



# CRIMINAL LAW REFORM AND CHILD SAFE STANDARDS

LISA MINCHIN, ELAA POLICY OFFICER

*The implementation of the recommendations of the Victorian Parliamentary Inquiry, Betrayal of Trust, has implications for early education and care services. In the first of a two-part series, this article provides an overview of the criminal law reforms services should be aware of and provides information about how your service can work towards compliance with the Child Safe Standards.*

**“All forms of sexual, physical and psychological abuse of young or otherwise vulnerable members of our community are, and must remain, matters of the deepest concern. We should take all reasonable steps to prevent them from occurring.”<sup>i</sup>**

The Betrayal of Trust Inquiry identified a number of serious failures of organisations to prevent and respond to abuse as a result of an over-reliance on the Working with Children Check and gaps and inconsistencies in their policies and practices.

The recommendations of the Inquiry are being implemented in three phases.

Phase 1: criminal law reform.

Phase 2: strengthen organisations' approaches to preventing and responding to abuse through a number of measures such as the introduction of Child Safe Standards.

Phase 3: improve access to justice for victims through civil law reform.

### Criminal Law Reforms

Three new criminal offences which focus on the immediate safety of children were introduced in 2014 and 2015. The offences are designed to improve responses within both organisations and the community to child sexual abuse.

**Failure to disclose child sexual abuse to police** – is a criminal offence unless there is a reasonable excuse or an exemption applies. There is a legal duty on all adults to report information about child sexual abuse to police. Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 in Victoria has an obligation to report that information to police.

**Failure to protect a child from sexual abuse** – this offence applies to people who hold a position of authority in a relevant organisation, such as childcare centre, family day care, or kindergarten, and who know of the substantial risk that another adult (who is associated with the organisation) may commit a sexual offence against a child and they have the power or responsibility to remove or reduce that risk but they negligently fail to do so.

**Grooming** – this offence targets communication, including online communication, with a child under the age of 16 or their parents with the intent of committing child sexual abuse.

The responsibilities implied by these offences to protect children are in addition to mandatory reporting obligations of qualified early childhood teachers in Victoria.

### Child Safe Standards

Under the *Child Safety and Wellbeing Act 2005*, Victorian organisations that provide services to children are required to implement the child safe standards.

The implementation of the standards is occurring in a staged way. Organisations regulated or funded by government that provide services for children, such as early education and care services, are required from 1 January 2016 to work towards compliance.

The child safe standards build on the principles, objectives and requirements of the National Quality Framework and the *Children's Services Act 1996*.

A good starting place to identify any gaps in compliance with the standards is to complete the Child Safety Review checklist provided in *A Guide for Creating a Child Safe Organisation* developed by the Commission for Children and Young People. The results of the checklist will identify areas of strength in the protection of children and areas which need further work.

To be a child safe organisation, services must be taking deliberate steps to protect children from harm. The commitment to child safety must be able to be demonstrated through your services' culture and policies.

Involving staff, volunteers, families and children in undertaking the review and subsequently developing a plan to comply with the standards and enhance child safety will ensure everyone's experiences and ideas are included.

The ultimate goal is to create a culture of safety which reduces the opportunities for harm and has a clear process to be followed when concerns about child safety are raised or reports of abuse are made.

It is important to recognise that the work needed to build a child safe organisation is never complete; rather it is an ongoing developmental process of reviewing and learning, planning and monitoring.

## CHILD SAFE STANDARDS

To comply with the compulsory child safe standards, an organisation must include the following principles as part of each standard:

- promoting the cultural safety of Aboriginal children
- promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds
- promoting the safety of children with a disability.

To create and maintain a child safe organisation, an organisation to which the standards apply must have:

1. strategies to embed an organisational culture of child safety, through effective leadership arrangements
2. a Child Safe Policy or Statement of Commitment to Child Safety
3. a Code of Conduct that establishes clear expectations for appropriate behaviour with children
4. screening, supervision, training and other human resource practices that reduce the risk of child abuse by new and existing personnel
5. processes for responding to and reporting suspected child abuse
6. strategies to identify and reduce or remove risks of child abuse
7. strategies to promote the participation and empowerment of children.

<sup>i</sup> Parliament of Victoria Family and Community Development Committee (2013) *Betrayal of Trust: Inquiry into the handling of child abuse by religious and other non-government organisations* November 2013

### Useful resources

Information about the criminal law reforms is available at: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/betrayal+of+trust+implementation>

Frequently asked questions for early childhood providers about the child safe standards are available at: <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/child-safe-faq.aspx>

A Guide for Creating a Child Safe Organisation (December 2015) is available at: <http://www.ccyp.vic.gov.au/downloads/creating-a-childsafe-organisation-guide.pdf>

Information on the standards, including a toolkit is available at: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards-resources>

*PolicyWorks Manual v 2. 2013* – *National Quality Framework* was developed by ELAA to support early childhood services to meet the legal requirements to have specific policies and procedures and provides best practice policies. ELAA is currently updating the *Child Protection Policy* and *Code of Conduct Policy* to reflect the Child Safe Standards. *PolicyWorks* can be purchased from the ELAA website and includes free access to all updates to policies.

**“To be a child safe organisation, services must be taking deliberate steps to protect children from harm. The commitment to child safety must be able to be demonstrated through your services’ culture and policies.”**



### ADVERTISING



Administration Support for Kindergartens

### Specialising in Early Childhood Services

Over 20 years experience in Kindergartens and Child Care Centres.

***“We support independent Committees of Management”***

We offer flexible services to meet your centre’s individual needs.

Just **A.S.K.** for help.

Contact Julie Limbach or visit

[www.a-s-k.com.au](http://www.a-s-k.com.au)

**PHONE** 03 93795244 **FAX** 03 93792144 **MOBILE** 0418 376 904

### Services

Payroll & Personnel Management

Full HR Services

All Bookkeeping

MYOB & XERO

Budget Preparation & Monitoring

Timetabling

Arrange Auditing

Fee Collection & Management

Registered B Pay Provider

KIM & FAC Registered

Registered BAS Agents

[www.a-s-k.com.au](http://www.a-s-k.com.au)