

COMMUNITY LEGAL CENTRES TASMANIA

3 October 2022

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

via email: haveyoursay@justice.tas.gov.au

To the Department of Justice,
Re: *Child and Youth Safe Organisations Bill 2022*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to respond to the *Child and Youth Safe Organisations Bill 2022* ('the Bill').¹

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

We are supportive of the Government's intention to introduce both Child and Youth Safe Standards and a Reportable Conduct Scheme. Both of these reforms were recommendations from the *Royal Commission into Institutional Responses to Child Sexual Abuse* and will require organisations that work with children and young people to take proactive steps to keep them safe and respond effectively where incidents of harm occur.

The Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse ('the Royal Commission') was contacted by more than 16,000 individuals, heard more than 8,000 personal stories and received written accounts from more than 1000 survivors.² Importantly, the Royal Commission observed that child abuse in institutional settings was not historical but "that institutional cultures and practices that allowed abuse to occur and inhibited detection and response continue to exist in contemporary institutions".³

¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: *Preface and executive summary* (Commonwealth of Australia: 2017) at 1.

³ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 6 Making institutions child safe* (Commonwealth of Australia: 2017) at 14.

Child and Youth Safe Standards

The Royal Commission recommended the introduction of nationally consistent Child Safe Standards which would “contribute most effectively to improve the safety of children in institutions”.⁴ In response to the Royal Commission’s recommendations, the *National Principles for Child Safe Organisations* were developed in 2019 and endorsed by both the Commonwealth Government and all States and Territories.⁵

The Child and Youth Safe Standards as set out in the Bill mirror the National Principles and are strongly supported. However, we also agree with the TasCOSS recommendation of including an additional standard related to Aboriginal cultural safety, which we believe will complement the State Government’s commitment to implementation of the Aboriginal and Torres Strait Islander Child Placement Principle across the child safety system.⁶ As the TasCOSS submission observes, the addition of a standard specifically addressing cultural safety for Aboriginal children and young people would align with the Victorian Child Safe Standards which relevantly provides:⁷

Standard 1

Organisations establish a culturally safe environment in which the diverse and unique identities and experiences of Aboriginal children and young people are respected and valued.

Reportable Conduct Scheme

In its final report, the Royal Commission observed that institutional child abuse is widely underreported to government authorities and recommended the establishment of a reportable conduct scheme which was defined as “a legislated scheme for the reporting, investigation and independent oversight of a range of complaints or allegations made against employees and volunteers in certain government and non-government agencies, which may include child abuse, child neglect, and child-related misconduct”.⁸

We support the Government’s intention to establish a reportable conduct scheme (‘the Scheme’) that is nationally consistent and applies to entities and organisations identified as having significant responsibilities for children and young people or engaging with children and young people in a way that places them at higher risk of harm. The proposed scheme will allow for concerns to be raised with the Regulator, as well as creating obligations for entities and organisations to report and respond to concerns raised.

⁴ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 6 Making institutions child safe* (Commonwealth of Australia: 2017) at 12.

⁵ National Office for Child Safety, ‘National Principles for Child Safe Organisations’. As found at <https://chilfsafety.pmc.gov.au/what-we-do/national-principles-child-safe-organisations> (Accessed 27 September 2022).

⁶ Commissioner for Children and Young People Tasmania, *Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings* (July 2021) at 12.

⁷ Commission for Children and Young People. ‘The 11 Child Safe Standards’. As found at <https://ccyp.vic.gov.au/child-safe-standards/the-11-child-safe-standards/> (accessed 27 September 2022).

⁸ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 7 Improving institutional responding and reporting* (Commonwealth of Australia: 2017) at 51.

At the commencement of the proposed 'Part 4 – Reportable Conduct Scheme' we strongly recommend the introduction of principles that will guide the operation of the Scheme, including actions taken, or decisions made under the Scheme, as is the case in section 16B of the *Child Wellbeing and Safety Act 2005* (Vic). Importantly, the Victorian principles provide that the protection of children is the paramount consideration, whilst other principles relate to reporting criminal conduct to the police, maintaining the primacy of a police investigation, working collaboratively in relation to investigations, ensuring employees receive natural justice and information sharing. We believe that these principles will provide greater clarity about the intent of the Scheme and should be adopted.

Commissioner for Children and Young People Tasmania

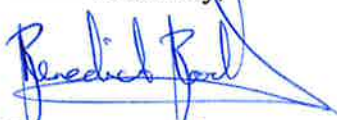
As the Commissioner for Children and Young People Tasmania (CCYP) has previously noted, whilst there are a range of organisations able to respond to child sexual abuse in institutional settings, there is no independent regulator.⁹ We strongly support an independent entity having responsibility for oversight, monitoring and enforcement as well as being appropriately resourced to provide advice, training and assistance in relation to the Child and Youth Safe Standards and the reportable conduct scheme.

We strongly believe that the CCYP is the most appropriate organisation to act in this role given that the wellbeing and best interests of children is its paramount consideration.¹⁰ Recognising that in many sectors organisations are already providing regulation, we recommend the implementation of a co-regulatory model, where these organisations are able to continue their regulatory functions whilst the CCYP provides the overarching independent oversight.

If the CCYP is to be the independent regulator it is critical that they are appropriately resourced not simply to provide oversight but to have the capacity to meaningfully engage in a community-wide education campaign that will increase public awareness of the importance of child and youth safety, ensure that organisations are able to better prevent, identify and respond to child sexual abuse and other forms of abuse, and foster an environment where all members of the community can expect and demand child safe institutions.

If you have any queries, or would like to discuss our submission further, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl
Policy Officer

Community Legal Centres Tasmania

⁹ Commissioner for Children and Young People Tasmania, *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (July 2021) at 5-7.

¹⁰ Section 3 of the *Commissioner for Children and Young People Act 2016* (Tas).