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**Municipal Association of Victoria**

**Submission to the Review of**

**Victoria’s Child Safe Standards**

**March 2019**

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While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.

**1. Introduction**

The Municipal Association of Victoria (MAV), as the statutory peak body representing Victorian local government, welcomes the opportunity to provide a response on behalf of local government to the Department of Health and Human Services (DHHS) *Review of Victoria’s Child Safe Standards – Issues Paper* (including the recently endorsed National Child Safe Principles)*.*

The MAV is the legislated peak body of local government in Victoria and represents all 79 councils. The Association’s members remain critically interested and involved in the safety of all children. Victorian local government has a long history of active involvement in planning and providing services, facilities and advocacy for children.

All Victorian councils are committed to the aim of ensuring children in their municipality have the best possible start in life through effective planning, development and provision of services that improve the health, connectedness, safety, education and care of children.

**2. Background**

MAV and Victorian councils have been at the forefront of the development and implementation of the Victorian Child Safe Principles and Standards. A summary of involvement is as follows:

2014 – MAV commenced discussions and provided input into consultations from both Department of Health and Human Services (DHHS) and then Department of Education and Early Childhood Development (now DET) on the proposed Child Safe Standards (CSS).

2015 – MAV takes lead role in supporting councils in preparation of the introduction of the CSS in 2016. MAV worked closely with DHHS and Centre of Excellence on Child and Family Welfare to provide advice to, and forums for the local government sector.

2016 – MAV forms a local government CSS working group which included representatives from both DHHS and the Commission for Children and Young People (CCYP), to work through issues of implementation, communications, education to communities, building capacity of councils and in turn working with other organisations in their municipalities. Councils also provided support to the CCYP by providing venues and assistance in organising regional and rural information sessions to other organisations. Seventeen information sessions were supported by councils.

The working group then became a network - Local Government Child Safe Network. It was established to continue supporting councils in their implementation of the CSS. Membership includes CCYP representatives.

2017 – MAV consulted by the Royal Commission into Child Abuse regarding the work councils had been doing regarding CSS. Support for councils continued in view of the introduction of the Reportable Conduct Scheme (RSC).

2018 – Councils continue to implement the CSS and the RSC with MAV convening a council forum for the RSC. MAV liaises extensively with CCYP on a range of legislative and implementation questions. Local government child safe network expands to include State Library of Victoria and Parks Victoria.

2019 – Local Government Child Safe Network informs the MAV response to this Review.

**3. Current state for MAV and councils**

The MAV continues to liaise with the CCYP on a number of outstanding issues regarding the implementation of the CCS and RSC, particularly with regard to how they apply to elected members of local government. There are many examples of how Victoria can lead the way through addressing issues and embedding the Victorian Principles and Standards and Reportable Conduct Scheme and thus supporting the future implementation planning for the introduction of any National Principles.

**4. Responses to Issues**

As outlined in how to respond to the Issues Paper, the MAV is not responding to every question but rather to those questions deemed to be of significance to local government.

***Question 2* – *Is there anything that would have made it easier for your organisation to implement and comply with the Victorian child safe standards?***

Victorian local government has made a significant investment in implementing the Victorian scheme. A number of councils have appointed a dedicated officer to build the capacity of their organisation to understand, implement, monitor and report on the CSS and RSC. Councils have also undertaken extensive capacity building in their communities through reviewing volunteering arrangements, contracting arrangements, events management, and facilities management.

The things that would have made it easier for implementation are:

* Councils strongly advocate that appropriate resourcing from the State government would have assisted and will assist with implementing such a significant organisational and community change. Adequate resourcing would have ensured a greater level of consistency, as there is great variability in capacity and ability of councils to dedicate resources to this change process.
* A clear monitoring and evaluation system that included standardised universal reporting and information management used by all organisations without each individual council or organisation having to create their own.
* A State-wide campaign to support the efforts of councils to raise awareness of everyone’s responsibilities under the legislation and that communities were aware that this included all adults having a responsibility to protect children from harm.
* A state-wide implementation plan.
* An ongoing reference group managed by the Regulator for organisations to come together, share their knowledge and adopt a level of consistency in implementation and management of the scheme.
* Greater stewardship from the State government, engagement of business and community leaders and opportunities for civic participation to promote understanding and importance of the scheme.
* Joining up of the various pieces of legislation that impact councils such as the *Local Government Act (1989), the Child Wellbeing and Safety Act (2005) and the Working with Children Act (2005)* (see response to Question 11 for expanded list).

***Question 4 – Do you think the Victorian child safe standards have made your organisation safer for children?***

Victorian councils have a demonstrated commitment to child safety. All councils deliver Maternal and Child Health services and as such are acutely aware of their requirements and responsibilities with regard to child safety including mandatory reporting. Councils ensured that relevant personnel such as Maternal and Child Health Nurses and Early Childhood Teachers and Educators had working with children checks well before this legislation was introduced. Councils undertake Municipal Early Years Planning for their children and families and as such are aware about the importance of the safety of children. The MAV has reviewed its *Resource Guide to Municipal Early Years Planning (2018)* to include specific reference to the CSS and RSC including the importance of capturing children’s voice.

The introduction of the CSS and RSC has seen councils review a range of policies, procedures, systems and requirements for people who both work for council and who may volunteer, contract or deliver services to and on behalf of councils including those who use councils’ facilities. Councils have developed their own training, undertaken position audits, reviewed their recruitment practices, employment contracts, facilities use agreements, events management protocols and agreements. Councils also have taken a risk management approach to the requirement of employees, volunteers and contractors of having a Working with Children Check.

All these efforts combined have contributed to the improved safety of children in their local municipality.

***Question 11 – What has been your experience of the monitoring, compliance and enforcement scheme for the child safe standards? What, if anything, do you think could be improved?***

The experience of local government has been that there a multiple requirements for monitoring, compliance and enforcement relating to the safety of children. For some councils the requirements are extensive due to the range of services they deliver.

Overall the delay in the development of monitoring framework for the CSS has meant that there may be a risk that in the absence of any other guidance, council activities may need to adjust to now meet the framework.

Victorian councils are advocating for a standardised universal information management and reporting system.

Listed below are the range of potential monitoring and compliance, legislative requirements, frameworks and reporting councils may have to meet under the area of children’s safety

* DHHS Child Safe Standards Monitoring Framework – 2018 – 2019 for organisations funded and/or regulated by DHHS was recently made available.
* Reporting to The Commission, which has primary oversight and regulatory responsibility for the Standards and powers to oversee and enforce organisations’ compliance with the Standards. In accordance with section 32(2) of the Act, the Commission may request that a relevant authority (such as the department) takes action under any applicable law, contract or agreement to promote or require compliance of an entity with the Standards.
* Mandatory reporting for Maternal and Child Health Nurses and Early Childhood staff under the Family Violence Information Sharing scheme and the State legislated Child Information Sharing scheme.
* Requirements under the National Quality Framework for Education and Care services, which are monitored by the Quality, Assessment and Ratings Division as part of the Victorian Department of Education and Training. Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect (element 2.2.3). At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard (element 2.2.1).
* Services operating under the Victorian Children’s Services Act 1996 requirements are that the children’s service must be operated in a way that ensures the safety of the children being cared for or educated, supports the health and wellbeing of those children and ensures the developmental needs of those children are met (section25E). The proprietor of a children’s service must ensure that every reasonable precaution is taken to protect children being cared for or educated by the service from harm and from any hazard likely to cause injury (section 26).
* Whole of council will come under the FVIS and CIS schemes in 2020
* For councils’ services that may transition to the NDIS as of 1 July 2019, they will no longer be part of the DHHS monitoring framework, and therefore presumably will come under a different framework.
* Reporting requirements under the Working with Children Act (2005).
* The requirements of councils under the Privacy and Data Protections Act (2014), particularly where councils must issue collection notices (including to children) when they collect personal information.

The roles and functions of the Commission and the relevant authorities, along with their intersections and interrelationships could be more clearly articulated. For example – is there a ‘hierachy’ of authority? How does the regulation and compliance of the CSS and RSC scheme interact with other obligations set out under Commonwealth and State legislation? A document that clearly sets this out for councils would be useful with regard to their compliance and reporting requirements.

The Issues Paper also canvasses questions around the national harmonisation of child safe standards in Australia.

The Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse (2013) recommended the creation of a National Office for Child Safety and is tasked with working with state and territory governments to promote and educate organisations working with children.

Question 18 in the Issues paper explores the question of alignment of the Victorian standards with the National Principles. Victorian councils believe that the National Principles are aligned with the Victorian child safe standards and that it is important to continue with embedding the Victorian scheme before making any further changes and introducing a completely new National scheme into Victoria.

***Question 18 – What would be the advantage and/or the disadvantages (including the benefits and costs) for your organisation if Victoria’s child safe standards were amended to more closely align with the National Principles?***

Whilst Victorian councils recognise the benefits of having national consistency, council have invested significantly in implementing the child safe standards in their organisations. The Victorian scheme is still being embedded and any changes at this point in time would potentially require further resources and could be seen to undermine the work already done.

Given there is alignment between the National Principles and the Victorian Standards councils consider that the Victorian standards could continue without compromising any future work at the national level. Our understanding is that Victoria is ahead of other states and territories and that our experiences and learnings could be used to inform the future implementation of the National Principles.

***Question 21 Do you consider that Victoria should replace its three principles with a standard equivalent to National Principle 4 or keep them as separate cross-cutting principles? If so, why?***

*National Principle 4 - Equity is upheld and diverse needs respected in policy and practice*

There is no doubt that this Principle is eloquently written to ensure equity and diversity are explicit regarding child safety. However, MAV and councils consider that although the Victorian Principles are not as eloquent, they do nevertheless ensure a focus on diverse cohorts of children. Again, there is a question of changing things too soon given the efforts to embed the Victorian Principles and Standards in organisations. There is an argument to say if the intent is clear then why change wording for the sake of changing wording.

The MAV understands that COAG has just this month endorsed the National Principles and that the Australian Government has only recently established the National Officer for Child Safety. The key activities of the National Office will include leading national coordination and implementation of the National Principles, working with the National Children’s Commissioner, states and territories and the non-government sector. Therefore, there is an opportunity in Victoria through the Victorian Commissioner for Children and Young People to lead on the development of a consultative and coherent implementation plan for the National standards that recognises the level of work and investment already being made in Victoria and that does not cut across this work but rather enhances it.

**5. Recommendations**

* That the Victorian Commissioner for Children and Young People as the independent oversight body should coordinate ongoing information exchange between any National oversight body and the State.
* That the Victorian State government acknowledge the significant impact of the introduction of the Victorian Child Safe Principles and Standards and the Reportable Conduct Scheme and agree to further consultation and a clear implementation plan and resourcing for any introduction of the National Principles and Standards. (Many organisations across Victoria are still grappling with their understanding and implementation of the Victorian scheme, which is still in its infancy.)
* That the National Child Safe Commissioner and the Victorian Child Safe Commissioner and relevant government departments consult further before any changes are introduced.
* That the National scheme considers the learnings from the implementation of the Victorian scheme before embarking on further changes impacting Victoria.
* That the definition of ‘Office Holder’ be clarified to deal with the question of elected officials.

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