
***Commission of Inquiry into the Tasmanian Government's
Responses to Child Sexual Abuse in Institutional Settings***

Sexual Assault Support Service Inc. (SASS) Submission

July 2021



Sexual
Assault
Support
Service

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1. Content warning

SASS advises the reader that this submission includes information about the topics of abuse, mistreatment, child sexual assault (CSA) and trauma. If the information in this document raises any personal concerns or distress, you can contact the following support services:

1800 MYSUPPORT	1800 697 877 (24 hours) – crisis support for anyone in Tasmania who is impacted by recent or historical sexual assault.
1800RESPECT	1800 737 732 (24 hours) – National counselling line for anyone who has experienced, or is at risk of, domestic and/or sexual assault.
Beyond Blue	1300 224 636 (24 hours) – National phone line for mental health information and support.
Lifeline	13 11 14 (24 hours) – National phone line for crisis support and suicide prevention services.
Suicide Call Back Service	1300 659 467 (24 hours) – National counselling service for suicide prevention and mental health. There is also the option of chatting to a counsellor online.

In an emergency, call 000.

2. About SASS

Sexual Assault Support Service (SASS) Inc. is a community-based organisation committed to providing trauma-informed support and information services to survivors of sexual assault, carers and support people, professionals, and the broader community. The range of support options available at SASS includes counselling, case management and advocacy, 24/7 crisis support (including assistance and support at Forensic Medical Examinations and Police Statements) and therapeutic interventions for children and young people who are engaging in harmful sexual behaviours. We also provide information and support to professionals and deliver evidence-based training workshops and community education activities in a range of settings, including schools and colleges.

As part of our goal to provide responsive and holistic services to individuals, families, and the broader community, SASS facilitates therapeutic intervention services for children and young people (aged under 18 years) who are displaying harmful sexual behaviours.¹

SASS is funded by the following Government departments:

- Tasmanian Government Department of Communities (DCT), to provide SASS's core

¹ Alternative terminology is 'Problem Sexual Behaviour' (PSB) and 'Sexually Abusive Behaviour' (SAB).

program of counselling and support services, and the Harmful Sexual Behaviours Program.

- Tasmanian Government Department of Education (DoE), to deliver primary prevention of sexual harm training in Tasmanian high schools and colleges.
- Australian Government Department of Social Services (DSS), to provide a Redress Scheme Support Service. This is a free and confidential support service for people who may wish to lodge an application to the National Redress Scheme, which commenced in 2018 and will run until 2028.

SASS provides support to over 1000 counselling clients annually, of which approximately one third are children and young people under the age of 18 years.

We welcome the opportunity to make a submission to the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings.

3. Overview of this submission

In Section 4 below, we outline common themes of relevance from counselling discussions – we have not included individual case studies. If the Commissioners require more detailed information, they are invited to contact SASS to discuss the option of us providing additional material to them in confidence.

Section 5 contains some reflections and views from SASS therapeutic practitioners about systemic issues and gaps, and what is needed to address these.

In Section 6, we make comment on the Tasmanian Government's implementation of Royal Commission into Institution Responses to Child Sexual Abuse (RCIRCSA) recommendations.

Lastly, we provide our recommendations for change and improvement in Section 7.

4. What child sexual assault survivors and other parties have told us: Input from SASS practitioners

The following reflections, observations and information were provided by SASS staff members from the following teams: Adult Counselling (Redress Support Service, Adult General counselling, Prison Counselling), Child and Youth Counselling, and Training.

General observations

- Clients who have been particularly impacted by alleged child sexual assault (CSA) response issues and failures in Tasmanian Government institutions appear to be those who experienced other adverse factors/situations during childhood and adolescence, e.g. domestic and family violence; Child Safety involvement; financial hardships; families where parents and/or network around the families were involved in alcohol/other drug (AOD) use; and inter-and intra-generational trauma experiences, including incarceration. One client said to their SASS counsellor, "It was always us, the

poor kids” [our italics – client was referring to self and others as children who were financially disadvantaged and particularly vulnerable to abuse and mistreatment].

- Many clients have expressed views/feelings that meaningful change appears to be slow-moving. Most are aware of the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA); however, they feel that there has been scant information provided to survivors about what has come out of this in Tasmania. This instils feelings of hopelessness, i.e. “What is another Inquiry going to do?” Most survivors are very concerned about the future and want to know that other children are protected from the types of abuse that were perpetrated against them. Questions arise for them such as how do we know that anything has changed; has anyone been convicted, and if so, how many people and from which institutions? Many survivors want to see people in positions of authority held accountable. Furthermore, many survivors want answers about why the perpetrators seemed to “get away” with horrendous acts perpetrated against them.
- Many Redress Support Service (RSS) clients who have histories of being Wards of the State had negative experiences when they spoke about the incidents of abuse for the Tasmanian redress scheme,² and are wary of re-telling their experiences in detail for the purpose of further Inquiries.

Common themes from client accounts of recent and historical incidents

- Not knowing where to go or how to report incidents; not feeling safe to report; and not knowing who could be trusted (especially if people in authority were involved in the alleged incidents).
- Disclosures/allegations of abuse perpetrated by staff/volunteers or peers (e.g. other students, residents) not being followed up and investigated.
- Alleged perpetrators being moved on to other institutions or roles. For example:
 - SASS is aware of allegations made against a male teacher at a public high school; the law firm Maurice Blackburn has issued a request for anyone who attended the school from 1980-2005 and has knowledge/information that may be relevant to come forward.³ A Senior Associate at the firm, John Rule, made the following comments in an online ABC article:

"Unfortunately, that's our understanding, he has taught at other schools, other state schools, and has also been involved in other institutions around Hobart where we suspect other offending may have happened [...] It is a little bit like how the Catholic Church handled problem priests. When there were complaints, rather than reporting it to the police or dealing with it internally institutions tended to

² This scheme pre-dated the National Redress Scheme and was administered by the Tasmanian Ombudsman on request of the Tasmanian Government.

³ See: https://www.abc.net.au/news/2021-05-21/historical-child-sex-abuse-allegations-at-kingston-school/100156408?fbclid=IwAR18OrjH3MN0TmBYhDWGiF6bCv4OfepRch19biidVfz_acl4z3_2fkFOGE

move them on to another school or another town, and often these sorts of problems start all over again in the new school."⁴

- SASS consulted with the Advice and Referral Line (ARL) with regard to a relief teacher allegedly grooming pre-pubescent girls in New South Wales and Tasmania. Behaviours were observed and investigations were carried out in NSW from 2003 to 2006, and in TAS, from 2012 to 2020. Multiple young people were affected. A de-identified case report has been provided already, as part of the earlier iteration of this Inquiry.⁵ Information provided to SASS suggested failings in screening staff, risk assessments, and communication across jurisdictions.
- Children and young people not being informed about the outcomes of their complaints, and not being involved in or consulted about decision making processes following on from complaints.
- Children and young people being accused of lying, with no further investigation happening; being ignored or punished for “instigating” or “provoking” incidents of assault.
- Children and young people who “acted out” after alleged incidents of assault being “disciplined” in school and residential/youth detention settings. (Note: Children are not often able to communicate their needs verbally and distress/responses are usually demonstrated in behaviours.)
- Parents, foster parents, and other family members not being believed when they approached Child Safety services and/or other institutions about their concerns for the safety of children and young people in various Tasmanian Government settings and institutions.

Deidentified client experiences and comments about youth detention settings

- Females being subjected to strip searches in the presence of male workers at Ashley Youth Detention Centre (AYDC).⁶
- Young females being incarcerated with males at AYDC; and it has been reported to SASS that some workers at AYDC have turned a ‘blind eye’ to acts of Harmful Sexual Behaviour (HSB) being perpetrated in shared spaces. SASS was most recently made aware of allegations of HSB occurring at AYDC in 2020.
- Inappropriate responses and lack of empathy from adults in authority. Complainants being called offensive names after reporting incidents of assault, and/or being shunned by staff and peers at AYDC after reporting.⁷ One client commented: “I did report it, then learned it wasn’t safe to say anything, the police also bashed and knocked me around [...] I reckon they knew about it, just didn’t do anything.”

⁴ Ibid.

⁵ The Department of Education Inquiry, 2021.

⁶ SASS has received information about alleged occurrences at Ashley Youth Detention Centre within the past 10 years.

⁷ As above.

- Incidents of physical or sexual assault allegedly occurring at times when staff on duty were called away to attend to other disruptions/incidents.⁸
- Some clients have spoken about being traumatised by their memories of punishment-focused practices being used, including being put in solitary confinement and other rights/freedoms being compromised (e.g. removal of clothing – being forced to be naked; being denied access to food, water, toilets). One client spoke about being “terrified to sleep... terrified to shower” at AYDC.⁹
- A client who was previously incarcerated at AYDC told their counsellor that the systems that were set up to care and protect them “constantly abused and tortured [them]”; they spoke about being not surprised about how their life of crime turned out the way it had. They commented that the kids who were abused by the authority became abusers of other kids, and the authority knew this but did nothing to stop it.
- A client who was incarcerated at AYDC within the past 10 years expressed a view that Risdon Prison “[is] a more humane place” than AYDC.
- Historical incidents of alleged sexual assault occurring on farms, where some AYDC residents were sent for work experience.

5. Reflections from SASS practitioners on systemic issues and gaps

Factors contributing to re-traumatisation of child sexual assault survivors

- Lack of or insufficient trauma-informed training about child sexual assault in some government settings and facilities.
- Practices that are punishment-focused and/or de-humanising.
- Lack of or ineffective supervision to deal with complex issues.

It is important to recognise that staff in government-run facilities are working with some of the State’s most vulnerable children and young people. Many vulnerable children and young people have experienced abuse and/or neglect and being subjected to further abuse, mistreatment and/or ineffective systems and protocols is likely to foster and reinforce mistrust of authority.

Some views on what is needed to address systemic issues and improve outcomes for survivors

⁸ As above.

⁹ The information included under this point is historical in nature, i.e. reports made to SASS have been about practices that allegedly occurred 15+ years ago. However, we have incorporated the information into the submission for the purpose of demonstrating that there appears to be a significant cohort of people in Tasmania who continue to be affected by traumatic experiences in youth detention settings, including alleged punishment-focused practices. In our view, it is vital to acknowledge these experiences in the Inquiry narrative. People who have told us about historical punishment-focused practices are emphatic that no young person should be subjected to the kinds of mistreatment that they received.

- Many incidents of abuse shared with SASS staff in counselling were reported prior to the introduction of National Police Checks and Working with Vulnerable People registration, so perhaps these processes have provided some element of safety. However, these checks only appear to screen out people who have criminal records. More robust screening and communication protocols across agencies and jurisdictions are needed.
- There is clear need for a body/agency that has the power to compel other organisations to provide children and young people with access to a means by which they can report safely and in confidence, without fear of retribution.
- There should also be an investigative service where all staff are trauma-trained to a high degree, and have experience working with Aboriginal and Torres Strait Islander people, LGBTQIA+ people, and Culturally and Linguistically Diverse People: **a ‘one-stop shop’ for survivors of abuse, violence, and trauma, including a specialised investigative unit** where staff work collaboratively, are approachable, and are dressed in plain clothes.

6. SASS comments on the Tasmanian Government’s implementation of Royal Commission into Institution Responses to Child Sexual Abuse (RCIRCSA) recommendations

In this section, our comments pertain to some of the key steps listed in Question 46 of the Commission of Inquiry’s Information Paper, cross-referenced with relevant updates outlined in the Tasmanian Government’s *Second Annual Progress Report and Action Plan 2020* and *Third Annual Progress Report and Action Plan 2021*. Where applicable, we refer to previous submissions that SASS has made on proposed frameworks and legislative reform. SASS has also lodged submissions on related matters and draft pieces of legislation that are not covered in the *Annual Progress Report and Action Plan* updates. For more information on SASS’s views or previous submissions, please contact us and/or go to: <https://www.sass.org.au/social-policy>

Redevelopment of the Ashley Youth Detention Centre

Given the information that SASS has received from clients and families about the treatment of young people at Ashley Youth Detention Centre over the years, we support the development of a therapeutic model of care at the facility.¹⁰ However, we recommend that more detailed information is made available about progress towards this goal, including timelines for implementation; what the programs are likely to cover; and what the “systems and processes to support practice”¹¹ will actually entail. In our view, it is vital that there is transparency about the proposed therapeutic model content and processes, and which agencies are likely to be involved in facilitation of programs and professional development activities. We suggest that there should be a comprehensive process for consultation with

¹⁰ Ibid, pp 15-16.

¹¹ Ibid, p.16.

specialist organisations and bodies that have a focus on upholding the wellbeing and rights of children and young people. In our view, this consultation should occur while the therapeutic model of care is in the development stage and after its implementation. SASS would like to be included in this type of consultation process.

The National Reference System

SASS commends the Tasmanian Government on being one of the first jurisdictions to integrate its Working with Children Checks with the National Reference System.¹² We anticipate that when the National Reference System is fully operational, the risk of vital information about child-related concerns and offences being missed when a person relocates from one jurisdiction to another will be significantly reduced.

Amending criminal offences that apply to people who sexually abuse children or fail to report suspected abuse

In early 2020, SASS submitted a response to the Tasmanian Government's consultation paper on Renaming Sexual Offences. The paper explored options to review the language used in the crime of 'Maintaining a sexual relationship with a young person' contrary to Section 125A of the *Criminal Code Act 1924*, as well as other sexual crimes in Chapter XIV. SASS expressed support for legislative change in this area, anticipating that the proposed changes would better reflect the nature of child sexual assault.¹³ SASS welcomes the renaming of Section 125A to 'Persistent sexual abuse of child or young person'.¹⁴ However, we note that subsection 2 still contains the arguably problematic wording about "[maintaining] a sexual relationship with a young person".¹⁵

Establishing a working group to oversee the implementation of the Royal Commission's recommendations relating to policing

SASS supports the establishment of a working group "to oversee the implementation of eleven recommendations relating to policing."¹⁶ We also welcome the identification of family violence and sexual assault responses as key priorities in the Tasmanian Police Business Priorities 2020-2021.¹⁷ We are happy to be consulted on any matter relating to sexual

¹² Ibid, p.19.

¹³ Sexual Assault Support Service Inc (SASS), 2020. *Proposal Paper: Renaming sexual offences*. SASS submission, p. 3. Document available at: https://www.sass.org.au/sites/default/files/resources/sass-submission_renaming-sexual-offences-proposal-paper.pdf

¹⁴ We note that the Tasmanian Government's *Third Annual Progress Report and Action Plan 2021* refers to the renaming as follows: 'persistent penetrative sexual abuse of a child [or young person]'. This appears to be an administrative error in the *Progress Report and Action Plan* document. Section 125 of the *Criminal Code Act 1924* covers the separate charge of 'Permitting penetrative sexual abuse of a child [or young person] on premises.'

¹⁵ Wording most recently checked by SASS on 9th July 2021.

¹⁶ Tasmanian Government, 2020. *Third Annual Progress Report and Action Plan 2021*, p.20.

¹⁷ *Tasmania Police Business Priorities 2021-2021*, p.8. See: <https://www.police.tas.gov.au/uploads/Tasmania-Police-Business-Priorities-2020-21.pdf>

violence, and we look forward to receiving progress reports and updates from the working group.

Initiating a pilot intermediary scheme to assist victim-survivors, including children and adult witnesses with communication difficulties to participate in criminal proceedings

In April 2020, SASS and Women's Legal Service Tasmania (WLST) lodged a joint submission to the Tasmanian Department of Justice regarding the Draft Evidence (Children and Special Witnesses) Amendment Bill 2020. The draft Bill proposed an Intermediaries scheme to assist children and adults with communication needs to participate in the criminal justice system. In the submission, we noted that:

Although significant strides have been taken in this state to improve the legal justice process for children and other vulnerable witnesses, the fact remains that the ability of a victim to effectively communicate with police, counsel and throughout the court process is a critical factor in their ability to access justice. We commend the Government on the decision to implement the Scheme state-wide, as this is the only way to achieve equitable justice for all Tasmanians.¹⁸

SASS has expressed support for an Intermediaries scheme for many years, and we welcome the implementation of a three-year pilot scheme. We are hopeful that the scheme will be implemented permanently following the conclusion of the pilot.

Developing a legislative framework for Child Safe Organisations to support the intention of the national principles and the standards recommended by the Royal Commission

Earlier this year, SASS made a submission in response to the draft Child Safe Organisations Bill 2020. We did not support the framework proposed in the draft bill as, in our view, it was not fit for purpose. We believe that an effective Child Safe Organisations framework for Tasmania is of fundamental importance in terms of protecting the rights, interests and safety of children and young people. For this reason, we have included our full submission as an Appendix to this submission (see [Appendix 1](#)).

Progressing the development of a Reportable Conduct Scheme

SASS supports the development of a Reportable Conduct Scheme. This should be progressed as a matter of urgency. In our view, the Scheme should be administered by the Commissioner for Children and Young People (CCYP), in alignment with equivalent schemes in Victoria and New South Wales.

Other actions

¹⁸ Sexual Assault Support Service Inc (SASS) & Women's Legal Service Tasmania (WLST), 2020. *Draft Evidence (Children and Special Witnesses) Amendment Bill 2020*. Joint submission, p.2. Document available at: https://www.sass.org.au/sites/default/files/resources/sass-wlst-submission_draft-evidence-amendment-bill-2020.pdf

In addition to progressing with the redevelopment of Ashley Youth Detention Centre, and continuing to implement a legislative framework for Child Safe Organisations, the Tasmanian Government's identified priorities for 2021 (as set out in its *Third Annual Progress Report and Action Plan 2021*) are:

- Finalise and commence implementation of Tasmanian Standards for Children and Young People in Out-of-Home Care.
- Continue to work collaboratively nationally (*sic*) to develop and implement a nationally consistent Carers Register.
- Implement the Stability and Permanency Framework to assist in the provision of safe and stable placements for children and young people.
- Work with Aboriginal organisations to identify actions to further improve and embed the Aboriginal and Torres Strait Islander Children Placement Principles across the Child Safety Service System.¹⁹

SASS supports the actions listed in principle, and we await further updates from the Tasmanian Government to the community sector and the public at large about all the relevant details.

7. SASS's recommendations to Tasmanian Government

(i) Provide accessible, Plain English updates about progress towards implementation of Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) recommendations.

Whilst we acknowledge that updates are provided in the Tasmanian Government's Annual Progress Reports, we suggest that many people in the community at large may not be aware of these reports or where to find them online. In our view, it would be beneficial for the Tasmanian Government to draft and release clear, Plain English updates about progress and plans – and make these easily identifiable online. Non-government organisations may wish to include links to the information on their own websites. In addition, the option of a Subscriber list could be considered.

(ii) Do not finalise the Child Safe Organisations Framework for Tasmania until fundamental issues and gaps identified by SASS and other agencies/organisations are addressed.

SASS's views on the draft legislation that was released in late 2020 are set out in [Appendix 1](#).

(iii) Implement compulsory child abuse and mistreatment prevention and response training for staff and volunteers in all Tasmanian Government settings in which contact with children and young people occurs – including (but not limited to)

¹⁹ Tasmanian Government, 2020. *Third Annual Progress Report and Action Plan 2021*, p.14.

schools and colleges, youth detention centres, health centres and hospitals, and police stations.

Training should include identifying child sexual assault (CSA), harmful sexual behaviours (HSB) and trauma symptoms, and responding to disclosures. In our experience, conducting ‘whole of population’ training and follow up activities in child-focused settings like schools is associated with a range of positive outcomes, in terms of increasing safety and confidence, addressing problematic behaviour and systems, and improving cultures. Here is some feedback about SASS’s ‘Consent is a Conversation’ Program in Tasmanian schools and colleges, which uses a Primary Prevention approach:

Students

- “The presenters were amazing and made everything fun and I didn't feel uncomfortable learning about it. They really taught me a lot.”
- “These workshops were really helpful and interesting and they should definitely have more of them and more often and do the workshops with younger people...”
- “Why exactly did we not learn this earlier?”
- “I have really enjoyed this lesson and it has helped me gain knowledge of what to do if I am ever stuck in a situation like the ones that have been named. I can’t wait for next time!”
- “It is a very informative presentation that I think all generations should be taught.”

Teachers

- “Thanks for running these sessions. Probably the most valuable educational experience the kids will have this year.”
- “Teachers need awareness, skills and strategies to support in dealing with students traumatised by sexual assault.”
- “It was clearly planned and targeted for professionals and inclusive of early career and more experienced teachers. I appreciate the fact that you did not talk to us like we were school students. You and your co-worker were approachable and sensitive. Well done, so impressed.”

Teachers have also commented on the changes they had seen in school culture following the workshops, for example:

- “[We have received] more disclosures (scary but good they have found it within themselves to come forward). More care towards one another. Reflecting on behaviours of others (potential impacts). I overheard a girl stand up to another group about 'slut shaming' and using info from the workshops to back up what she was telling them.”
- “[Students have been] able to use the language provided to talk about safe behaviours.”

An six-page overview of SASS’s ‘Consent is a Conversation’ Program is available at: <https://www.sass.org.au/sites/default/files/resources/sass-primary-prevention-training-schools-program-overview-v3-may-2021.pdf>

- (iv) Where required, complement compulsory training with specialist risk assessments and policy/procedure advice to implement effective risk management strategies and enhance reporting processes in these settings.**
- (v) Establish Multidisciplinary Centres (MDCs) for the North, Northwest, and South.**

SASS has lobbied for the establishment of Multidisciplinary Centres (MDCs) for several years. In Victoria, the MDC model involves colocation and collaborative partnership, involving Victoria Police Sexual Offences and Child Abuse Investigation Team (SOCIT), Department of Health and Human Services (DHHS) Child Protection staff, Sexual Assault Counsellors, and in some locations, Family Violence teams (including Police officers and Counsellors).²⁰ Powell and Wright (2012) conducted an interview-based evaluation of SOCITs and MDCs. They summarise the relevant background as follows:²¹

The rationale for the development of the new SOCIT and MDC model arose primarily from the Victorian Law Reform Commission (2004) final report on sexual offences, which was tabled in the Victorian Parliament in July 2004. The report documented widespread concerns about low reporting, prosecution and conviction rates for sexual assault in Victoria, and the high attrition rate of reported cases. The highly critical report referred to widespread anecdotal concerns that the previous service model suffered from fragmented, inadequate and inconsistent service delivery. The stress that victims suffered was exacerbated by having to repeat their account to numerous service providers. The report also emphasised the prevalence of poor police attitudes toward sexual assault investigation. Attitudes of scepticism and disbelief toward victims of were prevalent among sexual abuse investigators, many of whom perceived that a high percentage of reported rapes were false. Overall, the Victorian Law Reform Commission recommendations included the need for the following: increased specialisation of investigators; improved working relationships between key players; and a response that was more cognisant of the context of sexual abuse and the challenges faced by victims.

In Appendix 2, we have included an excerpt from a Background Paper about MDCs (provided to SASS by the office undertaking the development of Tasmania's Family and Sexual Violence Action Plan several years ago), to provide Inquiry Commissioners with key information about the purpose, functions, and benefits of MDCs. We understand that several Members of the Tasmanian Parliament, and some Public Service employees, have participated in tours of Victorian MDC sites in recent years.

We urge the Tasmanian Government to commit to the establishment of collaborative, trauma-informed Multidisciplinary Centre sites in Tasmania. MDCs will not provide the

²⁰ For example, see: <https://www.safvcentre.org.au/contact/barwon-multidisciplinary-centre-mdc/#>

²¹ Powell, M.B., & Wright, R. (2012). Professionals' perceptions of a new model of sexual assault investigation adopted by Victoria Police. *Current Issues in Criminal Justice*, Vol 23 (3), p. 334.

solutions to all the issues and challenges that affect victim-survivors of child sexual assault in Tasmanian Government settings; however, the Victorian model has provided a viable model of what is possible, with regard to improving outcomes for individuals and the community as a whole, reducing re-traumatisation, improving public awareness of sexual assault and its impacts, and decreasing levels of risk associated with fragmented and inconsistent response protocols and systems.

Appendix 1: Content from *Child Safe Organisations Bill 2020 – SASS Submission*

1. Feedback on Part 1, Section 5 (Principles for the safety and wellbeing of children)

In our view, the Principles that are set out in this section are broad rather than specific, and this is a reasonable approach to take in terms of anchoring the proposed legislation with some key points and fundamental priorities. We recommend that simpler language is used, as a way of making the Principles more accessible to the community and easier to recall and cite. We also suggest that it is important for the Principles to:

- acknowledge the importance of diversity; and
- recognise the increased vulnerability of children and young people who identify as Aboriginal and Torres Strait Islander, Culturally and Linguistically Diverse, LGBTIQ+ and/or having a disability.

The set of Principles adopted in Victoria serve as a useful model here. The Victorian Commission for Children and Young People explains clearly that while all children are vulnerable, those from diverse backgrounds “may be particularly vulnerable to being victimised and may face challenges in reporting an incident of abuse.”²²

2. Feedback on Schedule 1 (Child Safe Standards)

The Standards in this Bill appear to have been drafted with reference to the ten National Principles, endorsed by the Council of Australian Governments (COAG) in 2019, which align with the ten standards developed by the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).²³ We make the respectful submission that the proposed Standards for Tasmania need more attention and refinement prior to finalisation. As a starting point, we suggest that active rather than passive language is used throughout, in order to make expectations, responsibilities and obligations clear and action-focused. As an example of active language, we refer to National Principle 1, which reads as follows:

Child safety and wellbeing is embedded in organisational leadership, governance and culture.

By contrast, the first Child Safe Standard in the draft Bill uses passive language, which – in our view – is convoluted and ineffective:

Measures to protect the safety and wellbeing, and uphold the equity and diverse needs, of children are to be embedded in organisational leadership, governance, policy, practice and culture.

²² Commission for Children and Young People, Victoria. Child safe principles. See: <https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/the-child-safe-standards/child-safe-principles/#TOC-1>

²³ Commonwealth of Australia (2017). Final Report: Volume 6, Making institutions child safe. Report accessed online at: https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_6_making_institutions_child_safe.pdf

An alternative approach is to adopt the ten National Principles in full as the Child Safe Standards and produce a supporting guide to the Standards, which has been done in New South Wales.²⁴ Western Australia has also taken this approach and produced a range of state-based supporting resources, including a Self-assessment and Review Tool for use by organisations.²⁵

A separate consultation process on the Principles and Standards may be worthwhile. It is vital to get this part of the process right from the outset, to ensure that there is a solid foundation from which to implement targeted and robust systems and processes for Child Safe compliance and public awareness activities in Tasmania.

3. Feedback on Part 2, Sections 9 and 10

We are not satisfied that the annual reporting procedure outlined in this draft Bill will be effective in terms of protecting the safety and wellbeing of children. Our concerns are summarised as follows:

- A non-government organisation (NGO) may be reporting to a Government Agency that is being investigated with regard to allegations of child abuse or mistreatment. This is not likely to instil public faith or confidence in Child Safe compliance processes. There are also potential procedural issues to consider, including whether an NGO that reports to more than one Government Agency will be required to engage in multiple compliance processes, and whether outcomes from these will be shared across agencies. A key question here is what will happen if a Government Agency finds that an organisation is not complying with requirements: i.e. will concerns be shared with other agencies that fund the organisation? It is easy to envisage a range of procedural issues and challenges that may impact on the effectiveness of proposed compliance processes.
- In the Bill, it is not clear who will scrutinise the annual reports that are prepared by government entities, and what actions will be taken if there are any concerns arising from the reports. The only direction given is that an annual report is “to be combined with an annual report required under section 36 of the *State Service Act 2000*.”²⁶
- The draft Bill appears to be silent on compliance and monitoring procedures for organisations that engage with children and deliver child-related services in Tasmania, but do not receive funding from the Tasmanian Government.²⁷

4. Implementation of an independent Child Safe oversight body in Tasmania

²⁴ See:

<https://www.kidsguardian.nsw.gov.au/ArticleDocuments/838/ChildSafeStandardsGuide.pdf.aspx?Embed=Y>

²⁵ See: <https://www.cyp.wa.gov.au/our-work/child-safe-organisations-wa/>

²⁶ See Section 10 (2) of draft Bill.

²⁷ Section 9B does not specifically refer to a funding agreement with a State Government department; however, this draft legislation is intended for application in Tasmania and the accompanying letter indicates that one of the purposes of the proposed reform is to “[r]equire Tasmanian Government entities to embed the Principles for the Safety and Wellbeing of Children and the Child Safe Standards in funding agreements with non-government organisations”.

We urge the Tasmanian Government to commit to the planning, resourcing and establishment of an independent Child Safe oversight body for this State. The Royal Commission identified independent oversight as a central component of an effective and responsive Child Safe approach. The following excerpt from the Royal Commission's Final Report provides clear and evidence-based support for an independent, investigative and educative oversight body.²⁸

4.5.1 Minimising the burden on institutions

Independent monitoring and oversight of institutions is required for the Child Safe Standards to be effective. Regulatory burdens on child-related institutions can be reduced through good design of the standards, and with responsive administration and enforcement including implementation guidance, and coordination with other regulatory systems.

Regulation and oversight should recognise the diversity of institutions that will be required to implement the standards. Consistent with best practice regulation, oversight bodies should take a risk-based approach to compliance. Enforcement efforts by government should focus on higher risk institutions, and regulators should respond to non-compliance with proportional interventions for those institutions unwilling and/or unable to comply.

Responsive regulation

We were told that a responsive approach to regulation would minimise the regulatory burden on institutions while improving safety for children. Accordingly, this regulatory theory has significantly influenced our approach to improving regulatory oversight and practice. It has influenced the regulation of a variety of fields including WHS law, taxation, environmental law, and the regulation of food and alcohol.

Responsive regulation is a dynamic model of enforcement based on an ongoing relationship between the regulator and regulated entity. It encourages voluntary compliance through self-regulation and persuasive, informal enforcement measures. Enforcement methods can range from encouragement, such as education and training, to sanctions, such as penalties and the revocation of a licence. Under this model, coercive measures are used only when less interventionist measures have failed to achieve compliance.

When the regulator becomes aware that an institution is not child safe, they can work collaboratively with the institution to achieve compliance. Compliance efforts become more burdensome if institutions show a consistent unwillingness to comply. Regulators can have a suite of enforcement tools, such as powers to request information, orders to comply or penalties. All can deter non-compliance, or can achieve compliance for institutions unwilling to be child safe.

Proportional response to compliance is a core principle of responsive regulation. It assumes that those being regulated will comply because of reputational, ethical or other normative

²⁸ Commonwealth of Australia (2017). Final Report: Volume 6, Making institutions child safe. Pages 275-276.

motivations, but has sanctions for those who are either unwilling or unable to comply. Commissioned research on regulation and oversight noted:

Self-regulation in the context of responsive regulation ultimately relies upon the regulated actors' desire for social legitimacy and reputational esteem, with optimal examples leading to the internalisation of regulatory norms and the development of trust between regulators and regulatees.

Commissioned research also confirmed that substantial cooperation between regulators and institutions increased the likelihood of compliance and led to longer term cultural change and the achievement of regulatory outcomes. Oversight bodies can minimise burden on institutions by auditing at greater or lesser levels of frequency, and at differing levels of focus, depending on the type of institution and its level of risk.

Stakeholders during our consultations agreed that monitoring and enforcement should be a partnership between the institution and the regulator, taking a capacity building and responsive approach to build a shared understanding of what it means to be child safe. These views were echoed by children and young people in our commissioned research, who told us external monitoring of institutions should focus on reviewing safety approaches and suggesting improvements.

This approach would minimise the burden on institutions and prioritise cultural change in them. Focusing regulatory efforts on improving safety for children, rather than reinforcing prescriptive requirements, will allow institutions to tailor child safe practices to their operational context, such as community, size, resources and risk to children.

WorkSafe Tasmania provides a framework for conceptualisation of an accessible, educative and investigative Child Safe oversight body. The Royal Commission identified the scope for nuanced, targeted guidance and compliance processes as a key strength of Work Health and Safety (WHS) schemes in Australia. Again, we draw attention to relevant wording from the Final Report:

Australian WHS schemes are an example of a regulatory framework that applies to a large number of institutions across many different sectors. Commissioned research found that WHS regulators have overcome this challenge by establishing multiple layers of requirements. Requirements that apply to all persons conducting a business or undertaking are set out as core principles and reinforced through specific duties to manage risks to health and safety. This gives the flexibility for institutions to tailor safety strategies to the specific context of that business or undertaking. For particularly high-risk work, additional requirements are more prescriptive and dictate how workers must be protected, for example prescribing a limit on workers' exposure to noise. Commissioned research suggested that a similar approach could be taken to child safe standards by subjecting higher risk institutions to more stringent regulation and oversight.²⁹

²⁹ Ibid, p. 278.

In SASS's view, the best way forward is to extend the operations and resourcing of the office of the Children's Commissioner in Tasmania. To support our position, we include another excerpt from the Royal Commission's Final Report.³⁰

A new or existing state or territory body could be appointed as a central regulator of the child safe approach. This responsibility could fall to children's commissioners and guardians, who are currently playing a key role in state and territory child safe approaches. The state or territory oversight body could fill the gap for unregulated sectors and also take a jurisdiction-wide leadership and capacity building role. They could perform the following functions:

- oversee and monitor the implementation of the Child Safe Standards in unregulated institutions
- monitor and enforce compliance with the Child Safe Standards
- provide guidance on the Child Safe Standards to institutions and the community. For smaller clubs and local business, such as sport and recreation institutions, this could be through a voluntary email subscription process (see Volume 14, Sport, recreation, arts, culture, community and hobby groups)
- collect, analyse and publish data on the child safe approach in that jurisdiction, and report these to the proposed National Office for Child Safety (see Section 4.6)
- access relevant information about the child safety of individual institutions to help monitor and enforce the Child Safe Standards
- foster cooperative and consultative relationships with institutions and peak bodies
- provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe
- coordinate ongoing information exchange between oversight bodies on institutions' compliance
- handle or oversee complaints and investigations of allegations of institutional child sexual abuse (see Volume 7, Improving institutional responding and reporting).

In Victoria, the Commission for Children and Young People performs the role of independent oversight body. The Commission describes their duties and approaches as follows:

We encourage good practice and improved performance, and take action when needed against unacceptable performance.

We have a number of legislative tools available to use in enforcing compliance with the Child Safe Standards under the Act. We consider court action as a last resort enforcement tool.

For regulated and/or funded organisations we will work collaboratively with existing statutory regulators and funding bodies.³¹

³⁰ Ibid, p. 282.

³¹ See: <https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/the-child-safe-standards/our-powers/>

In New South Wales, the Office of the Children’s Guardian provides independent oversight functions (including a Reportable Conduct Scheme), training activities, and a range of resources for organisations and the general public.³²

5. Use of existing accreditation processes as an alternative to annual reporting by non-government organisations to funding bodies

Another recommendation we make is for non-government organisations that receive State Government funding to demonstrate Child Safe compliance through existing quality and safety accreditation processes, as opposed to the annual reporting procedure outlined in the draft Bill. A condition of SASS’s core funding with Department of Communities Tasmania (DCT) is that we maintain full quality and safety accreditation. For more than a decade, SASS has held Quality Improvement Council (QIC) Standards for Health and Community Services accreditation. Our ongoing accreditation assessments are conducted by Quality Innovation Performance (QIP).³³ In our view, use of existing quality and safety accreditation processes would ensure that compliance is assessed and reviewed externally and consistently. It would also avoid duplication.

However, we do not suggest that this approach alone is sufficient for Child Safe purposes. This recommendation is a procedural one only, as an alternative to the approach outlined in Part 2, Section 9 (2) of the Bill. As outlined in this submission, we are strongly in favour of an appropriately resourced, independent and educative oversight body in Tasmania – but we acknowledge that this will take time to plan and implement. The alternative reporting procedure could serve as an interim measure until the operations of an independent oversight body commence.

6. Concluding comments

SASS takes its Child Safe obligations seriously and we will comply with whichever reporting processes are required of us. However, we respectfully submit that the draft Child Safe Organisations Bill does not, in its current form, provide the basis for an effective and robust Child Safe strategy in Tasmania.

³² See: <https://www.kidsguardian.nsw.gov.au/child-safe-organisations>

³³ For information about QIP, see: <https://www.qip.com.au/>

Appendix 2: Excerpts from a Background Paper on Multidisciplinary Centres

BACKGROUND:

- MDCs have been set up across Victoria to provide a victim centred response to sexual assault and child sexual abuse.
- Victims/survivors and non-offending family members or carers are provided with safety, support and access to the criminal justice system through an integrated, seamless and multi-disciplinary environment.
- The MDCs aim to:
 - Improve support for victims;
 - Improve and integrate the investigation of sexual offences and child abuse;
 - Improve the quality of evidence in sexual offences and child abuse cases;
 - Increase reporting of sexual offences and reduce attrition; and
 - Improve the capacity of agencies to work collaboratively.

The value of a specialist and integrated response

- Adult and child victims/survivors of sexual abuse may be inhibited from reporting their experiences and may not seek support due to a number of barriers, including:
 - community attitudes and beliefs;
 - the trauma being experienced;
 - past experiences or negative expectations about likely service responses; and
 - accessibility of services and information.
- The complexity of response to child victims of sexual abuse may be compounded by their age and vulnerability and conflicted family relationships, particularly where the offender is a family member.
- The primary goal of the MDC response is to meet the needs of victims/survivors by addressing their safety, wellbeing and ability to regain control of their circumstances; and providing access to support, information, justice and services appropriate to their needs.

- For children, MDCs provide a holistic approach that centres on supporting the child while attending to the family's needs through a highly coordinated approach to the forensic investigation and support and counselling.

MDC Core Agencies

- MDCs co-locate members of the Victoria Police Sexual Offences and Child Abuse Investigation Team (SOCIT), Department of Health and Human Services (DHHS) Child Protection practitioners, and Centres Against Sexual Assault (CASAs) - the core agencies.
 - Victoria Police SOCIT is a specialised investigative team of detectives trained to provide a victim focused specialist investigative response to the complex crimes of sexual assault and child abuse. The role of SOCIT is to investigate crime, apprehend offenders, work in partnership to ensure an empathetic, comprehensive and professional response to victims of sexual assault and child abuse and initiate and implement prevention, reduction and support strategies.
 - DHHS Child Protection practitioners provide statutory services under the *Children, Youth and Families Act 2005* (Vic) to children and their families in order to protect children from harm in their families. They receive reports and conduct protective investigations and interventions.
 - CASAs provide specialist counselling, information and advocacy to victim/survivors of sexual offences and their non-offending family members, carers and support people. Nurses employed by CASA provide specialised health services responding to victim survivors' immediate and long-term needs arising from their experiences of sexual assault.

Governance

- Each agency remains responsible for its own statutory responsibilities under their respective authorising legislation.
- Interaction between the MDC partner agencies is governed by three documents that form the 'MDC Framework', which has been agreed upon by the MDC partners:
 - The Letter of Understanding (LoU) outlines the roles and responsibilities of the partner agencies, governance arrangements, information sharing obligations of the agencies in the MDC setting and procedures for conflict resolution.
 - The Statewide Agreement articulates the statewide parameters for MDCs to support delivery of a client centric service from one location. The agreement intends to provide consistency in the operation of MDCs across Victoria, whilst also supporting local decision making.

- The Local Agreement sets out the local operational arrangements of each MDC specific to that particular division.

MDC locations and functions

- There are currently six MDCs operating across Victoria:
 - PenSAC established in 2007 - formerly located in Frankston and re-located to Seaford in 2014
 - Mildura established in 2007
 - Barwon established in 2012 – located in Geelong
 - Dandenong established in 2014
 - Bendigo opened in August 2015
 - Morwell opened in November 2015.
- A seventh MDC is being established in the outer west of Melbourne in 2016/17 and the Dandenong and Geelong MDCs will be expended to incorporate a family violence response.
- The Dandenong MDC also serves as a Principal Centre and includes the colocation of Victorian Institute of Forensic Medicine (VIFM) Forensic Medical Officers.
 - VIFM has statutory responsibility for the provision of forensic medical examinations in Victoria. In the case of recent sexual assault, forensic medical examinations are conducted for the dual purpose of providing immediate medical care and attention to the victim as well as collecting and documenting forensic medical evidence where consent is provided.
- The core agencies provide a similar range of services at each MDCs. However, there are some variations, which result largely from pre-existing or local arrangements, rather than specific MDC design enhancements.
 - Co-located at the Mildura MCD, the Mallee Sexual Assault Unit-Domestic Violence Service encompasses a range of family violence services for women and children experiencing family violence.
 - Barwon CASA and PenSAC provide specific family violence counselling services and the Bendigo MDC provides after hours family violence crisis services.
 - Four of the six MDCs include sex offender register responsibilities.
 - Five of the six MDCs also include forensic suites, with the capacity to conduct forensic medical examinations.

- Most MDC buildings are purpose-designed to be discrete and welcoming in order to encourage victim reporting and ongoing engagement; to support the functioning of the specific roles of the core agencies; and to encourage a high level of collaboration amongst core agencies.
 - This environment has been found to support anonymity for victims/survivors and is less confronting to access when compared to a police station.

Evaluation

- A number of evaluations of MDCs and the MDC model have been undertaken, the most recent between August and December 2015 (the Evaluation).
- The Evaluation found the MDC model has significant capacity to deliver improved outcomes for victims of sexual offences and high levels of collaborative practice amongst core agencies.

Outcomes for victims/survivors

- The Evaluation data showed strong evidence that the MDC model is achieving improved outcomes for victims of sexual offences.
 - More timely and accurate information and quicker access to the range of services, which are received in the same building.
 - Empowerment through being 'in charge' of the process.
 - Reduction in the number of times a victim is interviewed.
 - Increased referrals by Child Protection and SOCIT for victims to access therapeutic counselling.
 - Victims are provided with improved support when they are informed that their case will not proceed.
- The Evaluation also found the effectiveness of the model extends to improved support for non-direct victims, including non-offending parents.

Practice outcomes

- The Evaluation highlighted significant improvement in the practice and culture of co-located agencies, both in terms of their individual and joint work.
 - Improved, more efficient sexual offence investigations;
 - Quickly accessing colleagues within the MDC is resulting in efficient use of resources and significant time saving in the investigation of sexual offences cases.

- The availability of FMOs and FNEs in regional areas is contributing to the timely provision of forensic medical examinations for victims.
 - Assisting victims to provide better quality of evidence.
 - Higher uptake by victims of 'options talks' – the opportunity to speak informally to a SOCIT member about the option of making a formal report to police about the sexual offences, and what that process entails.
 - MDC Child Protection teams have on average less than half the re-notifications compared to non-MDC locations.
 - Colocation fosters and supports a high degree of collaboration, as staff know and trust each other, and have a strong understanding of each other's roles.
 - Working closely together, having increased exposure to each other's specialist skills, observing each other's practice and in some cases participating in joint training or case conferencing forums is contributing to improved practice and skills amongst MDC staff and increased professional respect.
 - Positive change in attitudes of staff in relation to the nature and impact of sexual assault, and the roles that each partner agency brings to the MDC.
- Overall the co-location of specialist staff working together in a highly collaborative approach is key to the success of the MDC model. Purpose-designed facilities also contributes to positive outcomes.as the key to the success of the MDC model.