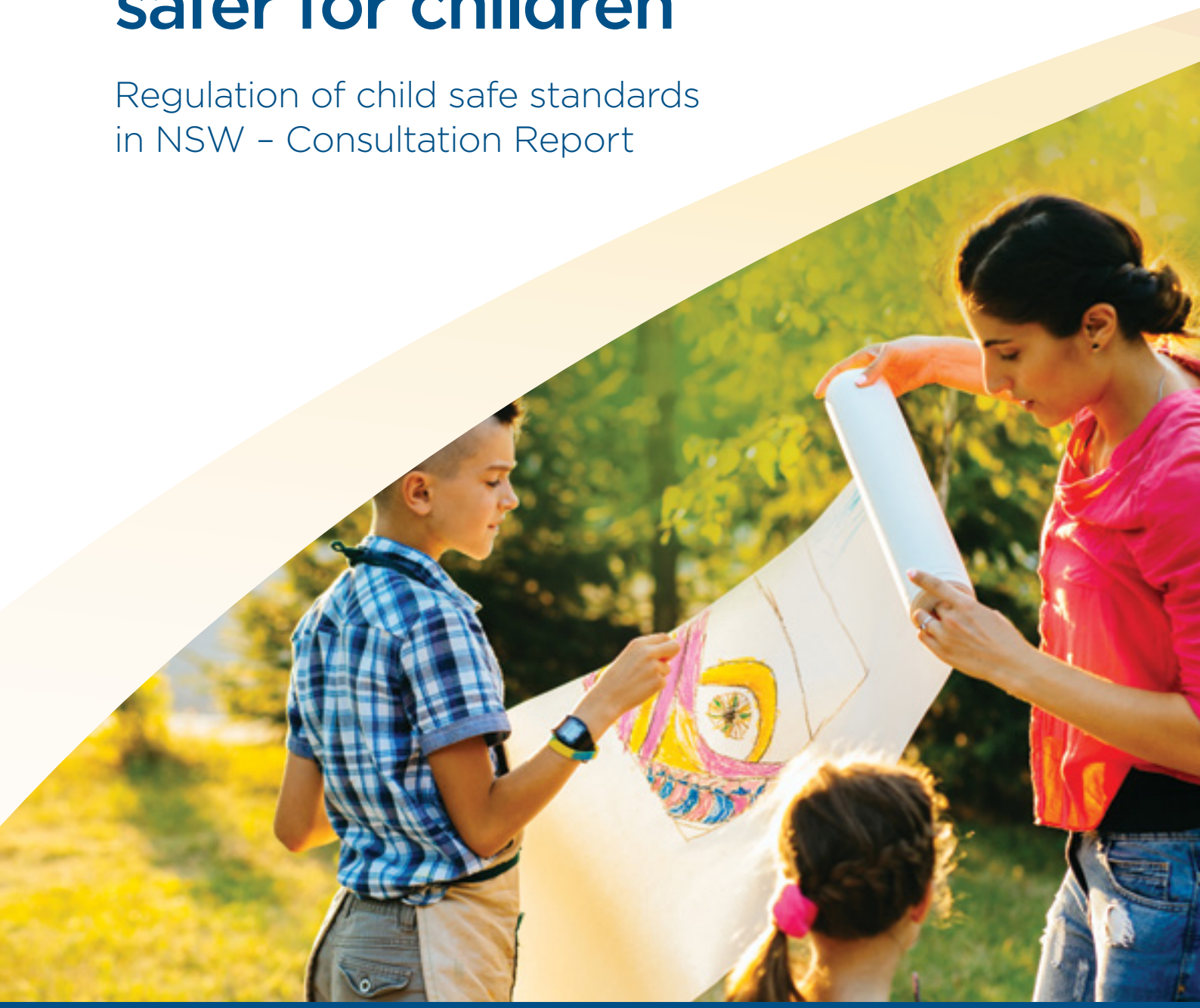
Making organisations safer for children

Regulation of child safe standards in NSW – Consultation Report



NSW GOVERNMENT

Office of the Children's Guardian

The Office of the Children's Guardian (OCG) is working to design and implement responses to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).

The NSW Government accepted, or accepted in principle, all 24 of the Royal Commission's recommendations for making organisations safer for children. This included adopting the Royal Commission's child safe standards and the in-principle acceptance that organisations that engage in child-related work should be required to meet the child safe standards.

This Consultation Report provides information about the feedback we received. It identifies areas or actions for the OCG to consider or undertake as we refine the approach. This report also builds on the discussion paper to provide more detail around what we are proposing the new child safe scheme could look like.

Definition of a child safe organisation

Child safe organisations create cultures, adopt strategies and act to prevent harm to children, including child sexual abuse. The Australian and New Zealand Children's Commissioners and Guardians define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm to children
- creates conditions that increase the likelihood of identifying and reporting harm
- responds appropriately to disclosures, allegations or suspicions of harm.

Contents

Message from the Children's Guardian

The Royal Commission shone the spotlight on thousands of cases where organisations in Australia failed to protect children in their care from abuse. It highlighted that abuse that occurs within an organisational context is not just a problem of the past, it continues today. Many victims and survivors were motivated to tell their story to the inquiry to prevent harm to children, now and into the future.

The child safe standards recommended by the Royal Commission, provide a framework for making organisations safer for children. Based on extensive research and consultation, the standards provide tangible guidance for organisations to create cultures, adopt strategies and act to put the interests of children first to keep them safe from harm.

I am proud that NSW Government tasked the Office of the Children's Guardian to design an approach to regulate child safe standards in NSW that reflects the intention of the Royal Commission's recommendations. Our organisation is leading the way to create safe places for children and young people. Our purpose is to promote and regulate the quality of child safe organisations, services and people. Over the past few months, we have spoken to many individuals and organisations about how this should be done, and we released a discussion paper outlining a proposed model.

The proposed regulatory model would require certain types of organisations to implement child safe practices guided by the child safe standards. The intention is to drive cultural change to enhance child safety.

The approach would be responsive, focusing on building the capability of organisations to be safer for children. This approach recognises that the majority of organisations that deliver services to children are safe for children, while also acknowledging that more can be done to prevent, identify and effectively respond to abuse when it does occur.

My Office is committed to providing real and practical support to build organisational capability. You've told us that this approach needs to be supported by a robust monitoring and enforcement framework to be effective. We are committed to working collaboratively with organisations to provide ongoing guidance and support, and a level playing field for all organisations interacting with children.

The reach of the new child safe standards scheme will be significant, applying to around 27,000 child-related organisations in NSW. We do not wish to restrict the growth of sectors with their implementation, nor do we want to burden organisations with unnecessary or duplicative regulatory requirements. That's why the model takes a principle based, responsive and collaborative approach to regulation, with enforcement mechanisms available to ensure a level playing field should an organisation demonstrate a consistent unwillingness to implement child safe practice.

Raising awareness and building an understanding of child safe practice by setting outcome-focused expectations through child safe standards will help prevent organisations being overburdened with regulation. A prescriptive approach would not only be difficult to implement across a vast array of organisations but would also not recognise the existing strengths and commitments within organisations. Strong leadership and collaboration across government and affected sectors will also be essential to establishing clarity about expectations and reducing duplication of effort.

We consulted on the proposed model in three ways: a formal consultation paper and submissions; face to face meetings; and an online survey. We met with representatives from over 50 government agencies, non-government agencies, regulators, and peak bodies that represent child related sectors and received 58 written submissions to our consultation paper. One-hundred and sixty-two people provided feedback through our online survey.

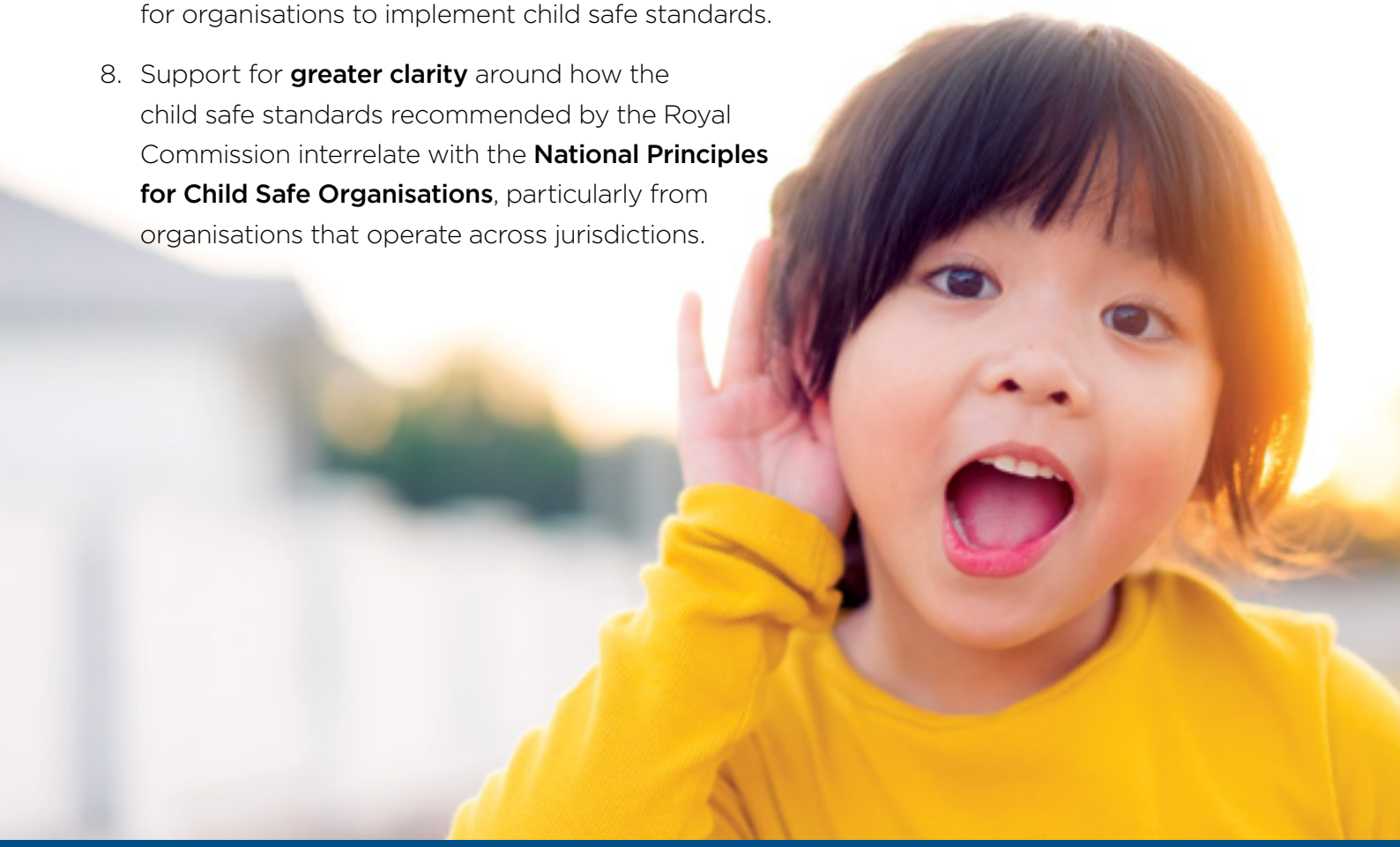
I want to personally thank all the individuals and organisations that committed their valuable time and effort to engage with us through our discussion paper or online survey, as well as those that met with us to discuss the proposed model. Making organisations safer for children requires strong leadership and sustained, collective effort and action. Our focus is to work together to build organisational capability by providing relevant advice and resources that will help advance the valuable work of organisations providing services to children.

I am encouraged that most stakeholders we consulted supported the general direction we have taken to the regulatory model. This report reflects and builds on your feedback to articulate the key elements of a child safe regulatory model in NSW. We will continue to refine the model with a view to putting a proposal to government later in the year.

Janet Schorer,
NSW Children's Guardian

Key messages

1. Strong support for a **principle-based approach** to regulating child safe standards.
2. Support for the scope of the scheme to include **child-related sectors covered by the Working With Children Check scheme**, or a **broader** range of services than the scope of the WWCC scheme.
3. Strong support for the OCG to have a range of **monitoring and enforcement powers** to facilitate implementation of child safe standards in a **responsive and collaborative way**.
4. Strong support for the OCG to **partner with other government agencies or regulators, non government organisations and sector peak bodies** to support implementation of child safe standards.
5. Overwhelming support for **building organisational capability and providing support** to be the foundation of the approach to regulating child safe standards. Education and training were the most commonly suggested measures to drive capability improvement, followed by adequate guidance through child safe resources.
6. Support for the **community, parents and carers** to encourage child safety by building awareness about child safe practice and holding organisations to account.
7. Strong support for a staged approach to **implementation** with enough time and guidance for organisations to implement child safe standards.
8. Support for **greater clarity** around how the child safe standards recommended by the Royal Commission interrelate with the **National Principles for Child Safe Organisations**, particularly from organisations that operate across jurisdictions.



What you told us

1 Benefits of a principle-based approach to regulation

Most responses to our consultation paper and online survey affirmed support for a principle-based approach to regulating child safe standards in organisations. This is because it:

- enables child safe practices to be implemented in different contexts based on the nature and characteristics of organisations
- enables organisations to approach child safety in a flexible, proactive manner and implement child safe practices in a practical and tailored way
- fosters a culture that supports innovation and continuous improvement
- supports a responsive and consultative approach to compliance that can focus on outcomes and targeted outputs
- enables child safe practices to more easily be embedded in organisational culture and thinking
- enables child safe practices to be embedded into existing regulatory frameworks or capability building work underway by sector peaks or other bodies.

We were told there is real value in having a global, universally applicable statement of what organisations should do to be 'child safe'. This establishes consistent and clear expectations across different organisations and sectors that work with children.

In their submission, Football Federation Australia, Football NSW and Northern NSW Football said:

> Outcome focused standards and regulatory measures empower organisations to develop safeguarding processes within the context of their operations and avoids a purely 'tick box' approach to compliance. Standards and regulatory measures based on outcomes create meaning and are more likely to promote systemic change. Such an approach places the responsibility for determining child safety on the organisation and avoids the potential for over reliance on output measures.

While there was broad support for a principle-based approach, we heard that the use of the word 'principles' to explain something that is mandated by law can be confusing. We were told we will need to clearly communicate expectations around what the child safe standards mean in practice.

The need to balance flexibility with enough guidance

We heard about the importance of balancing the need for flexibility with the need to support organisations to understand what they need to do to implement child safe standards. For example, Baptist Churches of NSW and ACT noted:

> One challenge of a principle-based approach to regulation is how to provide clarity for organisations about how to implement the child safe standards in their context. Our local churches are strongly committed to comply with the child safe standards however there remains some uncertainty and confusion about how to implement them in practical ways in their context.

Similarly, AbSec said:

> A key challenge of a principle-based approach is providing the appropriate clarity for organisations in applying the regulatory frameworks. This requires the regulator to provide adequate guidance and support for organisations in the application of the principles and expectations for complying with the standards.

Guidance is particularly important for smaller, community-based or volunteer-run organisations. These organisations may have limited resources and often have a transient or largely volunteer workforce. A flexible approach can lead to messages and actions being lost or volunteers not knowing what they need to do. Expectations must be easy to understand.

Feedback highlighted the unique challenges of the predominantly volunteer workforce within the sporting and/or community sector, including:

- ongoing difficulty filling volunteer roles and varying skill levels and experience
- volunteers are often time poor and have high turnover rates
- volunteers often 'wear many hats' or need to be a 'jack of all trades' and can be overburdened.

We were told standards requiring too much interpretation could be administratively challenging for organisations with a high volunteer workforce.

Other ways to regulate child safe standards

There was limited support for other ways of regulating. Stakeholders sometimes clarified or confirmed their support for a principle-based approach when they responded to the question about other ways to regulate.

A very small number of responses to our online survey did not support a principle-based approach to regulation. One responder said a principle-based approach groups very different types of organisations together and would place unnecessary administrative burden on businesses, many of which have limited contact with children.

Some people suggested that a more prescriptive approach to regulation should be adopted. Support for a prescriptive approach was largely related to ensuring organisations understand what is expected of them. This is consistent with comments about balancing flexibility with enough guidance. The Federation of Parents and Citizens Associations of NSW told us:

> A risk of principle-based regulation is that it may create ambiguity for organisations around what they must do to be compliant, whereas a more rules-based framework can provide more clarity for organisations.

What we are proposing – principle-based approach to regulation

- Regulated organisations (see below) would be required to implement **child safe practice**, guided by child safe standards.
- Child safe standards would be **principle-based, and outcome-focused**. They would aim to ensure that the cultural, operational and environmental aspects of an organisation are focused on child safety.
- The **National Principles for Child Safe Organisations** derive from the Royal Commission's child safe standards. Both outline the same elements for child safe practice. We propose approaching regulation in a way that recognises that if organisations are implementing the National Principles, they would be considered to be simultaneously implementing the child safe standards. Monitoring undertaken will involve assessment against the child safe standards as they would be mandatory in NSW.

2 Scope of organisations under the new child safe scheme

Most responses suggested that any organisation that falls within one of the sectors described in the definition of 'child-related work' under the Working With Children Check legislation should also be required to implement child safe standards.

Some supported a wider scope, with a significant number of respondents suggesting that any organisation that provides services or facilities for children and young people should be covered, regardless of the extent of their engagement or the level of supervisory responsibility. This would include organisations such as: shopping centres; doctor surgeries; museums; libraries; and movie theatres. This is beyond the scope recommended by the Royal Commission.

Some responses indicated that only those organisations with no contact, or only incidental interaction with children, or those services where children are under parental supervision, should fall outside the scope of the scheme.

Some responses suggested it would be good practice that all organisations, regardless of whether they are required to or not, should implement child safe standards. Byron Shire Council said:

> All people have a role whether community or professional in keeping children safe. When sighted and suspected abuse is occurring, it should be reported, and organisations should, as a minimum, have an awareness and policy. However, a balance between being regulated and supported to be child safe is important especially in the community sector where there is a high reliance on volunteers.

The Association of Children's Welfare Agencies suggested that other sectors could be brought under the scheme in the future, and this should be prescribed by regulation.

Clarity around scope of child safe standards

Stakeholders called for clear guidance for how organisations will be required to implement child safe standards. This should include clarity around the criteria used to determine which organisations would be required to meet child safe standards, and which organisations would be encouraged to meet standards.

Responses from local government organisations highlighted the challenges arising from their diversity of service provision. Councils reported that they not only deliver direct child-related services but also lease council facilities such as sports centres, pools and community halls to a range of child-related organisations. This makes it difficult to discern Council's regulated responsibilities.

What we are proposing – scope of child safe standards

- A regulated entity would be an organisation where at least one person in the organisation is required to hold or holds a Working With Children Check in New South Wales. An organisation is engaged in child-related work if the services it provides involves the following:
  1. **direct** contact with children and young people, and
  2. that contact is a **usual part** of and **more than incidental to the organisation's work**, and
  3. is in **connection** with the categories aligned to those under the **WWCC** scheme.
- Organisations that are not a regulated entity would be encouraged to implement practices consistent with child safe standards, despite there being no legal requirement.

3 Monitoring and enforcement to achieve child safe outcomes

There was strong support for a central regulator to have a wide range of monitoring and enforcement powers to ensure implementation of child safe standards, where appropriate.

Stakeholders supported an approach to monitoring and enforcing child safe standards that focuses on building capability and continuous improvement. We were told that enforcement activity should be:

- proportional to organisational risk
- proportional to the nature and characteristics of organisations, and
- undertaken in partnership with other entities, where appropriate (see below).

We heard that there needs to be a positive, strengths-based approach to monitoring and enforcement. This would recognise best practice and facilitate an understanding of the values behind child safe standards instead of creating fear of prosecution or punishment.

The Salvation Army said that it:

> supports the proposed approach to the development of oversight and monitoring processes that builds organisational capabilities, capacities and strengthens the quality of the practice through continuous improvement.

NSW Council of Social Service (NCOSS) emphasised the need for a period of support before the commencement of enforcement action:

> Enforcement powers should be implemented following a dedicated program of capacity building for organisations and action taken to enforce compliance should be proportionate.

Football Federation Australia, Football NSW and Northern NSW Football:

> believes that communication in relation to the monitoring and non-compliance of clubs needs to be made to the state sporting organisation in all instances. State sporting organisations can work with clubs to audit, monitor and implement strategies to build the capacity and capability of clubs who are non-compliant. This is more likely to be achieved where the regulator works cohesively with the state sporting organisation as the OCG does now with both FNSW and NNSWF.

Some sectors are not currently subject to government regulation or oversight

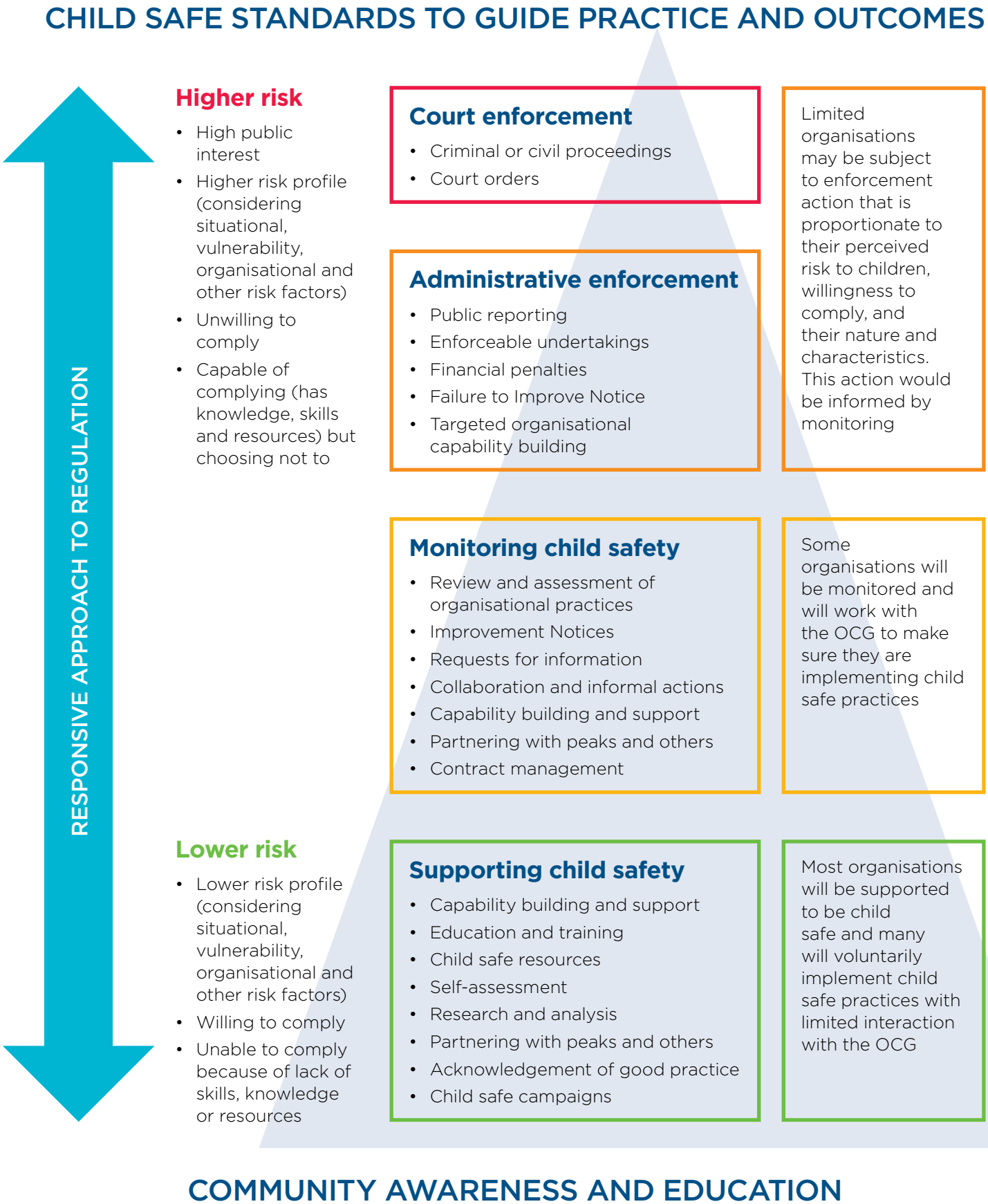
We were told that some sectors that are not currently subject to government regulation or oversight may be challenged – or caught unaware – by the application of a new regulatory scheme. This would be particularly acute for organisations that do not fall under the auspices of a sector peak or other body that would be aware of regulatory changes by government.

A range of monitoring and enforcement tools to support compliance

Responses suggested a range of monitoring and enforcement tools that could be available. These included:

- capability building and support guided by the regulator
- monitoring and auditing of organisations
- site inspections, including inspections without notice
- financial penalties
- public naming of organisations that are not implementing child safe practices, with appropriate safeguards, including published reports and data made available to the public
- disqualification, deregistration or defunding of organisations that are not compliant with the standards
- embedding requirements in procurement processes, including pre-qualification and business processes around procurement
- embedding requirements in contracts (establishing contracts), contract management and accountability for organisations, including business processes around contracts.

Figure 1: Monitoring and enforcing child safe standards



4 Partnering with other entities to reduce duplication and regulatory burden

Most responses to our consultation paper and online survey suggested that the central regulator could partner with other organisations to support regulating child safe standards, such as: government agencies or regulators; non-government organisations; and sector peak bodies. This is consistent with the functions of the regulator noted above, being to foster cooperative and consultative relationships with other organisations to support regulatory efforts.

Relationships could help facilitate system wide implementation of child safe standards and reduce regulatory burden, duplication and reporting requirements. For example, NCOSS told us: 'An approach that requires regulatory bodies to incorporate child safe standards into existing standards, for licensing or accreditation, would assist in streamlining requirements and reducing regulatory burden for organisations.'

Table 1: Examples of suggested partners

Government agencies or regulators	Sector peak bodies	Non-government organisations/others
National Office for Child Safety	National and State Sporting Organisations	Communities, including Aboriginal and Torres Strait Islander Communities
NSW Advocate for Children and Young People	Football Federation Australia	Child Wise
Australian Children's Education & Care Quality Authority	Cricket Australia	Australian Childhood Foundation
NSW Department of Education	Sport Australia	Bravehearts
NSW Department of Families and Community Services and Justice	Swimming Australia	
Juvenile Justice NSW	Ausdance NSW	
NSW Department of Health	Create NSW	
NSW Education Standards Authority	AbSec	
NSW Office for Sport	Homelessness peaks	
NDIS Quality and Safeguards Commission	Centre for Volunteering	
Their Futures Matter	Association of Children's Welfare Agencies	

Avoid or reduce duplication with existing regulatory frameworks

Stakeholders reported that there is significant overlap with child safe standards and some existing standards and quality frameworks. We were told that too many regulatory requirements can create confusion and add significant resource burden for organisations.

Many stakeholders highlighted the National Quality Standard (NQS) for early childhood education and care and out school hours care services as an existing framework that we should consider.

The NSW Department of Education identified overlaps between the seven quality areas of the NQS and the Child Safe Standards recommended by the Royal Commission. It highlighted that it has regulatory responsibilities for approximately 5,400 early childhood education services under the Children (Education and Care Services) National Law, as well as over 2,200 NSW public schools.

The City of Sydney Council recommended that the OCG work with the Australian Children's Education and Care Quality Authority and the Early Childhood Education Directorate within the NSW Department of Education for the child safe standards to be included within the National Quality Framework.

Similarly, the homelessness peaks in NSW (Domestic Violence NSW, Yfoundations and Homelessness NSW) suggested that OCG map child safe standards against accreditation requirements for specialist homelessness service providers and any regulatory schemes that may apply to domestic and family violence services. This would be to ensure an integrated regulatory framework.

Other stakeholders suggested that the OCG work in partnership with other entities to support regulation of child safe standards across organisations. This could involve the OCG maintaining overall responsibility for the regulation of child safe standards, while leveraging existing government and non-government schemes to achieve outcomes. This might include, for example, incorporating child safe standards into existing accreditation or auditing processes undertaken by regulatory bodies or sector peaks, with the OCG being responsible for monitoring and enforcement.

Of co-regulation within the sporting environment, Football Federation Australia, Football NSW and Northern NSW Football said it is 'difficult' but:

> there is a strong opportunity for co-regulation to be led by the government organisations which support and guide the sporting bodies such as Sport Australia. This can be done through their current auditing processes, which national sporting organisations are required to engage in. The NSW Office of Sport and the National and State Sporting Organisation which govern clubs may also be able to be appointed to co-regulate clubs.

A partnership approach was noted as important for Aboriginal Community Controlled Organisations. AbSec told us:

> A principle-based approach, administered in genuine partnership with Aboriginal Community Controlled Organisations (including an appropriately empowered co-regulator), will support implementation of the principles in a way that is tailored to Aboriginal children, families and communities. Such an approach is necessary to effectively deliver on the best interests of Aboriginal children and young people, keeping them safe from harm and ensuring systems are directly accountable to Aboriginal communities for their care taken of Aboriginal children and young people.

NDIS Quality and Safeguarding Framework

We are aware of the importance of considering the specific needs of organisations delivering services to children with a disability, particularly given the changes occurring through the National Disability Insurance Scheme (NDIS). The Disability Trust reported that the NDIS Quality and Safeguards Commission would make a suitable co-regulator for NDIS service providers as the principles that underpin the quality and safeguarding framework align closely with the principles for child safe organisations.

Challenges with co-regulation and the need for information sharing

We were told that the incorporation of child safe standards into existing regulatory and quality frameworks may result in the standards having a reduced priority in the context of these existing frameworks. Conflicts of interest may also arise if the responsibility for regulating child safe standards were placed on entities that deliver regulated services. This could undermine the effectiveness and integrity of the child safe scheme.

Information sharing was also highlighted as a potential challenge for co-regulation, noting that, if implemented, regulatory responsibilities would be distributed among multiple agencies. We were told provisions should be established to ensure two-way information sharing between co-regulators. This could include the two-way sharing of information between other co-regulators and the OCG.

We recognise that the sharing of information can significantly assist organisations to manage risk of harm to children and young people. We were told information sharing, supported by clear and comprehensive information sharing protocols would support monitoring and enforcement. It would also minimise duplication and reduce the number of interactions that organisations have with co-regulators.

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* facilitates information sharing in and across numerous sectors to support the safety, welfare and wellbeing of children. The scheme applies to a range of government and non government agencies and organisations, as well as some individual service providers. This includes a public service agency or a public authority.

We acknowledge that sharing information related to the safety, welfare and wellbeing of children is not consistently available to all agencies. We will consider this matter further in the context of further changes.

Working with other sector leaders

Some stakeholders suggested that non-government sector leaders could help deliver child safe capability building and support.

What we are proposing – co-regulation

- The OCG – as the central regulator – would partner with sector regulators, peak bodies and other entities where appropriate to reduce regulatory duplication and facilitate consistency with other child safe frameworks. These arrangements would be entered into on a case by case basis with clear roles and responsibilities articulated in formal arrangements.
- The central regulator would also enter into partnerships with peak bodies and community-run entities to deliver capability building and support measures as required (see below).

5 Capability building and support to help organisations implement child safe practice

In our discussion paper, we referred to building the 'capacity' of organisations to implement child safe practice. As we have continued to refine our thinking and speak with stakeholders, it has become increasingly evident that the term 'capacity' may not place enough emphasis on building child safe knowledge, skills and abilities. We believe 'capability' building more accurately reflects our intention to work with organisations to build the skills, knowledge and abilities required to implement, and continuously improve, child safe practices. We have therefore used the term capability throughout this document and will continue to do so throughout the process.

Almost all responses to our discussion paper and online survey suggested that organisations should be supported to build capability to implement child safe standards. Stakeholders were encouraged by the proposal that capability building and support would be the foundation of the regulatory scheme. This approach can drive cultural change and improve the implementation of child safe standards over time.

The Salvation Army told us they support:

> the OCG's perspective that the implementation process is developmental for the majority of organisations, and that a substantial part of their role is to support and guide organisations to becoming child safe … The capacity of OCG to build relationships with individual organisations will be of significant importance to support the change process and ongoing implementation of the standards.

A range of capability building and support measures to achieve child safe outcomes

Education and training were the most commonly suggested measures, complemented by child safe resources, to boost organisational capability. We heard that these approaches should include both general guidance and sector specific elements. Stakeholders told us education and training needed to be targeted and tailored to different contexts.

Other measures suggested included:

- best practice research and policy development
- self-assessment (to assist organisations to understand the extent to which they are already a child safe organisation and where they could improve practice)
- detailed guidance for different sectors
- template policies and procedures
- dedicated key contact personnel at the OCG
- a telephone hotline
- sector or local child safe champions
- education roadshows.

We were told that the prioritisation of capability building and support measures should be targeted and based on risk of harm to children and young people and/or risk of non-compliance. This would help facilitate the appropriate use of resources and ensure support for organisations is directed to those that are in most need.

Building on sector experience and expertise

Stakeholders told us it will be important to build on current approaches and use sector experience and expertise. This is because of the significant work already underway to support child safe organisations. We heard peak bodies would be a valuable partner in implementing this approach.

Supporting good governance and record-keeping practices

The State Archives and Records Authority of NSW emphasised the importance of the Royal Commission's recommendations about records and recordkeeping principles. Good recordkeeping is an important part of being a child safe organisation and is embedded in organisational leadership, governance and culture. We acknowledge the need to consider support and guidance around recordkeeping practices. This is particularly important for smaller organisations that may have limited resources.

Funding would be required to implement child safe practices

Some stakeholders indicated that they would require additional funding to help implement child safe standards, for example through grants to peak organisations. Scouts Australia said they:

> are naturally concerned about the impact on organisations such as ourselves regarding the cost of training and materials associated with the proposal. Our position is that any such proposal would require a significant level of government funding attached to it, to assist us and other such organisations with appropriate implementation.

Similarly, the Children in Care Collective noted that enough funding to support capacity building activities will be essential for the effective implementation of the standards.

The Victorian Commission for Children and Young People told us that targeted seed funding allocated to peak bodies in Victoria proved a good strategy to raise awareness and build organisational capability supported by those peaks, particularly during the early implementation of their child safe standards.

Ensuring an age-appropriate approach

When we use the terms 'child' and 'children', we are referring to persons under the age of 18 years. YMCA NSW told us 'feedback received from young people indicates that the continued use of the term 'child' or 'children' means that these standards are not targeted towards them … by only having child safe standards, young people may feel disconnected from the process as they are not children.'

We acknowledge the need to consider how to engage and empower children and young people in an inclusive and age appropriate way. We will also need to consider how to support organisations working with children and young people of different ages to understand and implement the standards when building capability and developing support measures.

Community, parents and carers to help drive cultural change

Most responses to our consultation paper and online survey suggested that the community, parents and carers should be supported to create child safe organisations by building awareness about child safe practices. This type of approach will support the regulatory model, as it would enable parents and carers to affect culture change across the sector. As a consumer of services, parents should be informed about an organisation's child safe practices, be supported to identify what makes an organisation safer for children and have information available about who to speak to if they have concerns about an organisation's practice.

Faith-based organisations emphasised the importance of public awareness campaigns that encourage parents and families to ask the 'right questions' to keep organisations accountable. The Anglican Diocese of Sydney suggested the OCG could: 'Engage in a public awareness campaign to assist individuals and community groups to become aware of their role in keeping organisations accountable and child safe'.

The City of Sydney said:

> the OCG should explore the feasibility of providing training to communities and families to understand child safety issues, their responsibilities as parents and rights of their children.

Overall, responses suggested awareness raising could be achieved through:

- community awareness campaigns recognising it is everyone's responsibility to keep children safe
- child safe (and language based) resources developed for parents and carers
- community meetings and education roadshows.

Certification of child safe training was suggested

Two stakeholders suggested the establishment of a scheme to certify or accredit non-government organisations that offer training and support to other organisations in becoming child safe. They proposed that this approach could assist with reaching the significant number and of diverse organisations that would be subject to regulation, while also setting benchmarks for child safe training practice standards.

We agree that there are potential benefits, including those above. We have previously and have previously consulted on, and have commenced exploring, opportunities to establish a scheme to certify training packages prepared by external training organisations. We are not, at this time, proposing to explore certification or accreditation of training providers. This type of approach will provide an opportunity for the regulator to consider what components should form a part of child safe training packages offered by external organisations, and to seek to implement a process that gives a level of quality assurance, consistency and transparency. It is proposed that the process be voluntary, and that organisations wishing to seek certification or endorsement of specific packages have the option to do so.

The OCG will continue to deliver free training, resources and other support to assist organisations to build their capability to be child safe.

A child safe tick or 'rating' was raised

Some responses suggested the need for a child safe 'tick' or rating. For example, the St Vincent de Paul Society suggested that the regulator could support parents, families and communities to encourage organisations to be child safe by developing an easily identifiable visual symbol of organisational compliance. Similarly, the Centre for Volunteering suggested organisations could identify their compliance with child safe standards 'by the use of an OCG approved statement or symbol of compliance, such as the former Heart Foundation Tick of Approval'.

Stakeholders that indicated support for a child safe 'tick' or rating generally did not identify risks associated with this approach. However, some risks identified with this approach during face to face consultation include that a child safe 'tick' or rating:

- is only a point in time assessment of an organisation's child safe practices
- may provide a false sense of security to parents, carers and the community about child safety
- may not support an organisational culture of reflection and continuous improvement because of an overreliance on the rating or 'tick'
- may remove the need for an organisation to promote, and be transparent about, its child safe practices with parents, carers and the community.

What we are proposing – building organisational capability and providing support

- capabilitybuilding and support efforts would be prioritised based on evidence, risk of harm to children and young people and to organisations that need the most support.
- Efforts would include building community (including parents and carers) and organisational understanding of child safe standards and the role of the OCG. The OCG would collaborate with government agencies, regulatory and other peak bodies to develop their capability to support, educate and encourage child safe practice.
- Organisations would be assisted to implement child safe standards through, for example, education and training, e-learning and child safe resources, and other capabilitybuilding measures.
- Tailored support would be provided to help different sectors understand the application of child safe standards in different operational contexts.
- A self-assessment tool cuts across capability building and compliance. It will be a requirement that all regulated entities complete the self-assessment at commencement of the regulatory scheme. The tool will act as a 'health check' for organisations, by helping them understand what they could do to make their environments safer by implementing child safe practice, guided by the standards, and linking them to trusted resources and other support. The results of these assessments will also assist the OCG to identify areas for targeted capability building at the sector level.
- A scheme to certify resources to be developed, which incorporates minimum standards to benchmark the quality of child safe training resources being delivered by training providers in NSW.

6 Implementation over time to support organisations and reduce burden

We heard a strong call from stakeholders for a staged approach to implementation. For example, by rolling out capabilitybuilding initiatives first before commencing compliance activity, segmenting compliance areas, or focusing on higher risk organisations or specific sectors first – with enough time and support for organisations to implement.

Tweed Shire Council told us:

> A staged approach could be used to cater for the various levels of involvement and maturity across the child safe lifecycle of organisations. For organisations which have direct unsupervised contact, [for example] child care and education who already have more regulation and reporting awareness, capacity and skills the time frames could potentially be more aggressive than for organisations who need to start with the basics of awareness, understanding their responsibilities and creating policies and procedures.

One response to our online survey said:

> Start with a 'grace' period which allows organisations to get used to the idea of meeting the standards, and also educating them and supporting them to make the changes they need. While supporting them, they should also know the importance of complying and that will also mean educating them about future implications if they don't comply.

We were told that implementation of child safe standards has the potential to disrupt organisations and service delivery. Some services would be impacted more than others, such as services delivered by volunteers and small community-based organisations, or sectors already going through significant change.

Overall, however, responses suggested implementation timeframes should be long enough to give organisations the opportunity and support to build organisational capability, but not so long that there is no urgency or that momentum is lost. Implementation timeframes suggested ranged from six months to ten years. We were told enough time would help mitigate risks associated with implementing child safe standards.

What we are proposing – implementation

- Implementation will be conditional upon government approval. The OCG will communicate the stages of implementation to all affected organisations and agencies.
- It is likely a Bill will be introduced into Parliament in late 2019 or early 2020 to establish the legislative framework for the new child safe scheme.

7 A national approach to child safety

A significant amount of work is currently underway to improve child safe approaches across Australia. The National Principles for Child Safe Organisations have been endorsed by all jurisdictions. The National Office for Child Safety was established in 2018 following the release of the Royal Commission's Final Report and is working to ensure Commonwealth-run and funded organisations implement the National Principles. The Victorian Government is also reviewing its child safe standards, which will inform ongoing work to develop a nationally consistent approach to child safe standards in Australia. Work is also progressing in other jurisdictions.

Some stakeholders – particularly those with a national footprint – indicated the current national landscape for child safe reform is complex. Differing legislation, regulation and reporting requirements across states and territories can make working across jurisdictions challenging. Faith-based organisations also highlighted the great diversity in terms of financial and human resources, with some having access to considerable funding to implement child safe standards.

The St Vincent de Paul Society said:

> Differing legislation, regulations and reporting requirements across the states of Australia makes working in children's services across state boundaries complex. As such, the Society advocates for a national approach to the following: WWCC; police check; reportable conduct; reporting frameworks and legislation for ROSH reporting; information sharing across state and territory borders.

The Salvation Army suggested this could be strengthened by nationally consistent and coordinated approaches to standards, legislation, regulatory compliance and governance requirements.

We were told there should be considered effort to support a national approach to child safe organisations across Australia. The benefits of a national approach to child safety include:

- providing equal protection for children across all organisations engaging with or providing services to children, regardless of their location
- reducing opportunities for potential perpetrators to seek out jurisdictions or organisations with less rigorous child safety requirements
- sending clear messages about what it means for an organisation to be child safe facilitating national collaboration on capacity building and support, and continuous improvement
- helping organisations working across borders to comply with the standards
- promoting effective responses to the needs of all children regardless of their diverse experiences, circumstances and needs.

What we are proposing – a national approach

- The OCG will continue to work with other jurisdictions – including the National Office for Child Safety – to **promote a nationally consistent approach** to capability building and other regulatory measures to improve children's safety in organisations.
- The NSW Government is already acting to **streamline child safe regulation**. Consistent with suggestions from the Royal Commission, the NSW Government has decided to transfer responsibility for the reportable conduct scheme from the Ombudsman's Office to the Office of the Children's Guardian, which already administers the WWCC and is a leader on child safe organisations.
- The OCG will continue to **integrate existing functions** relating to child safety in organisations we have responsibility for, including WWCC, reportable conduct and child safe standards. These schemes work together to enable prevention and early detection of child abuse by assisting organisations to identify high-risk situations and employees. The schemes also help organisations to understand how to implement complementary child safe strategies to build a culture where children are valued, supported and protected.

8 Thank you and next steps

Thank you again for your feedback and expertise. Further updates will be posted on our website: **www.kidsguardian.nsw.gov.au**.

Office of the
Children's Guardian

Locked Bag 5100,
Strawberry Hills NSW 2012
www.kidsguardian.nsw.gov.au

© Copyright Crown in right of the State of New South Wales 2015