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Office of the Secretary  
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**Re: Submission to the Child and Youth Safe Organisations Bill 2022**

The Tasmanian Aboriginal Legal Service (“TALS”) welcomes the opportunity to provide feedback in relation to the Child and Youth Safe Organisations Bill 2022.

TALS is a community legal centre that specialises in criminal, civil and family law matters for Aboriginal peoples across Tasmania. Our goal is to halve Aboriginal Tasmanians’ rate of negative contact with the justice system in a decade.

TALS is a member-based, independent, not-for-profit, that advocates for law reform. TALS is an Aboriginal Community Controlled Organisation incorporated under the Office of the Registrar of Aboriginal Corporations.

TALS strongly supports the introduction of Child and Youth Safe Standards and a Reportable Conduct Scheme in Tasmania, both of which were key recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (‘the Royal Commission’). We are pleased to see that in drafting this Bill, the Department of Justice has taken on board the recommendations made in a broad range of submissions to the Child Safe Organisations Bill 2020. In particular we welcome that the new Child and Youth Safe Organisations Bill 2022 (‘the Bill’) makes provisions for:

- Child and Youth Safe Standards that mirror the National Principles for Child Safe Organisations, an important step towards nationally consistent standards across Australian jurisdictions as per the recommendations of the Royal Commission.
- A definition of a child-related service required to comply with Child and Youth Safe Standards that mirrors the definitions in the Royal Commission’s final report, and detailed identification of a range of organisations providing a relevant service.

- Creation of an Independent Regulator responsible for administering the Child and Youth Safe Standards and Reportable Conduct Scheme, with powers to ensure compliance.
- Creation of a Reportable Conduct Scheme applying to employees, broadly defined, of designated organisations whether or not the conduct is alleged to have occurred within the course of an employee's duties.
- Information-sharing between the Regulator and key entities, including entity regulators and the police.

Our submission will provide comments and recommendations in relation to how key elements of the Bill -- the Child and Youth Safe Standards, the Reportable Conduct Scheme, the role of the Regulator, and the information-sharing provisions – can best serve Tasmanian Aboriginal communities and Aboriginal people. It will also comment on overarching issues of implementation. As evidenced within the findings of the Royal Commission, Aboriginal and Torres Strait Islander people have long experienced negative or unhelpful responses from both historical and present complaint mechanisms, and the Commission clearly stated across their final findings and recommendations that there must be special regard and priority given to the interests and needs of Aboriginal and Torres Strait Islander children and young people.<sup>1</sup> The introduction of Child and Youth Safe Standards and a Reportable Conduct Scheme in Tasmania provides an important opportunity to begin to address these issues.

In this submission, any reference to Aboriginal people is understood to also encompass Torres Strait Islander people.

### **The Child and Youth Safe Standards**

The special needs and vulnerabilities of Aboriginal children have been widely recognised, particularly in the context of abuse in organisational settings. The Royal Commission in its final report made specific reference to the over-representation of Aboriginal children in some high-risk institutional contexts due to a range of historical, social and economic factors, including the impacts of colonisation and ongoing system racism.<sup>2</sup>

TALS recognises that Standard 4 of the proposed Child and Youth Safe Standards ('the Standards') makes general reference to the needs of children from diverse backgrounds, including from the perspective of Aboriginal communities in Tasmania:

**Standard 4:** Equity is upheld and diverse needs respected in policy and practice.

TALS also recognises that the ten Child and Youth Safe Standards set out in Schedule 1 of the Bill are intended to be underpinned by a universal principle embedding Aboriginal Cultural Safety, as set out in Part 3, clause 9(4) of the Bill:

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<sup>1</sup> See [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_7\\_improving\\_institutional\\_responding\\_and\\_reporting.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_7_improving_institutional_responding_and_reporting.pdf).

<sup>2</sup> [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_preface\\_and\\_executive\\_summary.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_preface_and_executive_summary.pdf), pp. 22, 39.

In addition to the requirement to comply with the standards under this section, an entity must provide, on and after 1 January 2024, an environment that ensures that the rights of Aboriginal children to cultural safety are respected.

While we appreciate the intent of this approach, this intent will be better served by following the approach of Victoria, which has established a separate Standard related specifically to Aboriginal cultural safety.

**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.<sup>3</sup>

Victoria's approach was guided by the Victorian Government's Review of Child Safe Standards in 2018-19, which concluded that the special needs and vulnerabilities of Aboriginal children and young people required separate acknowledgment, rather than being grouped together with other diverse needs.<sup>4</sup> The Victorian Commission for Children and Young People notes that the creation of a separate Standard has the virtue both of:

- Ensuring that organisations engage in ongoing efforts, rather than one-off changes, to achieve cultural safety for Aboriginal children and young people, regardless of whether or not they know that there are Aboriginal children and young people currently using their services and facilities, and
- Ensuring that adequate educational resources are developed, and support is offered to assist them with compliance in this regard.<sup>5</sup>

In particular, the creation of a separate standard makes it easier for an Independent Regulator to establish minimum requirements, compliance indicators, foundation steps and further steps to be taken to fulfil the Standard's obligations. The development by the Independent Regulator of a definition of 'cultural safety' should be driven by Aboriginal children/young people and families and informed by the points raised in Lock *et al.* ("Are cultural safety definitions culturally safe?"<sup>6</sup>).

Please see Appendix 1 for detailed information on the minimum requirements, compliance indicators, and action steps laid out by the Victorian Commission for Children and Young People.

***Recommendation 1: The Bill should be amended to include an additional Child and Youth Safe Standard relating to the cultural safety of Aboriginal children and young people, developed in consultation with Tasmania's Aboriginal communities and conforming to the essence of Victorian Child and Youth Safe Standard 1.***

<sup>3</sup> <https://ccyp.vic.gov.au/child-safe-standards/the-11-child-safe-standards/>

<sup>4</sup> <https://www.dffh.vic.gov.au/publications/review-victorian-child-safe-standards> , p. 36.

<sup>5</sup> <https://ccyp.vic.gov.au/assets/resources/New-CSS/Whats-changing-comparison-of-current-and-new-Child-Safe-Standards.pdf>

<sup>6</sup> <https://research.bond.edu.au/en/publications/are-cultural-safety-definitions-culturally-safe-a-review-of-42-cu>

## Reportable Conduct Scheme

TALS notes that four classes of entity, while covered by the Child and Youth Safe Standards, are exempted from the Reportable Conduct Scheme laid out in Schedule 3 of the Bill:

- A club, association or cadet association that has a significant membership of, or involvement by, children.
- An entity that provides a coaching or tuition service to children.
- An entity that provides commercial services to children.
- A transport service specifically for children.

We recognise that the Royal Commission did not specifically name these classes of entity as needing to be covered by a reportable conduct scheme due to a perception of lower risk than other entity, and that other Australian jurisdictions similarly exclude these classes of entity from their Reportable Conduct schemes.<sup>7</sup> We note, however, that the Royal Commission also observed, in its report on sporting and other entities, that:

“In future, reportable conduct schemes may cover a broader scope of sport and recreation institutions. We recommend that state and territory governments periodically review the operation of such schemes to determine whether they should cover additional institutions that have a high degree of responsibility for children and a heightened risk of child sexual abuse.”<sup>8</sup>

The Tasmanian Reportable Conduct Scheme should proactively include the four classes of entity currently excluded. Since the Royal Commission’s reports, further evidence has emerged of the extent of abuse of children and young people in sporting contexts in Australia and elsewhere:<sup>9</sup> indeed, in Tasmania, at least one victim of James Griffin has said that they were abused in the context of netball practice.<sup>10</sup> These findings call into question the presumption that sporting contexts in particular carry lower risk than other contexts.

Exclusion of any class of entity from a Reportable Conduct Scheme may have the unintended effect of encouraging potential perpetrators to seek out such environments. One of the key functions of the centralised retention of information that a Reportable Conduct Scheme provides is to ensure that perpetrators of abuse cannot move between organisations without detection; excluding any class of entity from the Scheme undercuts this protective function.

Inclusion under a Reportable Conduct scheme gives entities a clear line of accountability to a suitable authority. For example, only Government agencies deemed to provide services to children need to meet Child and Youth Safe Standards; the Department of State Growth, for

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<sup>7</sup> <https://professionals.childhood.org.au/app/uploads/2018/10/Reportable-Conduct.pdf>

<sup>8</sup> [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_14\\_sport\\_recreation\\_arts\\_culture\\_community\\_and\\_hobby\\_groups.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_14_sport_recreation_arts_culture_community_and_hobby_groups.pdf), p. 24

<sup>9</sup> See, for example, <https://www.worldathletics.org/news/news/new-research-child-abuse-in-sport> ; <https://humanrights.gov.au/our-work/sex-discrimination/publications/change-routine-report-independent-review-gymnastics> ; <https://www.theguardian.com/australia-news/2022/aug/10/gymnastics-australia-asked-child-athletes-who-reported-abuse-to-sign-gag-orders-before-meetings>.

<sup>10</sup> <https://www.abc.net.au/news/2022-03-15/tiffany-skeggs-breaks-silence-james-geoffrey-griffin-abuse/100810556>

example, which does not provide services to children directly, does not appear to fall under this definition. Under the current exemptions, this means that if a school bus service were to experience a case of reportable conduct on which they wished to seek guidance, they could be uncertain as to whether to take this up with the Regulator, under whose remit they technically do not fall, or with an agency that is not itself required to be compliant with the Standards.

Exceptions and exclusions inevitably make schemes more complicated to administer, can lead to confusion among affected entities, and can lead to greater burdens on affected entities if (as the Royal Commission leaves open) they are changed in the future.

All these issues are of concern not just for the safety of Tasmania's Aboriginal children and young people, but for Tasmania's children and young people as a whole.

***Recommendation 2: The Tasmanian Reportable Conduct Scheme should be expanded to cover all classes of entity covered by the Child and Youth Safe Standards.***

## **The Regulator**

TALS welcomes the Bill's creation of an independent, impartial Regulator empowered to oversee the implementation of and compliance with the Child and Youth Safe Standards as well as the Reportable Conduct Scheme. We note, however, that:

- The breadth of responsibilities and powers conferred on this position as outlined in Part 3 and Part 4 of the Bill are sufficiently broad that a new position should be created, rather than being undertaken by existing positions that already face restraints on resources, such as the Commissioner for Children and Young People.
- The range of responsibilities and powers conferred on this position are well beyond the scope of a single individual, as envisaged by the Bill (Part 2, 7(1)), and that a well-staffed entity will be required to fulfil the role's mission. This entity's staff, as well as the nominated Regulator, must be independent, and must share the nominated Regulator's requirement to act impartially and in the best interests of children when performing their duties.

In keeping with the spirit of the new Standard related to Aboriginal cultural safety, this entity's mission statement should include a commitment to establishing a culturally safe environment for Aboriginal people. In keeping with Recommendation 15.9.c of the Royal Commission's final report (see Appendix 2), staffing of this entity should include at least one Aboriginal and Torres Strait Islander identified position, and other positions should have as essential requirements the ability to communicate effectively and sensitively with Aboriginal people and a knowledge and understanding of contemporary Aboriginal culture and society.<sup>11</sup>

Meanwhile, also in keeping with the Royal Commission's Recommendation 15.9.c, the Regulator and all staff should also proceed from a trauma-informed approach – a particularly

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[https://www.dpac.tas.gov.au/\\_data/assets/pdf\\_file/0022/27292/Employment\\_Direction\\_No.\\_10\\_-\\_Aboriginal\\_and\\_Torres\\_Strait\\_Islander\\_Tagged\\_and\\_Identified\\_positions\\_-\\_June\\_2016.pdf](https://www.dpac.tas.gov.au/_data/assets/pdf_file/0022/27292/Employment_Direction_No._10_-_Aboriginal_and_Torres_Strait_Islander_Tagged_and_Identified_positions_-_June_2016.pdf)

important point given the Regulator’s powers, including the power to question children and young people (Part 4(20)). Recommendation 15.9.c in fact calls for all complaint mechanisms to include professionals not merely trained in trauma-informed approaches but qualified to provide trauma-informed care.

***Recommendation 3: The Independent Regulator should be supported by an independent, impartial entity committed to Aboriginal cultural safety in its values, operations, and staffing.***

***Recommendation 4: Specific reference should be made to the need for the Regulator and staff to proceed from a trauma-informed approach.***

### **Information-sharing**

We are pleased to see that the Bill contains a range of provisions relating to information-sharing between the Regulator and key entities related to regulation, compliance, investigation and prosecution. These provisions are in line with the Royal Commission’s recommendations, which identified information-sharing as crucial to effectively preventing and responding to child sexual abuse at the institutional level.<sup>12</sup> We recommend, however, the inclusion of underpinning Principles such as those identified in Victoria’s *Child and Wellbeing Safety Act 2005* (see Appendix 2), which stipulate that information-sharing entities and restricted-information-sharing entities should (among other things) “promote the cultural safety and recognise the cultural rights and familial and community connections of children who are Aboriginal, Torres Strait Islander or both” – wording which we recommend the Bill mirrors.<sup>13</sup>

We also argue that information-sharing can and should serve more than an institutional function. In particular, we argue that prompt information-sharing with appropriate support services, including Aboriginal services, can further therapeutic outcomes for all children and young people and their families affected by reportable conduct – an under-emphasised area in this Bill -- as well as reinforcing the cultural safety of institutional responses where Aboriginal children and young people are concerned. These points are particularly relevant given the special needs and vulnerabilities of Aboriginal children and their families, which point to the need for therapeutic responses to be under the direction of their cultural community. We note that the current wording of the Bill (Part 5 (32)(1)) permitting information-sharing for the purposes of *protecting* the safety and well-being of children does allow as much therapeutic leeway as the wording of the Victorian legislation, which permits information-sharing that *promotes* the wellbeing or safety of a child or group of children, consistent with the best interests of that child or those children.<sup>14</sup>

We note that the principles of Aboriginal community involvement in situations facing Aboriginal children and young people and prompt information-sharing with Aboriginal

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<sup>12</sup> <https://www.childabuseroyalcommission.gov.au/recommendations>

<sup>13</sup> Child Wellbeing and Safety Act 2005 (Vic), Part 6A (41U(2)(h)).

<sup>14</sup> Child Wellbeing and Safety Act 2005 (Vic), Part 6A (41U(2)(b)).



organisations are already in place in relation to youth justice and the detention of Aboriginal people.

- The *Youth Justice Act 1997* (Section 5(2)(f)) stipulates that “an Aboriginal youth should be dealt with in a manner that involves his or her cultural community.”
- Section 7.6.2 of the Tasmania Police Manual stipulates that in the event of detention and/or interview an Aboriginal or Torres Strait Islander person, TALS and the district Aboriginal Liaison Officer or Tasmania Police Aboriginal Liaison Coordinator should be notified, and that if the detainee/interviewee requests that the TALS not be provided with their personal details, TALS should nonetheless be notified of the fact of arrest/detention and of offence/s involved.<sup>15</sup>

We also note that the Royal Commission’s Recommendation 8.7 includes service providers in the range of prescribed bodies with whom direct exchange of relevant information should be enabled.

In a manner similar to that applying to detention, an Aboriginal organisation should be promptly contacted when a notification of reportable conduct involving an Aboriginal child or young person is made to the Independent Regulator. To ensure that subjective judgments about the degree of a child’s connection to Aboriginal culture and community are not used to exclude children from consideration, Aboriginality should be defined as “if the child or a parent identifies the child as Aboriginal.” The organisation to be contacted should be at the choice of the child/young person in the first instance and a parent in the second instance, with a default option of deidentified information-sharing with the Tasmanian Aboriginal Legal Service at the child/young person’s or parent’s request. Appropriate resourcing would need to be provided to ensure efficiency of this process.

***Recommendation 5: The Bill should include ‘and promote’ to Part 5 (32)(1) of the Bill in relation to the safety and well-being of children, and also include reinforcement of cultural safety for Aboriginal children and young people as a prescribed purpose under Part 5 (32)(1).***

***Recommendation 6: In cases of reportable conduct involving an Aboriginal child or young person, the Bill should include mandatory prompt information-sharing by the Independent Regulator with an Aboriginal organisation nominated by the child/young person or parent.***

## **Implementation**

We note that the effectiveness both of the Standards and of a Reportable Conduct Scheme will depend to a substantial degree both on the information provided to organisations and entities, communities, and families and carers in relation to the provisions and requirements of the Child and Youth Safe Standards and Reportable Conduct Scheme, and on the support given

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<sup>15</sup> <https://www.police.tas.gov.au/uploads/Tasmania-Police-Manual-Public-RTI-Version-5Jul2022.pdf> , as at 29 October 2021.

to build capacity across the community to understand and comply with requirements. Development of minimum requirements and compliance indicators for each Standard will be key to helping organisations develop key policies, practices and procedures, and must be an urgent priority for the new Independent Regulator. In the case of the new Standard related to Aboriginal cultural safety recommended above, these should be developed in consultation with Tasmania's Aboriginal communities. Meanwhile, we support TasCOSS' recommendations in relation to capacity-building for Tasmanian organisations and entities, families and carers of Tasmanian children and young people, which call for:

- Comprehensive information, training and education provided to organisations not only in relation to their obligations under the Scheme, but in relation to existing community supports and/or networks available to assist children and young people.
- Clear information provided to organisations in relation to referral pathways to engage children, young people, their families and/or carers with additional supports if needed.
- Comprehensive community education and information campaign to be developed and delivered prior to the introduction of the Scheme, including information developed for (and ideally co-designed with) children and young people, focused on the obligations of organisations as well as their rights.<sup>16</sup>

In all cases, information, training and education materials should be developed in consultation with Aboriginal communities in Tasmania to ensure that it is culturally appropriate and accessible. Consultations around the development of materials must have adequate timeframes for small organisations and communities to respond effectively and should include in-person consultation options as well as written submissions. Across the board, the Independent Regulator must be adequately resourced to engage in the development and delivery of these materials and campaigns.

***Recommendation 7: The Independent Regulator should, in consultation with Tasmanian Aboriginal communities, prioritise the development of minimum requirements, compliance indicators, foundation steps and further steps for each Child Safe Standard, including a new Standard related to Aboriginal cultural safety.***

***Recommendation 8: The Tasmanian Government should give consideration as to how the Regulator and the Reportable Conduct Scheme will operate to build the capacity of Tasmanian organisations, entities, families and carers of Tasmanian children and young people.***

***Recommendation 9: The Regulator must be adequately resourced to perform their extensive compliance-related, educational and capacity-building functions.***

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<sup>16</sup> TasCOSS (2022) submission, *Child and Youth Safe Organisations Bill 2022*.



## **Need for a dedicated Commissioner for Aboriginal Children and Young People**

We take this opportunity to renew our request for the Tasmanian Government, in acknowledgment of the special needs and vulnerabilities of Aboriginal children and young people as well as Tasmanian Aboriginal communities' right to self-determination, to appoint a dedicated Commissioner for Aboriginal Children and Young People. We note the Royal Commission's findings that existing mechanisms often do not sufficiently recognise the importance of Aboriginal culture to keeping children safe, despite legislative and policy requirements to do so.<sup>17</sup> The creation of such an independent statutory position would ensure that the importance of Aboriginal culture receives due recognition, and that proactive engagement and oversight in promoting and advocating for the rights and wellbeing of Aboriginal children and young people are done in a culturally safe and respectful manner. The new Independent Regulator would also benefit from the support and guidance that a new dedicated Commissioner, as well as the existing Commissioner for Children and Young People, can provide.

***Recommendation 10: The Tasmanian Government should appoint a dedicated Commissioner for Aboriginal Children and Young People.***

## **Conclusion**

Thank you for the opportunity to comment on this Bill. Please do not hesitate to be in contact if any points require clarification or elaboration.

## **Recommendations**

***Recommendation 1: The Bill should be amended to include an additional Child and Youth Safe Standard relating to the cultural safety of Aboriginal children and young people, developed in consultation with Tasmania's Aboriginal community and conforming to the essence of Victorian Child and Youth Safe Standard 1.***

***Recommendation 2: The Tasmanian Reportable Conduct Scheme should be expanded to cover all classes of entity covered by the Child and Youth Safe Standards.***

***Recommendation 3: The Independent Regulator should be supported by an independent, impartial entity committed to Aboriginal cultural safety in its values, operations and staffing.***

***Recommendation 4: Specific reference should be made to the need for the Regulator and staff to proceed from a trauma-informed approach.***

***Recommendation 5: The Bill should include 'and promote' to Part 5 (32)(1) of the Bill in relation to the safety and well-being of children, and also include reinforcement of cultural***

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<sup>17</sup> [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_preface\\_and\\_executive\\_summary.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_preface_and_executive_summary.pdf), p. 43.

*safety for Aboriginal children and young people as a prescribed purpose under Part 5 (32)(1).*

*Recommendation 6: In cases of reportable conduct involving an Aboriginal child or young person, the Bill should include mandatory prompt information-sharing by the Independent Regulator with an Aboriginal organisation nominated by the child/young person or parent.*

*Recommendation 7: The Independent Regulator should, in consultation with Tasmania's Aboriginal community, prioritise the development of minimum requirements, compliance indicators, foundation steps and further steps for each Child Safe Standard, including a new Standard related to Aboriginal cultural safety.*

*Recommendation 8: The Tasmanian Government should give consideration as to how the Regulator and the Reportable Conduct Scheme will operate to build the capacity of Tasmanian organisations, entities, families and carers of Tasmanian children and young people.*

*Recommendation 9: The Regulator must be adequately resourced to perform their extensive compliance-related, educational, and capacity-building functions.*

*Recommendation 10: The Tasmanian Government should appoint a dedicated Commissioner for Aboriginal Children and Young People.*

Yours faithfully,



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**Tasmanian Aboriginal Legal Service**

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## Appendix 1: Victoria's Child Safe Standard 1<sup>18</sup>

**Child Safe 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.**

### Minimum requirements

**In complying with Child Safe Standard 1 an organisation must, at a minimum, ensure:**

- 1.1. A child's ability to express their culture and enjoy their cultural rights is encouraged and actively supported.
- 1.2. Strategies are embedded within the organisation which equip all members to acknowledge and appreciate the strengths of Aboriginal culture and understand its importance to the wellbeing and safety of Aboriginal children and young people.
- 1.3. Measures are adopted by the organisation to ensure racism within the organisation is identified, confronted and not tolerated. Any instances of racism are addressed with appropriate consequences.
- 1.4. The organisation actively supports and facilitates participation and inclusion within it by Aboriginal children, young people and their families.
- 1.5. All of the organisation's policies, procedures, systems and processes together create a culturally safe and inclusive environment and meet the needs of Aboriginal children, young people and their families.

### Compliance indicators

This Standard places new obligations on organisations to ensure cultural safety for Aboriginal children.

Establishing a culturally safe environment takes time, dedication and meaningful engagement. Organisations need to commit long term and take meaningful action each year to keep progressing their compliance with Standard 1.

The Commission understands that organisations will be at different stages in achieving compliance with this new Standard. **Foundation steps** are provided to help organisations who are yet to make a significant effort to establish a culturally safe environment for Aboriginal children. These **foundation steps** help organisations identify the work they must do to comply with the Standard and build a plan of action.

If your organisation feels it is already well progressed in establishing a culturally safe environment for Aboriginal children, then focusing on the **foundation steps** may not be necessary. **Further steps** are provided so your organisation can build on the work already done to continue the journey towards becoming a culturally safe organisation.

The Commission will first look for compliance with the **foundation steps**. The **foundation steps** outline the changes required to policies, procedures and public commitments, but recognise that change in organisations takes time. The plan of action should outline the

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<sup>18</sup> <https://ccyp.vic.gov.au/child-safe-standards/the-11-child-safe-standards/standard-1/>

organisation's path to reaching full compliance with the Standard. **Further steps** help organisations understand what full compliance with this Standard may look like.

### **What will the Commission look for when assessing this Standard?**

Organisations will generally comply if they produce these documents and undertake these actions in a way that supports the organisation to achieve this Standard. The nature or characteristics of your organisation may mean you need to do something different to what is proposed below. Read our [guidance materials](#) for more information.

### **Foundation steps**

#### ***Documents***

- A public commitment to the cultural safety of Aboriginal children is available and displayed for public access. (1.1, 1.4, 1.5 and links to 5.4)
- Policies and procedures relating to child safety and wellbeing, including the Child Safety and Wellbeing Policy, describe the organisation's commitment to respecting and valuing Aboriginal children. This includes that:
  - staff and volunteers must encourage and support children to express their culture and enjoy their cultural rights
  - staff and volunteers must actively support and facilitate participation and inclusion within the organisation by Aboriginal children and their families
  - racism will not be tolerated within the organisation and how the organisation will respond, including potential consequences
  - the organisation's leadership has a responsibility to help everyone involved with the organisation to acknowledge and appreciate the strengths of Aboriginal culture and understand its importance to the wellbeing and safety of Aboriginal children. (1.1, 1.2, 1.3, 1.4, 1.5). See the definition for who makes up the organisation's community in [A guide for creating a Child Safe Organisation](#).
- The Code of Conduct and position descriptions outline expectations of staff and volunteer behaviour including:
  - zero tolerance of racism and expectations that staff and volunteers will act on incidents of racism
  - that children will be supported to express their culture and enjoy their cultural rights. (1.1, 1.3)
- A plan of action sets out the steps the organisation will take by 1 July 2023 to establish a culturally safe environment in which the diverse and unique identities and experiences of Aboriginal children are respected and valued. (1.1, 1.2, 1.3, 1.4, 1.5)

#### ***Actions***

- Instances of racism are consistently identified and addressed. (1.3)
- The organisation identifies steps already taken to:

- support, guide or train staff and volunteers and leaders to understand, respect and value Aboriginal culture and to understand the importance of this to the wellbeing and safety of Aboriginal children (1.2 and links to 8.4)
  - actively support and facilitate participation and inclusion of Aboriginal children and their families (1.4)
  - recognise and celebrate Aboriginal peoples, their achievements, communities and cultures (1.2)
  - ensure racism within the organisation is identified and appropriately addressed (1.3)
  - create a culturally safe environment for Aboriginal children within the organisation. (1.5 and links to 5.4)
- Identify actions the organisation needs to take to fully implement Standard 1, considering steps already taken and any gaps identified. A plan of action should identify the person or team responsible for taking action, the resources available and the timeframe. (1.1, 1.2, 1.3, 1.4, 1.5)

### **Further steps**

#### ***Documents***

- Policies and procedures, including the Child Safety and Wellbeing Policy, describe the organisation's expectations and provide detailed guidance about actions staff, volunteers and leaders must take to establish a culturally safe environment in which the diverse and unique identities and experiences of Aboriginal children are respected and valued. (1.5)

#### ***Actions***

- The organisation creates an inclusive and welcoming physical and online environment for Aboriginal children and their families by acknowledging and respecting Aboriginal peoples, communities, cultures and values. (1.2)
- All children receive information from the organisation about cultural rights and the organisation takes active steps to encourage Aboriginal children to express their culture. When children express their culture, staff and volunteers in the organisation give them support. (1.1, 1.4 and links to 3.1)
- The organisation takes steps to empower children in the organisation and provide them with opportunities to participate in a way that is culturally safe for Aboriginal children. (1.4 and links to 3.6)
- The organisation provides culturally safe opportunities for Aboriginal families to participate in the organisation. (1.4)
- The organisation provides members of the organisation's community with:
  - information on cultural rights, the strengths of Aboriginal cultures and the importance of culture to the wellbeing and safety of Aboriginal children

- information on the connection between cultural safety and the prevention of child abuse and harm for Aboriginal children
  - opportunities to learn and express appreciation of Aboriginal cultures and histories. (1.1, 1.2)
- Strategies that encourage the organisation's community to acknowledge and appreciate the strengths of Aboriginal cultures are developed, implemented and embedded into the organisation. (1.2)
- Strategies to prevent racism are implemented and incidents of racism are not tolerated. (1.3)

## **Appendix 2: Royal Commission Recommendation 15.9<sup>19</sup>**

State and territory governments should review the current internal and external complaint handling systems concerning youth detention to ensure they are capable of effectively dealing with complaints of child sexual abuse, including so that:

- a. children can easily access child-appropriate information about internal complaint processes and external oversight bodies that may receive or refer children's complaints, such as visitor's schemes, ombudsmen, inspectors of custodial services, and children's commissioners or guardians.
- b. children have confidential and unrestricted access to external oversight bodies.
- c. staff involved in managing complaints both internally and externally include Aboriginal and Torres Strait Islander peoples and professionals qualified to provide trauma-informed care.
- d. complaint handling systems are accessible for children with literacy difficulties or who speak English as a second language.
- e. children are regularly consulted about the effectiveness of complaint handling systems and systems are continually improved.

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<sup>19</sup> [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_recommendations.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf)



### **Appendix 3: *Child Wellbeing and Safety Act 2005 (Victoria)*** <sup>20</sup>

Part 6A: Information sharing.

#### 41U. Principles

(1) The principles set out in this section should be used for guidance in relation to the collection, use or disclosure of confidential information that is authorised or required to be collected, used or disclosed under this Part.

(2) Information sharing entities and restricted information sharing entities should—

- a. give precedence to the wellbeing and safety of a child or group of children over the right to privacy; and
- b. only share confidential information to the extent necessary to promote the wellbeing or safety of a child or group of children, consistent with the best interests of that child or those children; and
- c. work collaboratively in a manner that respects the functions and expertise of each information sharing entity and restricted information sharing entity; and
- d. seek and take into account the views of a child and the child's relevant family members, if it is appropriate, safe and reasonable to do so; and
- e. seek to preserve and promote positive relationships between a child and the child's family members and persons of significance to the child; and
- f. be respectful of and have regard to a child's social, individual and cultural identity, the child's strengths and abilities and any vulnerability relevant to the child's safety or wellbeing; and
- g. take all reasonable steps to plan for the safety of all family members who are believed to be at risk from family violence; and
- h. promote the cultural safety and recognise the cultural rights and familial and community connections of children who are Aboriginal, Torres Strait Islander or both; and
- i. seek to maintain constructive and respectful engagement with children and their families.

#### 41V. Voluntary disclosure for wellbeing or safety of children

An information sharing entity (the disclosing entity) may, on its own initiative, disclose confidential information, other than excluded information, to another information sharing entity (the receiving entity) if—

- a. the disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and
- b. the disclosing entity reasonably believes that the disclosure may assist the receiving entity to carry out one or more of the following activities—

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<sup>20</sup> <https://content.legislation.vic.gov.au/sites/default/files/2022-08/05-83AA.036.pdf>

- (i) making a decision, an assessment or a plan relating to a child or group of children;
- (ii) initiating or conducting an investigation relating to a child or group of children;
- (iii) providing a service relating to a child or group of children;
- (iv) managing any risk to a child or group of children.