

**Submission by the
ACT Ombudsman**

**Child Safe Standards
Discussion paper**

Submission by the ACT Ombudsman, Michael Manthorpe PSM

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Introduction and summary

The Ombudsman welcomes the opportunity to make a submission on the Chief Minister Treasury and Economic Development Directorate's Child Safe Standards Discussion Paper.

The ACT Reportable Conduct Scheme was introduced on 1 July 2017 to improve organisation-related child protection. The role of the ACT Ombudsman is to oversee how organisations prevent and respond to allegations of misconduct by an employee or volunteer against children under the scheme. The scheme also provides for information relating to child safety to be shared between relevant government agencies, professional registration bodies and organisations covered by the scheme.

The Ombudsman understands that, in acting upon the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse to regulate Child Safe Standards, the ACT Government has endorsed the National Principles for Child Safe Organisations (the National Principles). The ACT Government has also decided to require organisations working with children and young people to comply with Child Safe Standards whilst giving formal oversight functions to the ACT Human Rights Commission (the Commission).

Scope of proposed organisations within ACT Child Safe Standards scheme

The Ombudsman notes there are a range of potential options for defining the scope of the organisations to be brought into the ACT Child Safe Standards scheme (CSS scheme). The Ombudsman would welcome the inclusion of all current and future designated entities within the Reportable Conduct scheme to be included under the CSS scheme. It is envisaged this inclusion would facilitate clearer roles, expectations, responsibilities and information sharing pathways for scheme administrators and the organisations covered by the schemes.

Opportunity to strengthen collaboration

The implementation of Child Safe Standards within the ACT will intersect with the Reportable Conduct scheme. The areas of interconnect between the implementation of the Child Safe Standards and the Reportable Conduct scheme will provide the opportunity for the Commission and the Ombudsman to continue to work collaboratively to ensure joint implementation. This will build on the strong collaborative and information sharing relationships this Office already has with the Commission and other regulators, such as the Commissioner for Fair Trading, and the work undertaken as part of the Working with Vulnerable People Scheme and the broader child safety framework in the ACT.

The work by this Office under the Reportable Conduct scheme already contributes to building organisations capacity to foster child safety in relation to a number of the National Principles. Under s 17F of the *Ombudsman Act 1989*, the Ombudsman must monitor the practices and procedures of a designated entity (an employer), considered under the Reportable Conduct scheme, for the prevention of reportable conduct involving an employee and for dealing with reportable allegations or reportable convictions. This function closely aligns with National Principle ten; *Policies and procedures document how the organisation is safe for children and young people.*

Under the Reportable Conduct scheme an employer is responsible for ensuring systems, policies and procedures are in place for recording and responding to, or investigating, allegations or convictions involving reportable conduct against employees. Policies and procedures may include a code of conduct, managing and investigating complaints, misconduct, discipline, employee welfare and support.

Employers are required to provide information, as the Ombudsman requires, about the type and operation of the employer's systems to provide a safe environment for children in the employer's care, and systems for handling and responding to reportable allegations and convictions made against employees

Employers are also responsible for establishing systems that enable employees to notify the employer (or delegate), of any concern, allegation or conviction of reportable conduct involving an employee, of which they become aware. This requirement closely aligns with National Principal six; *Processes to respond to complaints and concerns are child focussed* in which reporting is an important component.

The monitoring of an organisation's policies and procedures and its response to an allegation of reportable conduct will often result in feedback and recommendations to an organisation regarding improvements in the areas of prevention and responding to reportable conduct in its policy, practice, training and systems. Some of these activities may also closely align with the National Principles.

Pathways to strengthen collaboration

It is envisaged the Ombudsman's activities and role in reportable conduct would complement the proposed functions by the Commission, with the effective and appropriate sharing of relevant information a significant and ongoing consideration.

The Ombudsman understands the Commission will establish a risk assessment framework to help determine which organisations to monitor and audit each year. The Commission may also seek information in response to an individual complaint about an organisation by a client or parent/carer. While acknowledging that the different schemes have distinct legislation and focus they bring to child safety in the ACT, information held by one scheme may assist another in administering its own particular functions. Through its monitoring activities of organisations within the Reportable Conduct scheme the Ombudsman gathers information, particularly information regarding trends in practice and about an organisation's policy and procedures framework. This information could inform the proposed CSS risk assessment framework to help the Commission target its monitoring activities and/or other functions.

The development and implementation of Memorandum of Understanding arrangements between regulators and other oversight and funding bodies that include clear roles and responsibilities may also support points of coordination, including communication and information sharing, while also facilitating a reduction in duplication.

CMTEEDD may wish to consider any lessons learnt from the implementation of the Inspector of Correctional Services legislation. Specifically part 5 of the *Inspector of Correctional Services Act 2017* provides a framework of cooperation that does not delay or unnecessarily duplicate the exercise of functions of various entities whilst promoting appropriate referrals and facilitating relevant information sharing.

The Ombudsman will continue our work in reportable conduct matters and seek to share information where relevant and possible with the Public Advocate and the Commission. We will continue to invest in this relationship to ensure the messaging to organisations about child safety remains consistent, that appropriate and relevant information is shared regarding child safety and that opportunities to improve practices are identified.