

DRAFT SECOND READING SPEECH

HON ELISE ARCHER MP

Child and Youth Safe Organisations Bill

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Mr Speaker, I move that the Bill now be read a second time.

Every child and young person in Tasmania has the right to be safe. Children and young people's safety is everyone's responsibility and this naturally extends to organisations and institutions that engage directly with children and young people.

During the recent public hearings of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (the Commission of Inquiry), we heard confronting evidence that highlighted the need for stronger protective measures to safeguard our children and young people from all forms of child abuse.

This evidence built upon the experiences shared by many victim-survivors during the *Royal Commission into Institutional Responses to Child Sexual Abuse* (the Royal Commission), which ultimately revealed that child sexual abuse in institutions continues today, and is not only a 'problem of the past'.

Here, I want to pause to expressly acknowledge and thank everyone who has contributed their experiences to both the Commission of Inquiry and the Royal Commission. Doing so was an act of enormous courage and selflessness that will help make our State a safer place for all children and young people. Thank you.

By sharing your experiences, you have also told us what it does—and doesn't—mean for an organisation to be truly 'child safe'.

Child and Youth Safe Organisations create cultures, adopt strategies and take action to prevent harm to children, including child sexual abuse. They value and respect children and young people, and invest in their safety. These principles are not negotiable. They form the foundation of how our children and young people's rights are respected and protected in organisational settings.

This Bill will further embed these rights in Tasmanian law.

This Bill advances the recommendations of the Royal Commission by establishing the Child and Youth Safe Organisations Framework. The Framework will contribute to the development of Child and Youth Safe Organisations in Tasmania, which promote the wellbeing of children and young people, and uphold their right to safety from all forms of harm in institutional settings.

In developing the legislative basis for the Framework, we have benefitted significantly from contributions from a wide range of stakeholders through a variety of consultation methods. These include several advisory panels set up as part of the Child and Youth Safe Organisations Framework project, consultation with local Aboriginal Community Controlled organisations, the Commissioner for Children and Young People, feedback from children and young people themselves, and consultation with people with lived experience of child sexual abuse, and mainland jurisdictions such as Victoria.

Mr Speaker, as we know from the five years of work undertaken by the Royal Commission, an institution is safer for children if the people in it have a strong sense of personal responsibility for the prevention of child abuse and are held to account for how instances of harm are handled. This comprehensive legislative framework aims to deliver this cultural change.

The requirement for compliance with the Framework will come into effect from January 2024 and will be phased in its implementation.

This is complex implementation. It will require organisations that work with children and young people to take specific steps to keep them safe and respond effectively where incidents of harm do occur.

The Framework will be made up of two specific elements – the Child and Youth Safe Standards, and the Reportable Conduct Scheme – overseen by an independent body, referred to in the Bill as the ‘Independent Regulator’.

The primary functions of the Independent Regulator will be to educate and provide advice to organisations to ensure that, in their operations, the safety of children is promoted, child abuse is prevented, and allegations of child abuse are properly responded to through compliance with the Reportable Conduct Scheme.

The Independent Regulator will also have robust powers to allow for the monitoring and enforcement of the Framework, including the ability to issue infringement notices and, if reasonably necessary, enter premises without consent.

The Independent Regulator is expected to come into effect on 1 July 2023.

The Tasmanian Government is committed to the independence of the office of the Independent Regulator. For this reason, the Independent Regulator will be appointed by the Governor and will not be subject to the direction or control of the relevant Minister in respect of the performance or exercise of the Regulator’s functions or powers. The *State Service Act 2000* will also not apply to the Regulator.

The Child and Youth Safe Standards, as they will be known in Tasmania, are aimed at keeping children safe and preventing child abuse.

In line with consultation feedback, the 10 Standards mirror the 10 National Principles for Child Safe Organisations developed by the Australian Human Rights Commission and

endorsed by all Commonwealth, state and territory governments. These principles also reflect the child safe standards recommended by the Royal Commission.

While the National Principles, and the Child and Youth Safe Standards, in turn emerged from the Royal Commission, their scope encompasses all forms of harm to children and young people, in addition to child sexual abuse.

The Child and Youth Safe Standards are designed to be principle-based, outcomes-focused and primarily aimed at transforming institutional culture. They are interdependent and cumulative. The Standards are able to be applied to, and implemented by, institutions in a flexible way, informed by each institution's nature and characteristics.

Importantly, an overarching principle that embeds the right of Aboriginal children and young people to cultural safety sits across all 10 Child and Youth Safe Standards.

The decision to include this principle as a universal tenet that informs the implementation of all the Standards comes after dedicated consultation with local Aboriginal Community Controlled Organisations, who championed a fully integrated right to cultural safety across all the Standards.

The Standards will apply to a diverse range of services, organisations, businesses, clubs, and associations that provide services to children including as recommended by the Royal Commission, in addition to government agencies, local councils, and the Parliament given the Government's strong commitment to the safety of children and young people.

The implementation of the Child and Youth Safe Standards is a significant step towards positive cultural change that will result in the prioritisation of the safety of children and young people within Tasmanian organisations.

The Framework's other key element, the Reportable Conduct Scheme, is aimed at ensuring children and young people are the focus when instances of harm and abuse are identified, responded to, and investigated. It supports the independent oversight of institutional complaint handling processes to ensure the rights of children and young people to safety are respected and protected.

The Reportable Conduct Scheme places a statutory duty on the leaders of organisations to report allegations or convictions related to child abuse involving a worker—including volunteers—engaged by the institution, to the Independent Regulator. This occurs even if the alleged conduct is historical in nature or has occurred outside the course of the worker's or volunteer's role with the organisation.

The Reportable Conduct Scheme will apply to a tighter group of organisations than the Child and Youth Safe Standards. This group primarily consists of the organisations specifically identified by the Royal Commission as having a higher degree of responsibility for children and/or undertaking activities that pose a greater risk of harm to children and young people.

Whilst not a Royal Commission recommendation, government agencies, local councils, and Parliament have again been included given our Government's strong commitment to the safety of children and young people.

The definition of reportable conduct includes a range of conduct committed against, or in the presence of children, including sexual offences, sexual misconduct, and grooming. It also includes significant emotional or psychological harm to a child and significant neglect, recognising the enduring impact these traumas have on children, the flow-on effect for the wider community, and an institution's responsibility to prevent and respond to it.

The Scheme captures conduct committed by an organisation's workers, volunteers, religious leaders, contractors, people on work experience, directors and other office holders, ensuring that any person coming into contact with children in these organisations is suitable to be working with children.

On becoming aware of reportable conduct, the head of the entity has three business days to notify the Independent Regulator. As soon as practicable, the head of the entity must begin investigating the conduct and, upon completion of the investigation, must report the findings and actions taken to the Independent Regulator. This ensures that entities are vigilant and conduct is never ignored.

However, it is important to know that anyone can disclose reportable conduct concerns to the head of a relevant entity, or go directly to the Independent Regulator.

In most instances, the Independent Regulator will have oversight of the organisation's investigation. This model allows for accountability in institutions, whereby all leaders in institutions are responsible for upholding child safety and complaint-handling processes.

Where it is not possible or appropriate for an organisation to arrange its own investigation, the Independent Regulator has the power to conduct its own investigation, or to request other existing regulatory bodies to conduct investigations.

The Framework is designed to encourage and facilitate the development of child-safe organisational cultures and child-focused complaint handling procedures.

Effective implementation will be achieved through education, advice and guidance, particularly during the transition phase. Implementation of the Framework will be supported by regulations, guidance materials, education and capacity-building projects.

The Framework also has a clear and legislatively empowered role to play in identifying wilful disregard for the rights of children and young people in institutional settings, including instances of mistreatment, prioritising organisational reputation over the welfare of the child, and inadequate scrutiny of allegations made against staff.

Where an individual or entity fails to comply with the requirements under the Child and Youth Safe Standards Framework, including Notices issued by the Independent Regulator, they will be subject to serious financial penalties of up to \$22,000 per offence for individuals, and up to \$65,000 per offence for entities.

Mr Speaker, we know from evidence given at the Royal Commission and the Commission of Inquiry that information sharing barriers have historically hindered the ability to safeguard children and young people.

This Bill seeks to ameliorate this risk by enabling the Independent Regulator to share information with anyone for the following important purposes:

- to promote and protect the safety and wellbeing of children;
- to enable the investigation or the enforcement of a law;
- for investigatory, disciplinary or employment-related purposes regarding the safety or wellbeing of children;
- to share information with other jurisdictions and other child safety oversight bodies for the purposes of those jurisdictions or bodies in collecting, analysing and publishing data on approaches to child safety; and
- for any purpose in accordance with the Bill.

It is anticipated that the Independent Regulator will play a key role in facilitating information sharing related to child safety between relevant organisations, the Police, the Registrar pursuant to the *Registration to Work with Vulnerable People Act 2013*, other entity regulators, and other jurisdictions. To balance personal information protection principles, the Independent Regulator is required to, where practicable, protect the identity of a child.

Mr Speaker, the Bill is, above all, about protecting and furthering the best interests of children and young people.

It is a tangible step towards achieving cultural change in institutions to ensure that children are valued, their rights are respected and their best interests are treated as paramount.

It will support organisations to create an environment where institutional child sexual abuse and other forms of harm to children and young people is better prevented, identified, reported and responded to.

The implementation of the Child and Youth Safe Organisations Framework, comprised of the Child and Youth Safe Standards and a Reportable Conduct Scheme, with independent oversight and regulation, will strengthen our child safeguarding system as a whole by complementing mandatory reporting, criminal reporting, registration for working with vulnerable people and other sector registrations, and broader prevention efforts and mechanisms.

Children and young people are the future of Tasmania. We all have a responsibility to promote their safety and wellbeing.

Mr Speaker, I commend the Bill to the House.