



TASMANIA

SOLICITOR-GENERAL OF TASMANIA

15 MURRAY STREET, HOBART 7000

Telephone: (03) 6233 3408
Fax: (03) 6233 2510
DX: 15 Hobart
e-mail: solicitor.general@justice.tas.gov.au

Our reference: AEM
Your reference:
Contact telephone: (03) 6233 3286

1 November 2013

Royal Commission
GPO Box 5283
SYDNEY NSW 2001

Email: solicitor@childabuseroyalcommission.gov.au

Dear Sirs

Re: Issues Paper 3 – Child Safe Institutions

Please find attached a copy of the State of Tasmania's submission in relation to Issues Paper 3 – Child Safe Institutions.

Yours faithfully

AMBER MIGNOT
LEGAL PRACTITIONER
OFFICE OF THE SOLICITOR-GENERAL

Submission by the State of Tasmania

Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper 3 - Child Safe Institutions

There is currently no overarching Tasmanian Government framework, legislation, requirements or monitoring of child safe practices within government or non-government organisations. Current funding arrangements for children's services (outside Education) do not include mandatory requirements for addressing child safety. Furthermore, the Government body responsible for funding these services does not currently provide overall training or other consistent information about how to become child safe. However, some broad projects and strategies have been implemented that assist overall child safety practices. These are based on both National and State initiatives.

Tasmania was a signatory to the National Framework for "*Creating Safe Environments for Children – Organisations, Employees and Volunteers*" in July 2005. This approach to creating child safe organisations required jurisdictions to progressively implement the national framework in order to increase the safety of children in community organisations, their programs and services. To aid in this implementation three National Schedules were released to guide the implementation process; including background checks of employees and volunteers, building service capacity and information sharing.

To commence the implementation process Tasmania has committed to the development of a nationally consistent approach to background checking and risk assessment for people intending to work with children. This includes the implementation of a national framework for inter-jurisdictional exchange of criminal history for people working with children. Tasmania is also in the process of making the legislative and administrative changes necessary to support participation in the national exchange of criminal history information for people working with children and establish a centralised screening unit. The background checking and risk assessment will be extended to cover people working with vulnerable people, with screening for children to be implemented first.

In 2009, a quality and safety standards framework for Tasmania's Agency Funded Community Sector was developed. This framework was a first step in outlining the Department of Health and Human Service's expectations of state funded community sector organisations. Community sector organisations funded by the DHHS are required to engage in continuous quality improvement based on nationally recognised generic and service specialist standards. The framework focuses on six generic standards that cover safe environment, consumer focus, workforce (recruitment/professional development), incidents and feedback, consumer information and governance. These standards ensure that the community sector is accountable and monitored against specific criteria for the services they are funded to provide. In addition to the generic standards a range of service specific criteria are also developed dependent upon the types of services and clients that organisations deal with. The generic standards cover a range of diverse community organisations which broadly address essential elements of child safe organisations

whereas service specific standards for organisations dealing with children would require more detailed organisational policies and practices to ensure child safety.

A *Charter of Rights for Tasmanian Children and Young People in Out of Home Care* has been developed in partnership with the Tasmanian Children's Commissioner. This charter has been distributed to children under the care of the state to raise awareness and empower some of the most vulnerable children to have their voices heard. The charter also requires child protection workers to maintain a relationship and have regular meetings with the children they work with to ensure their ongoing safety, development, suitability of their placement, access to support and the opportunity to raise concerns through regular meetings with their worker. All children and young people on a child protection order, including those in youth detention, mental health facilities or youth shelters are required to have regular one to one meetings and contact with their worker. The occurrence of these meetings is monitored as a Key Performance Indicator within the Agency.

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

The organisation or institution should have an overarching strategic direction that codifies its vision, mission, values and purposes.

Critical elements or strategies that should be present include:

- Relevant policies, procedures and guidelines specifically targeting bullying (including cyber bullying), and discrimination for staff students and volunteers
- Codes of Conduct for staff and volunteers
- Good Character Checks for staff and volunteers
- Protective practices for staff
- Good induction processes inclusive of information regarding sexual abuse and roles and responsibilities of staff and volunteers
- Robust complaints and disclosures processes for staff, volunteers, community members and students
- Robust staff performance and development framework
- Duty of care—roles and responsibilities
- Good supervision processes for staff, volunteers and students
- Good risk management processes for staff, volunteers and students
- Explicit disciplinary processes for staff, volunteers and students
- Explicit confidentiality codes of compliance for staff, volunteers
- Access to social workers, psychologists, counsellors for staff, volunteers and students
- Legal obligations framework outlining relevant legislation and, penalties for non-compliance and for making a false statement for staff, volunteers and students

- Effective staff recruitment and training.

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

The National Safe Schools Framework <http://education.gov.au/national-safe-schools-framework-0> could be used as a model for how strategies, resources and evidence could be provided particularly to support smaller services.

This evidence should extend to the physical and on-line environment.

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

A combination of methods should be used to test the effectiveness of child safe strategies. This could include any or all of the following, depending on the nature of the service:

- Measuring the capacity for children and young people to be involved in policy development
- Surveys of clients
- Interviews
- Suggestion boxes
- Data collection—e.g.
 - Number of mandated reports
 - Number of client disclosures
- Measuring against best practice standards in relation to:
 - Good research
 - Good practice
 - Good resources

Information on these standards is often made available through 'Child safe' organisations website.

4. How 'child safe' policies and procedures work in practice.

The size and capacity of the organisation or institution needs to be taken into account. Good implementation is crucial and should include meaningful consultation with stakeholders, clients and the community followed by trials/pilots to ensure processes are robust. Realistic expectations around data collection and reporting need to be in place. The availability of templates and models of good practice is worthwhile.

An example of this can be seen in the out of home care arrangements in Tasmania. Children and Youth Services in the Tasmanian Department of Health and Human Services currently has policies and procedures for the approval, accreditation and training requirements of foster carers, and other carers responsible for children in out of home care within both government and non-government organisations. Assessments include explorative competency based interview and assessment, health

checks, housing checks, background checks and safety checks such as child protection history and criminal history checks. Visitors to the home or care facility are also subject to child protection checks and criminal history checks. All carers are subject to annual reviews which include a competency based interview and assessment and updating of all relevant checks.

Furthermore, Tasmanian children in out-of-home care are required to receive a level of care that is consistent with the principles outlined in the [Children, Young Persons and their Families Act 1997](#) and in line with best practice principles. To ensure this happens in practice there are policies and practices related to “Complaints in Care” whereby all reports of concern that a child may have been abused, neglected or not receiving appropriate quality of care are responded to in a timely and thorough manner that is at all times child-focussed. Concerns related to the provision of care can range from minor quality issues through to severe abuse. The Agency has a responsibility and commitment to continuous quality improvement and transparency and is required to monitor and report data and trends that relate to concerns for children in out of home care.

5. Should there be a universal framework for a ‘child safe organisation’ or should strategies be specifically tailored to particular types of institutional settings?

Yes, but the size, type, context of the organisation or institution must be taken into account as should the capacity of an organisation or institution to start from scratch. The provision of model documentation for policies, procedures, and processes etc. as outlined in (I) would be beneficial.

Any framework around child safe organisations or institutions should include explicit definitions e.g. at times the words organisation and institution appear to be used to mean the same thing; however they are different – prisons, hospitals, sanatoriums and even schools are often described as institutions while organisations include NGOs, Scouts, Girl Guides, sporting groups etc.

6. The role of staff performance management systems and disciplinary processes in a ‘child safe organisation’.

These are vital and should be part of the business actions of all organisations and institutions that cater for children and young people.

In Tasmania, all public service personnel working with children are required to adhere to professional codes of conduct (covered under the State Services Act, and described further in specific service policies). Work is also currently being undertaken to clarify the expectations of the role, function and powers of the Tasmanian Children’s Commissioner within a broader context of advocacy requirements for Tasmanian children and youth.

However, it is not easy to ensure appropriate staff performance management systems and disciplinary processes in relation to staff funded by a Government agency but not in their direct employment. An example of how this may be

approached is the development of a Quality Improvement and Workforce Development Unit (QIWD) by Children and Youth Services (CYS) in Tasmania. This Unit consists of a state-wide team of trainers, senior quality and practice advisors, clinical nurse educators and a clinical nurse for quality. QIWD has developed a range of training tools for use across agencies (government and non-government) as well as a CYS state-wide training continuum.

QIWD has also been involved in developing and implementing changes to Child Protection and Community Youth Justice recruitment, induction and on boarding processes, including focus on personal attributes rather than knowledge of workplace activity. Induction is a shared responsibility between QIWD and senior/experienced child protection and youth justice workers. Supervision workshops have also been developed for CYS staff with reference to reflective practice and assistance in shifting culture within CYS from one of defensiveness to one of appreciative inquiry.

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

Good leadership and modelling sets the tone for the organisation and institution. Good governance and leadership is critical to ensure all policies, procedures, processes etc. are in place, understood and complied with.

Many aspects of the issues discussed above are part of the characteristics of good governance and leadership, such as:

- Good induction processes for staff, volunteers, community members and students and appropriate ongoing supervision
- Clear policies, procedures and guidelines which are easily located and actively and regularly promoted to staff
- Codes of conduct for both staff and volunteers
- Robust complaints and disclosures processes for staff, volunteers and students, with explicit disciplinary process
- Clear lines of decision-making and accountability
- A legal obligations framework for staff, volunteers and students outlining the relevant legislation and penalties for non-compliance and for making a false statement.

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

Elements of (I) should be enforceable under relevant legislation.