> Transport services for children, including school crossing services |
| <input type="checkbox"/> Education services | <input type="checkbox"/> Local government |
| <input type="checkbox"/> Health services | <input type="checkbox"/> State government |
| <input type="checkbox"/> Justice and detention services | <input checked="" type="checkbox"/> Other, please specify below |

OTHER: Child Wise works across of all the listed sectors to support public, private and NFP organisations to develop child safe capacity.

Q4: Where are your services predominately delivered?

- | | |
|---|---|
| <input checked="" type="checkbox"/> Kimberley | <input checked="" type="checkbox"/> South West |
| <input checked="" type="checkbox"/> Pilbara | <input checked="" type="checkbox"/> Great Southern |
| <input checked="" type="checkbox"/> Gascoyne | <input checked="" type="checkbox"/> Goldfields-Esperance |
| <input checked="" type="checkbox"/> Mid West | <input checked="" type="checkbox"/> Perth Metropolitan |
| <input checked="" type="checkbox"/> Wheatbelt | <input type="checkbox"/> Indian Ocean Territories of Christmas Island and Cocos (Keeling) Islands |
| <input checked="" type="checkbox"/> Peel | |

Child Wise is a national organisation and we operate across Western Australia, except for the Indian Ocean Territories.

What should an independent oversight system look like?

The independent oversight mechanisms for organisations engaged in child-related work need to work together as a cohesive, integrated system to achieve better outcomes for children through a mix of prevention, monitoring and compliance activities.

The principles we are applying to the design of the system are:

- the interests of children and young people are a primary consideration within the system
- the system needs to make sense to children and young people, their family members, carers, or advocates acting on their behalf
- the system needs to be culturally aware and responsive
- the system supports a focus on building capability to meet requirements through prevention, education and practical tools
- the system supports a responsive and risk-based approach to monitoring and compliance
- integration with existing regulation to minimise regulatory burden on organisations
- the system supports coordination, collaboration and information sharing between oversight bodies to meet common child safe objectives
- roles and responsibilities of oversight bodies within the system are clear with minimal duplication, gaps and overlaps
- the functions of the oversight bodies within the system and within individual oversight bodies do not conflict or compete with each other (or if they do, can be managed, for example, through legislative based mechanisms).

Q5. Do you agree with these principles for the design of the independent oversight system?

| Principle | Strongly agree | Agree | Disagree | Strongly disagree | Don't know |
|--|----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| The interests of children and young people are a primary consideration within the system | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The system needs to make sense to children and young people, their family members, carers, or advocates acting on their behalf | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The system needs to be culturally aware and responsive | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The system supports a focus on building capability to meet requirements through prevention, education and practical tools | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The system supports a responsive and risk-based approach to monitoring and compliance | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Integration with existing regulation to minimise regulatory burden on organisations | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The system supports coordination, collaboration and information sharing between oversight bodies to meet common child safe objectives | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Roles and responsibilities of oversight bodies within the system are clear with minimal duplication, gaps and overlaps | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The functions of the oversight bodies within the system and within individual oversight bodies do not conflict or compete with each other (or if they do, can be managed, for example, through legislative based mechanisms) | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Q6: Are there other principles that should be applied?

The lynchpin of the system needs to be the voice of the child, mechanisms that ensure that decisions made about them are led by them, and the fact that their participation in decisions made about them is key to their safety. Children will not speak up in a system where there are tacit signs they will not be heard. The system also needs to centre on a child rights approach that recognises, respects and protects children's and young people's agency. Appreciating the need for a supportive, learning-oriented approach, the system must also include a clear and proportionate approach to enforcement for organisations which fail to comply with requirements.

A set of principles to create child safe organisations

The Royal Commission recommended 10 child safe standards to improve child safe cultures and practices across all sectors providing services to children and young people. The standards have since been incorporated into the National Principles for Child Safe Organisations (National Principles) which were agreed by the Commonwealth, state and territory governments in February 2019.

The National Principles are:

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.

2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

The National Principles are not 'one size fits all' and allow flexibility in implementation by organisations according to their type, size and capacities and levels of engagement with children and young children.

For more information on the National Principles, please go to [the Australian Human Rights Commission website](#).

The Royal Commission recommended that the National Principles be implemented by organisations engaged in child-related work, including schools, sporting groups, out-of-home care providers and in youth detention settings, and that their implementation be independently monitored and enforced.

Some organisations are in the process of implementing the National Principles, for example, some sporting organisations that are associated with national sporting bodies, through contracting arrangements with government, or have been using the guidelines and tools published by the [WA Commissioner for Children and Young People](#) to enhance their child safe strategies.

Q7: Are you aware of the National Principles for Child Safe Organisations?

- Yes
 Somewhat aware
 No

Q8: Is your organisation already implementing the National Principles?

- Yes, all of the National Principles
 No
- Yes, some of the National Principles
 Unsure

Q9: If no, what are the reasons for this?

N/A

Which organisations must legally be safe for children?

The Royal Commission was of the view that all organisations should strive to be child safe, but recommended that organisations or institutions providing the following services to children and young people should be legally required to apply the National Principles for Child Safe Organisations (National Principles):

- accommodation and residential services for children, including overnight excursions or stays
- activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children
- childcare or minding services
- child protection services, including out-of-home care
- clubs and associations with a significant membership of, or involvement by, children
- coaching or tuition services for children
- commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions
- disability services for children
- education services for children
- health services for children
- justice and detention services for children, including immigration detention facilities
- transport services for children, including school crossing services.

These service categories broadly mirror the categories in the definition of child-related work in the *Working with Children (Criminal Record Checking) Act 2004 (WA)*. An estimated 25,000 organisations in WA may be required to comply with the National Principles.

The Joint Standing Committee for the Commissioner for Children and Young People of the WA Parliament, in its recent report *From Words to Action: Fulfilling the obligation to be child safe*, suggested that in WA the categories of organisations required to apply the National Principles should also include organisations that have indirect contact with children, such as shopping centres, public transport, restaurants, theatres, and stadiums, and medical centres that do not provide children's health services.

The Victorian legislation does not extend to organisations that have indirect contact with children, and a recent review of Victoria's child safe standards highlighted the need to balance the risk of harm with regulatory burden on organisations.

Q10: Should any other organisations in WA be required to comply with the National Principles?

Child Wise agrees with the Royal Commission's view that all organisations should strive to be child safe. We also agree that the list of organisations and institutions proposed by the Royal Commission should be regulated to meet the National Principles for Child Safe Organisations. We recommend that sporting and leisure organisations be explicitly included within the purview of the Independent Oversight System, rather than inferred within the 'clubs, association or coaching categories' [as they are currently explicitly included in the *Working with Children (Criminal Record Checking) Act 2004 (WA)*].

We also agree with the suggestion in the recent report from the WA Commissioner for Children and Young People, *From Words to Action: Fulfilling the obligation to be child safe*, that the National Principles should also include organisations that have indirect contact with children. The suggestions provided by the Joint Standing Committee could also be expanded to include public spaces where children spend time, such as museums, zoos and galleries.

Further to this, Child Wise would also encourage the WA Government to consider the inclusion of certain organisations which provide services to adults who may care for children and/or pose a risk to children, as they may be well placed to signal concerns that children may be unsafe. This may include, for example: Justice Services for adults (including prison facilities with babies and young children in them); adult-focused health care services including primary care, hospitals, acute and community mental health services and Alcohol and Other Drug Services.

Q11: Should any organisations be excluded from complying with the National Principles?

No.

How should legal compliance with the National Principles be implemented?

The oversight body will work with organisations that need to comply with the National Principles for Child Safe Organisations (National Principles) either directly or with their sector regulators, peak bodies, funding agencies or sector leaders so they are capable of implementing the National Principles. The [WA Commissioner for Children and Young People](#)

has developed tools to assist organisations to implement the National Principles and work is also underway in some sectors both nationally and at the state level to encourage implementation.

Given the work that has happened to date, we are interested in your views on whether compliance with the National Principles should apply to all types of organisations in scope at the same time, or whether it should be phased over a period of time. In Victoria, legal compliance with the National Principles was phased over two years. Organisations that were funded or regulated by government were in the first phase, and organisations with limited or no funding or regulatory arrangements with government were in the second phase. The proposed reportable conduct scheme (summarised at the end of this survey) will be phased in over two years.

Q12: Should the legal requirement for organisations to comply with the National Principles occur at the same time or be a phased approach?

- All at the same time Don't know
- A phased approach with different types of organisations commencing at different times (for example, organisations that exercise a high degree of responsibility for children and where there is a heightened risk of child abuse)

Q13: If you think implementation should be phased, which types of organisations should be in the first phase and why?

N/A

Q14: Is two years a reasonable timeframe for all organisations to legally comply with the National Principles?

- Yes No Don't know

Q15: If no, what do you think would be a reasonable timeframe and why?

Child Wise endorses in the strongest terms the Western Australian Government's work to regulate and monitor the National Principles for Child Safe Organisations as well as supporting the capacity of organisations to meet these Principles. Child Wise agrees that two years is a reasonable timeframe to require full compliance from in-scope organisations.

However, based on Victoria's experience, for this timeline to be met we recommend that the Oversight System includes adequate, transparent, and consistent structures, guidance and capacity building supports. To successfully meet this timeframe, the Oversight System will require a clear compliance framework that outlines expectations for how organisations will meet regulations, including the consequences of failure.

The System will also need to build in time to allow for the regulatory body to build its own capacity to fulfil its mandate. Furthermore, the regulatory body and the framework must be sufficiently resourced to create and provide capacity building and training resources to organisations.

We also encourage the Government to factor the real costs for organisations to undertake this critical work. To meet this – or any reasonable timeframe, Child Wise recommends that the Western Australian Government adequately funds organisations to undertake and incorporate the institutional strengthening or capacity building efforts that will enable full integration of the 10 National Principles for Child Safe Organisation.

Supporting organisations to be child safe

To help organisations implement the National Principles for Child Safe Organisations (National Principles), the Joint Standing Committee for the Commissioner for Children and Young People in its recent report *From Words to Action: Fulfilling the obligation to be child safe* asked government to give serious consideration to professionalising the role of a child safeguarding manager so there are people skilled in child safe practices to assist organisations with developing a child safe workforce, and child safe strategies and processes.

The Joint Standing Committee suggested that child safeguarding managers could be made available in a variety of ways, such as being located within organisations, across sectors or professional bodies, positioned within government, or have

designated positions established as part of the independent oversight capability building support function for the National Principles.

Q16: Do you think organisations would benefit from having access to a child safeguarding manager?

Yes No Don't know

Q17: How do you think organisations would prefer to access a child safeguarding manager?

1 Oversight body

1 Sector regulator

1 Peak body

1 Professional body

Child Wise has marked each selection as a '1' because it is our view that for a successful Oversight System, both the oversight body and the sector regulator should include a child safeguarding management role. We also propose that peak and professional bodies for organisations that are in-scope of the system would best position their industries for success by including a child safeguarding manager. This enables a coordinated approach to establish industry specific capacity building.

Child Wise also supports the recommendation (6.12) of the Royal Commission that local governments should designate child safety officer positions. Child safety officers are intended to promote child safety within the organisation and support smaller community-based organisations which provide services to children to create child safe environments. We note that these roles are currently under discussion within the WA local government sector and recommend that consideration is given to how these roles intersect and coordinate with any proposed oversight body or other child safeguarding manager roles.

Based on the description above, the position title of Safeguarding Advisor (rather than manager) may capture the function more accurately and be better understood by sector organisations. It may be helpful to explore this further with the sector.

Q18: What skills and qualifications should a child safeguarding manager have?

A Child Safeguarding Manager must possess high level child safeguarding skills and knowledge, as well as experience in translating these skills into organisational change, with sufficient power to influence institutional cultural change. Skills, knowledge, and experience should include:

- Demonstrable ability to engage effectively with children and families.
- Expertise in child safeguarding and trauma-informed care;
- Expertise in change management and adult education
- Leadership engagement with a particular focus on fostering cultural change within organisations. By prominently setting out the ways in which the Child Safeguarding Manager could work with leaders to develop open and aware organisational culture, the role could reinforce the significance of National Principle 1 and underscore the importance of culture in embedding consistently effective child safeguarding practice.

What powers should an independent oversight body have?

The oversight body will work with organisations to build their capability to implement the National Principles for Child Safe Organisations (National Principles), monitor their progress, identify where further support may be required, and take action in circumstances of non-compliance. This section seeks views on the scope of some particular functions the oversight body may require.

Working with sector regulators and leaders – co-regulation

Many organisations engaged in child-related work are already covered by a sector regulator, such as a school registration authority, or by a peak body. The independent oversight body could work with these other bodies so that organisations do not have to deal with multiple regulators. This could range from capability building activities to delegating compliance monitoring and enforcement functions if the sector regulator had sufficient powers.

An example of how a co-regulatory approach may work in practice is where an organisation is required to be registered or obtain a permit and meeting the National Principles is made a requirement of registration or holding the permit. The oversight body could delegate a function to the sector regulator to monitor that organisation's compliance with meeting the National Principles.

A co-regulatory approach would recognise that a single oversight body may not have the capacity to oversee the large number of organisations to be covered by the National Principles which, in WA, is estimated to be 25,000.

Q19: Could a co-regulatory approach to monitoring and enforcing the National Principles work in your sector?

Yes No Don't know

Q20: If yes, how would you see the co-regulatory model operating?

The WA government could explore co-regulation between legislated bodies, such as the Commissioner for Children and Young People, school registration bodies and the non-government sector where the former provides regulatory oversight and the non-government sector supports through capacity building. Organisations such as Child Wise and several other sector leaders have expertise, flexibility, knowledge and skills to augment the work of the regulatory body. Co-regulation would rely on the implementation of a rigorous framework which assures the quality, reliability and integrity of the system.

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 - *Best Practice Principles in Responding to Complaints of Child Sexual Abuse in Institutional Contexts* - can be found [here](#). In that 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.

Q21: If no, why not?

N/A

Ensuring child safe organisations - compliance monitoring and enforcement powers

The Royal Commission recommended that the oversight body takes a responsive, risk-based approach to monitoring and enforcement of the National Principles for Child Safe Organisations (National Principles). This would involve a range of persuasive strategies, such as capability building through education and advice escalating to more coercive strategies such as notices to comply and financial penalties. The oversight body's choice on which strategy it uses would be based on the level of risk to children and young people and how the organisation responds to the strategies.

The diagram on the next page (Figure 1) developed by the Office of the Children's Guardian NSW, which has been allocated the independent oversight role in that State, shows how the responsive, risk-based approach could be applied.

Monitoring strategies by the oversight body could include reviews, investigations and reports supported by information gathering powers, such as the power of entry to inspect premises and observe activities, and the power to compel the production of documents.

A question for consideration is whether the power of entry should be exercised with or without warning. In Victoria, section 29 of the *Child Wellbeing and Safety Act 2005* (VIC) requires the oversight body to provide seven day's notice of an inspection but allows for inspection without written notice in exceptional circumstances if the relevant entity consents to the inspection.

Other strategies could include embedding requirements in procurement processes, contract creation and contract management. The WA Department of Finance has included a clause in community services and commercial contract templates to encourage compliance with the National Principles.

Possible enforcement strategies could range from seeking a declaration from a court for non-compliance if an organisation does not produce requested documents or fails to rectify non-compliance, financial penalties, public naming of non-compliant organisations, deregistering an organisation, or suspending or terminating the funding of an organisation.

Q22: What powers should the independent oversight body have to enforce 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. Enforcement is the only way to give teeth and gravitas to what is being instituted. Without it, the scheme may appear to be 'lip service'. The compliance system must be supported by external monitoring against a defined framework.

However, enforcement approaches must be proportionate and appropriate. For example, a fine may not be a sufficiently strong deterrent to an egregious breach.

Child Wise agrees that the Office of the Children's Guardian NSW's Community Awareness and Education sliding scale model (provided as an example in this Survey) 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's – Issues Paper 3 - Creating Child Safe Organisations & Communities (which can be found [here](#)) Child Wise recommended a compliance approach that incorporates both preventative and reactive monitoring. In summary, this would include:

Preventative Self-Compliance Monitoring Mechanisms.

Self-compliance should consist of a documented assessment against an established framework. At a minimum 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, and arguably the signature should be witnessed by a Justice of the Peace to express the weight placed against honesty within the document. It is our view that this mechanisms is insufficient on its own, and that many organisations are not cognisant of their deficiencies in child safe culture or practices.

Preventative Third Party Monitoring Mechanisms

As above, but to be facilitated by a third party. Third party monitoring of compliance should be conducted periodically by the 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 be compelled to participate in preventative monitoring and that both third party and self compliance assessments must go to the Regulatory Body for approval.

Reactive Monitoring

Reactive monitoring should be based on a complaints mechanism which requires organisations and institutions to report any incidents, allegations, or complaints of child abuse or grooming behaviour. Reactive monitoring might be linked to the incoming Reportable Conduct Scheme and should be enforceable through the courts.

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.

Q23: Should the oversight body be able to exercise the power to enter an organisation without warning?

Yes No Don't know

Such a power should be available and used proportionately to respond to child safeguarding concerns including non-compliance with standards.

Q24: What sanctions and penalties should apply for non-compliance?

While Child Wise appreciates the need to take a supportive, capacity building approach to incentivise organisations to strengthen child safe practice (and indeed see the clear need for it) we believe agree that sufficiently serious and proportionate sanctions and penalties are a required deterrent. A sliding scale approach to penalties and sanctions provides an opportunity to strike this balance. A sliding scale might include:

- Confidential recommendations, against the framework.
- Public recommendations for corrective action. The public nature of penalties offers a level of transparency which means children, young people and families can be informed consumers of services. They can therefore be seen as clear demonstration of how serious the Government is in its commitment to the safety of children and young people.
- Financial penalties. Allowances for maximum financial penalties must be significant enough to deter.
- Licence, contracting or tendering suspensions. Without the inclusion of potential licencing, contracting or funding cuts, it is difficult to see how there would be a wholesale mandate for change.

Supporting children and young people to make a complaint of abuse

The Royal Commission recommended that an independent oversight body in each state and territory be responsible for monitoring and enforcing the National Principles for Child Safe Organisations (National Principles), and noted that governments could enhance the roles of existing children's commissioners or guardians for this purpose.

The Joint Standing Committee for the Commissioner for Children and Young People in its report *From Words to Action: Fulfilling the obligation to be child safe* suggested the Commissioner for Children and Young People would be suitable for this role in WA.

The Commissioner for Children and Young People has also released a [discussion paper](#) in support of his office being given the oversight role for the National Principles and for accrediting out-of-home care providers against particular standards, including the National Principles, and compliance monitoring against those standards.

In developing the oversight system, an important function to consider is support for children and young people who are trying to navigate the system and make complaints of abuse, particularly for children and young people who do not have a parent, family member or carer who can represent their interests. The Joint Standing Committee's report particularly highlighted the need for children in care to have access to independent individual advocacy.

The Commissioner for Children and Young People has a role to advocate for children and young people at a system level, but does not have a function to provide advocacy for individual cases. The Advocate for Children in Care within the Department of Communities provides individual advocacy for children in care.

An individual advocacy function within the independent oversight system could include assisting children and young people navigate complaints processes and representing the interests of children and young people in formal complaints processes.

There is no best practice model in Australia for the combination of oversight functions with advocacy functions, but an important issue to consider is whether the function to advocate for individual children and young people and their current experiences while also being tasked with reviewing and overseeing compliance and responses creates a potential or perceived conflict of interest. We are interested in your views of the role and scope of an individual advocacy function within the independent oversight system.

Q25: What should the scope of the individual advocacy function be within the independent oversight system?

The Independent Oversight System could include individual advocacy for children and young people who are navigating complaints processes. As is explored further in question 26 below, there is a potential opportunity to align systemic and individual advocacy more closely, so that children's experiences at a frontline advocacy level, can more seamlessly inform change at a structural and policy level. If a decision was taken to include an individual advocacy function within the Independent Oversight System, consideration should be given to developing it as part of a menu of advocacy options available for children and young people; such an approach would align to the principles of trauma-informed care, particularly regards choice and flexibility. In this way, advocacy functions such as the Advocate for Children in Care within the Department of Communities, would not be replaced by the Independent Oversight System, but rather children and young people would have access to a broader range of advocacy options. In addition, advocacy support provided by the community and not-for-profit sectors should continue to be funded and promoted as an important advocacy option, particularly as these organisations often have specialist knowledge and experience in supporting children and young people who may be more vulnerable including, children and young people with disability, Aboriginal and Torres Strait Islander children and young people, LGBTIQ children and young people and children from culturally and linguistically diverse backgrounds.

Q26: What are the challenges and opportunities with having an individual advocacy function and a compliance monitoring and enforcement function being together or apart?

As noted above, a key opportunity in bringing individual advocacy and compliance monitoring together is that this closer alignment can strengthen effectiveness of each of these functions. Learning which arises from advocating for children and young people at an individual level can more seamlessly inform systemic and structural changes. In addition, positioning individual advocacy within a single governance structure alongside compliance monitoring may improve information sharing and the timeliness of decision-making.

A key challenge in aligning these functions is the potential for conflicts of interest, or the perception of conflicts of interest; this is explored in question 27.

Q27: If the functions are together, how should the potential and perceived conflicts of interest be managed?

Bringing these functions together may result in real or perceived conflicts of interest. There is a risk that stakeholders involved in either the advocacy or compliance monitoring roles of the Independent Oversight System may be concerned that decisions have been impacted by the alignment of functions. Regards individual advocacy, this concern can be mitigated by ensuring stakeholders have a range of advocacy options (as set out in question 25) and that systems exist to

enable stakeholders to access other advocacy options should they be concerned about the effectiveness of advocacy offered by the Independent Oversight System. Mitigation can also be built into governance systems and structures, ensuring there is sufficient independence of roles/functions within the Independent Oversight System, e.g. clearly defined and separate line management arrangements and decision-making functions. Further, a clearly articulated complaints process, inclusive of a process for appeals and mediation, can go some way to mitigating potential and perceived conflicts of interest.

Q28: If the functions are apart, what would need to be put in place for information gathered as part of the advocacy role to inform the complaints monitoring function?

If the functions are apart, there will need to be robust information sharing systems in place to ensure information gathered as part of the advocacy role informs the complaints monitoring function. In order to instill confidence in stakeholders, the information-sharing process will need to be clearly articulated to children, young people, families and communities to ensure they are clear about how their information will be utilised.

Other comments

Q29: Are there any other comments you would like to make to inform the design of the independent oversight system?

Child Wise is a strong advocate for organisational child safe standards. We regularly bear witness to the significant, sustained cultural changes that can be brought about by clearly articulated and effectively implemented standards.

Child Wise is grateful to have had the opportunity to contribute to the development of the WA Independent Oversight System and welcomes its implementation. Should you have any questions about this submission or wish to discuss any aspect of it, please contact me.

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