

FACT SHEET

Child and Youth Safe Organisations Bill 2022

The Child and Youth Safe Organisations Bill 2022 establishes a legislative framework for the regulation of Child and Youth Safe Standards and the establishment of a Reportable Conduct Scheme, including information sharing provisions, aligning with the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) and the approach in other Australian jurisdictions.

The Bill fulfils the Tasmanian Government's 2018 commitment to implement the recommendations of the Royal Commission to implement the Child Safe Standards and establish a Reportable Conduct Scheme.

The Child and Youth Safe Organisations Framework established by the Bill 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.

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 child safeguarding systems as a whole by complementing mandatory reporting, criminal reporting, registration for working with vulnerable people and other sector registrations, and broader prevention efforts.

Key Elements of the Bill

The Bill establishes an Independent Regulator that is responsible for administering the Framework, which 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 Bill adopts 10 Standards that 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, which reflect the child safe standards recommended by the Royal Commission. Their scope encompasses all forms of harm to children and young people, in addition to child sexual abuse, requiring:

- Standard 1 requires organisations to ensure that child safety and wellbeing is embedded in organisational leadership, governance and culture.
- Standard 2 ensures that children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
- Standard 3 ensures families and communities are informed and involved in promoting child safety and wellbeing.
- Standard 4 guarantees that equity is upheld and diverse needs respected in policy and in practice.
- Standard 5 requires that people working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.

- Standard 6 requires processes to respond to complaints and concerns to be child-focused.
- Standard 7 expects that staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
- Standard 8 requires physical and online environments to promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
- Standard 9 sees regular review and improvement of the child and youth safe standards within organisation.
- Standard 10 ensures that policies and procedures document how the entity is safe for children and young people.

An additional 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 Bill requires a diverse range of services, organisations, businesses, clubs, and associations that provide services to children to comply with the Standards, including:

- accommodation and residential services for children, including housing services and other overnight stays;
- activities or services of any kind, under the auspices of a particular religious denomination or faith through which adults have contact with children;
- child care and commercial babysitting services;
- child protection services and out-of-home care;
- disability services and supports;
- education services;
- health services;
- justice and detention services;
- a club, association or cadet organisation that has a significant membership of, or involvement by, children;
- a coaching or tuition service;
- commercial services to children, such as entertainment or party services, Gym or play facilities;
- transport services specifically for children;
- neighbourhood Houses; and
- Government Agencies, Local Councils, and Parliament.

In administering the Child and Youth Safe Standards, the functions of the Regulator are to provide education and advice to entities to ensure the safety of children is promoted, child abuse is prevented and allegations of child abuse are properly responded to, general oversight and enforcement of compliance with each of the Standards by entities, information sharing and data analysis. These functions are enabled by the Regulator having power to request information or documents, inspect premises, issue Notices to Produce Information or Documents and Notices to Comply with the Standards and issue infringement notices to entities or individuals for non-compliance offences.

The other key element established by the Bill is the Reportable Conduct Scheme which 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 applies to a tighter group of organisations than the Child and Youth Safe Standards, made up of the organisations specifically identified by the Royal Commission and other inquiries 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:

- accommodation and residential services for children, including housing services and other overnight stays;
- activities or services of any kind, under the auspices of a particular religious denomination or faith through which adults have contact with children;
- child care and commercial babysitting services;
- child protection services and out-of-home care;
- disability services and supports;
- education services;
- health services;
- justice and detention services;
- sport and recreation clubs with a significant membership of children and young people; and
- coaching and tuition services for children.

The Bill also requires Government Agencies, Local Councils, and Parliament to comply with the obligations of the Reportable Conduct Scheme.

The Bill adopts a definition of reportable conduct that includes a range of conduct committed against or in the presence of children, including sexual offences, sexual misconduct, grooming, physical violence, significant emotional or psychological harm and significant neglect.

The Bill 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.

Once becoming aware of reportable conduct, the Bill requires the head of the entity to notify the independent regulator within three business days. As soon as practicable and within 30 days, 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 regulator.

The Bill enables anyone to disclose reportable conduct concerns to the head of a relevant entity or directly to the Independent Regulator.

The functions of the Regulator in administering the Reportable Conduct Scheme are provided to educate and advise organisations on the handling of reportable conduct of a worker, monitor an organisations or other regulator's investigation into reportable conduct, ensure compliance with the

requirements of the reportable conduct scheme, conduct own motion investigations when in the public interest, sharing information with relevant bodies and analysis and reporting of data.

The Bill provides a strong suite of enforcement powers to the Regulator to enable these functions, including the power to enter premises, to interview workers and interview children during own motion investigations, issue Notices to produce information or documents, Notices to investigate, Notices to other entity regulators for assistance and issue infringement notices to entities or individuals for non-compliance offences.

Penalty provisions are provided for when an individual or entity fails to comply with the Child and Youth Safe Standards, fails to report or investigate Reportable Conduct, fails to comply with a Notice issued by the Regulator, provides false or misleading information, interferes with records or documents or uses information for an unauthorised purpose. The penalties are up to 120 penalty units per offence for individuals and 360 penalty units per offence for entities.

The Bill enables the Regulator to share information with anyone for the following purposes, but, where practicable, protect the identity of a child:

- 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 related to 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.

The Bill also enables the following people to share information with each other for the purposes of the legislation or the promotion of the safety and wellbeing of children generally:

- another entity regulator;
- head of an entity;
- Commissioner of Police;
- an independent investigator if necessary for the purposes of an investigation;
- the Registrar of the Working with Vulnerable People Act 2013;
- a Minister of the Crown;
- the police authority of the Commonwealth, a State or a Territory;
- of the worker who is the subject of the reportable allegation or reportable conviction is a contractor, the head of any relevant entity with whom the worker is engaged as a contractor; or
- any other prescribed person or body in relation to a prescribed matter, or a prescribed class of matters.

The Bill will commence on 1 July 2023.