



**Review of the
Children and Young People
(Safety) Act 2017.**

2 November 2022



CHILD WISE

Review of the Children and Young People (Safety) Act 2017

Child Wise Feedback for the South Australian Government.

Via email: DCPCYPSActReview@sa.gov.au

Thank you for the opportunity to respond to how the Children and Young People (Safety) Act 2017 (CYPS Act) can be improved as part of your consultation and review process.

About Child Wise

The Child Wise mission is to lead the world in transforming systems and institutions to keep children and young people safe from abuse and harm. We help organisations strengthen their internal child safeguarding capacity and ensure compliance with child safety principles and legislation. We are a social enterprise of Save the Children Australia, who share our foundation in child rights. We work across Australia and the world, including New Zealand, the Pacific, Asia and the US.

Background

Child Wise was the first Australian organisation to develop safeguarding standards to evaluate and strengthen child safety practice, and in 2018 we welcomed the introduction of the Australian National Principles for Child Safe Organisations (National Principles), which reflect our pioneering work. We continue to see the significant benefits that clear, outcome-focused expectations can have in creating a child safe environment.

Child Wise has contributed to the Victorian, Queensland, New South Wales and Western Australian Governments' public consultations into the development of child safe standards. In these submissions we expressed our strong support for a regulated approach which would sharpen a collective focus on the safety of children and young people. Child Wise again welcomes the opportunity to contribute to the implementation of child safeguarding practice by providing feedback to the South Australian Government as part of its review of the CYPS Act.

We feel that there is significant potential for the application of child safeguarding standards for organisations whose work impacts children and young people, to support the overall intent of the CYPS Act.

Responding to the Discussion Paper

We understand that the CYPS Act was introduced as part of the Government's response to the Nyland Royal Commission and that implementing all of the recommendations of the **The Life They Deserve Report** represents significant transformative change in the child protection system. We also recognize that subsequently the Royal Commission into Institutional Responses to Child Sexual Abuse included 256 additional recommendations for the State Government to consider. Taken together, the recommendations across both Inquiries have been managed through a joint improvement plan under the Government's Safe and well: supporting families, protecting children strategy.

A number of these recommendations focus on ensuring that environments keep children safe and include specific commitments to the implementation of National Standards for Child Safety.

We understand that the CYPS Act is now under review and the Government is seeking feedback on what is working well and how the legislation could be improved. To support this feedback

process, the Government has provided a Discussion Paper that highlights areas of potential reform.

We note and support the Discussion Paper's:

- Focus on children and young people being at the centre of decision-making. We note the Discussion Paper is seeking feedback on how the legislation can reflect the Government's commitment to "amplifying and privileging the voices of children and young people."
- Focus Commitment to working with Aboriginal people and stakeholders to "enable the exercise of self-determination by Aboriginal people". We note the Discussion Paper is seeking feedback on whether the Act should recognise Aboriginal children's and families' right to self-determination and cultural authority.

In addition, we suggest that the application of National Principles for Child Safety are an important element to achieve these objectives. As experts in the application of the National Principles for Child Safe Organisations we bring to your attention that amongst their focus, the Principles include:

- A strong focus on "genuine engagement with, and valuing of children"
- Emphasis on "the importance of culturally safe environments and practices for Aboriginal and Torres Strait Islander children and young people."

The link between safe organisations and safety for children is clear and well evidenced across both Royal Commissions. It is imperative that organisations working to implement the Act are themselves safe for children. The Royal Commission into Institutional Responses to Child Sexual Abuse provided a clear evidence base for the introduction of a set of Standards for child safe organisations. We note that the National Principles (which evolved from the Standards recommended by the Commission) were endorsed by members of the Council of Australian Governments including the Prime Minister and state and territory first Ministers in February 2019, and that the South Australian Government has committed to implementing them.

Recommendation 6.5 was that State and Territory governments "should require all institutions in their jurisdictions that engage in child-related work to meet the Child Safe Standards identified by the Royal Commission". Our view, based on experience across each Australian jurisdiction is that legislation and an associated regulatory process is the most effective way of ensuring this requirement is met.

While the Government currently legislates that a child safe environment must be provided, there is currently limited guidance on the characteristics of a child safe environment, which in our view is creating ambiguity and confusion for organisations. In addition, the current compliance process includes a narrow focus on child safety policies and working with children checks and does not make it clear how the National Principles, which extend beyond an organisation's policies and procedures and include organisational culture, training, engagement with children, young people, parents and carers, risk management, child friendly complaints processes and continual improvement are expected to be embedded.

This has the implication that organisations may neither recognise the extent to which child safety cuts across organisations, nor have the capabilities to implement measures that work in tandem across an organisation to protect children's rights and safety. Enshrining the National Principles in legislation will increase child safety within South Australian organisations that deliver services to children and young people and help ensure that all organisations strive to meet clear, consistent and rigorous child safety standards. In our view, this is a minimum requirement for organisations that deliver services to children and young people.

Other jurisdictions have successfully implemented Child Safe Standards into legislation. For example, the Victorian Child Wellbeing and Safety Act 2005 includes 'Part 6 – Child Safe Standards' and prescribes the entities that must comply with Child Safe Standards. The New South Wales Children's Guardians Act 2019 also states that Implementation of the Child Safe Standards by child safe organisations be consistent with Royal Commission recommendations.

Both jurisdictions have developed Child Safe Standards that are consistent with the National Principles and have extended the focus of their standards to incorporate children and young people's wellbeing as well as safety. The NSW Child Safe Standards for example include requirements that:

- Children participate in decisions affecting them and are taken seriously.
- People working with children are suitable and supported
- Processes to respond to complaints of child abuse are child focused.
- Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training

Victoria has recently amended its standards to include requirements to involve families and communities in organisations' efforts to keep children and young people safe, for a greater focus on safety for Aboriginal children and young people, to manage the risk of child abuse in online environments, in relation to governance, systems and processes to keep children and young people safe.

Conclusion

Child wise recommends adoption of the National Principles for Child Safe Organisations into the CYPS Act. This review of the Act provides a significant and opportune time to broaden the legislation to include the wellbeing of children and young people and to provide South Australian organisations with the consistent guidance and impetus to implement clear and rigorous child safe standards.

While the South Australian Government has already committed to implementing the National Principles, the review of the CYP (Safety) Act provides an opportunity to embed these in legislation. As noted above, there is strong alignment between the Principles, and the areas of interest noted in the Discussion Paper.

Enshrining the National Principles in legislation will help:

- operationalise specific elements and the overall intent of the CYPS Act;
- ensure that the safety and wellbeing of children and young people in organisations is paramount;
- provide consistent guidance to all child-related organisations as to their child safe obligations; and
- provide as a consistent message regarding South Australia's commitment to child safety.

We welcome further engagement to support the South Australian Government in its implementation of child safe standards.

Yours sincerely,



Nicola Lowe
CEO Child Wise