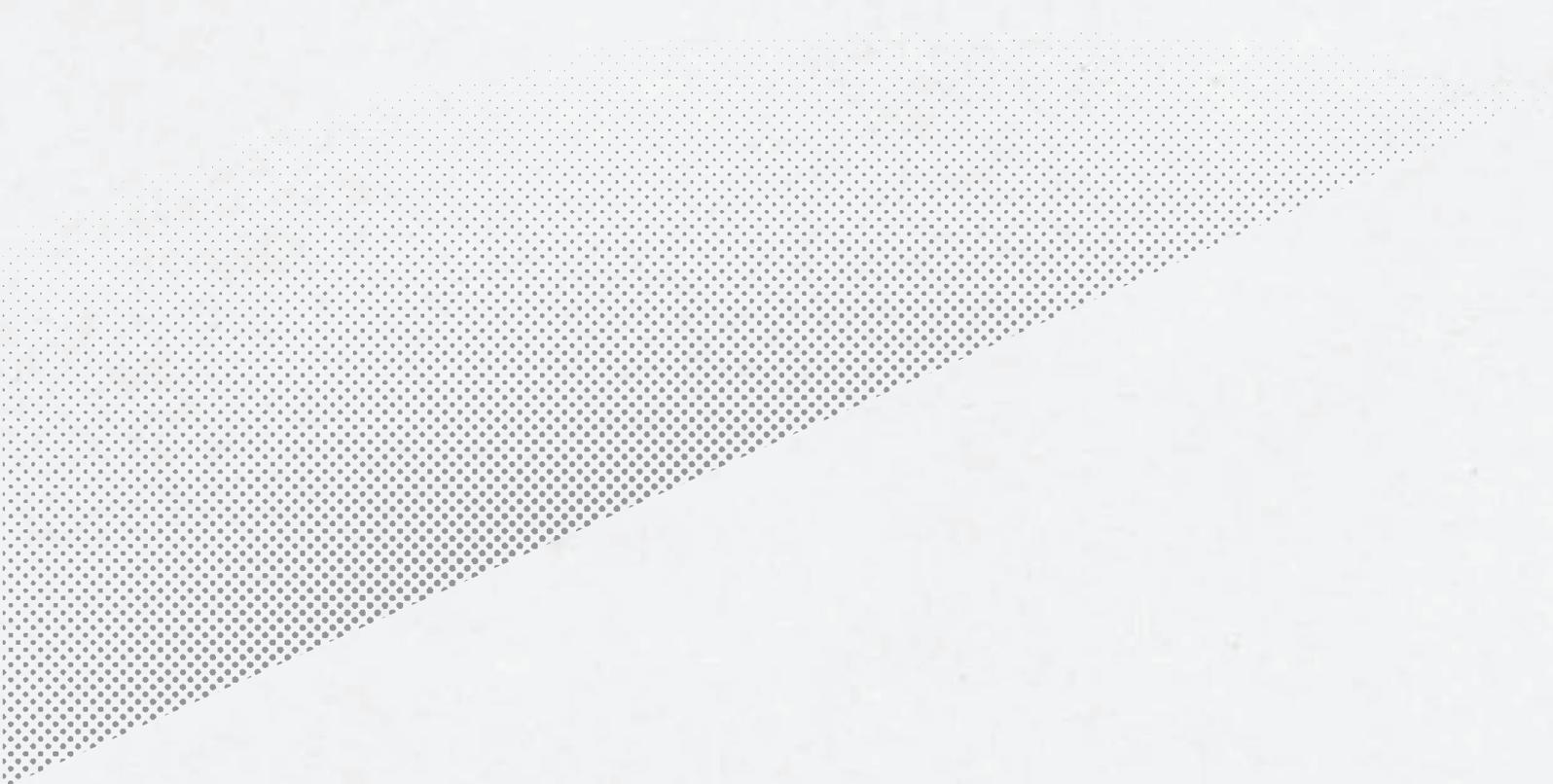


PART D

PREVENTION—DUTY OF CARE TO CREATE CHILD-SAFE ORGANISATIONS



Victims of criminal child abuse conveyed a strong message to the Inquiry that they should never have experienced abuse while in the care of personnel from a non-government organisation.

The Committee determined that prevention of criminal child abuse in organisations is critical. Non-government organisations have both a moral and a legal responsibility to protect children from the harm of abuse while in their care.

Children have a right to be safe from criminal abuse in organisations. Parents, caregivers and the community trust organisations to protect children while in their care. Children are vulnerable and dependent on adults and organisations have a responsibility to ensure their safety.

In this Report, the Committee recommends changes to legislation to strengthen the accountability of organisations and their legal duty to take reasonable care to prevent criminal child abuse occurring in their organisation.

This part of the Report considers the systems and processes that non-government organisations should have in place to meet this duty of care.

While prevention is essential, the Committee also considered it is important to counterbalance messages of prevention with a measured approach that does not create unnecessary fear in the community at large.

Victims, justice and the importance of prevention

Many victims told the Inquiry that achieving justice meant seeing non-government organisations commit more firmly to the prevention of criminal child abuse. In response to a question from the Committee regarding what he would like to see come out of the Inquiry, one victim stated:

... that further children are not at risk of paedophiles. This inquiry is specifically about religious and other organisations, but I think fundamentally that no further child is ever put at risk is what I would like to see come out of this ...¹

Mr Lincoln McMahon emphasised the duty of care of non-government organisations, explaining in his submission that ‘What is important in my view, is how such organisations manage their affairs, to limit the opportunity for their employees to stray into inappropriate activity.’²

Many victims had views on what strategies need to be adopted to prevent criminal child abuse from occurring in non-government organisations. These included:

- screening checks and balances to prevent offenders accessing non-government organisations
- policies for preventing abuse by existing staff in non-government organisations
- measures that aim to improve organisational culture and assist with prevention.

In regard to screening and recruitment processes, the mother of a victim, Mrs Helen Watson, said that she wanted the ‘church ... to develop a system [to] assess suitability of all new applicants to the church.’³ Similarly, Mr Hugh McGowan stated

1 *Transcript of evidence*, Mr Jim Commadeur, Melbourne, 23 November 2012, p. 5.

2 *Submission S432*, Mr Lincoln McMahon, p. 1.

3 *Transcript of evidence*, Mr Tim Watson, Ballarat, 7 December 2012, p. 5.

that organisations need to ‘thoroughly check prospective employees who may be responsible for the care of children.’⁴

He also suggested that personnel in non-government organisations need to ‘hold suitable academic qualifications’ and that there need to be ‘proper standards and operating procedures for the facilities.’⁵ Mr McGowan recommended to the Inquiry that non-government organisations need to ‘be properly monitored to ensure the set standards are maintained from within the controlling body and by an external auditor.’⁶

Others emphasised the importance of organisational culture in creating child-safe environments, with one suggestion that those who work with children should ‘have the right attitude and aspirations towards the care of children and ensure the children can trust them.’⁷

Victims and victim advocate groups also highlighted the role of effective policies and training for personnel. For example, In Good Faith and Associates stressed that ‘We need ongoing training of staff, volunteers, families, children and parishioners.’⁸ Mr James Boyle emphasised the importance of training and education in the context of grooming behaviour:

Just as a plumber has to have education on safety, on first aid, every teacher, every priest, every person working in the diocese or archdiocese should be having prevention training that says, ‘Here are the things that police have told us you can recognise as grooming. Here are the things that are dangerous’. And this education has to be continuous.⁹

In Good Faith and Associates also recommended that:

We need child protection policies, programs and procedures. We need standardised, state-approved policies, programs and procedures.¹⁰

A number of Inquiry participants highlighted the need to raise awareness in the broader community. For example, Mr Anthony Foster stated that ‘There should be a continuing public education campaign to ensure a high level of awareness of the danger, symptoms, causes and effects and the prevention of child sexual assaults.’¹¹

Organisations’ duty of care to prevent criminal child abuse

Many Inquiry participants were strongly of the view that non-government organisations have a duty of care to protect children from the harm of criminal child abuse. The following sentiment was typical:

Organisations have a moral and legal responsibility to ensure children are safe in their care. Child abuse is preventable.¹²

4 *Transcript of evidence*, Mr Hugh McGowan, Melbourne, 4 February 2013, p. 5.

5 *Transcript of evidence*, Mr Hugh McGowan, p. 5.

6 *Transcript of evidence*, Mr Hugh McGowan, p. 5.

7 *Transcript of evidence*, Mr Hugh McGowan, p. 5.

8 *Transcript of evidence*, In Good Faith and Associates, Melbourne, 12 November 2012, p. 7.

9 *Transcript of evidence*, Mr Jim Boyle, Melbourne, 15 March 2013, p. 3.

10 *Transcript of evidence*, In Good Faith and Associates, p. 7.

11 *Transcript of evidence*, Mr Anthony & Mrs Chrissie Foster, Melbourne, 23 November 2012, p. 8.

12 *Submission S388*, Child Wise.

The Committee determined that prevention of criminal child abuse in organisational contexts is complex and multilayered, with responsibilities resting at several layers within the community.

In this part of the Report the Committee highlights the need for ensuring organisations have established prevention processes that include:

- effective selection of suitable personnel
- managing situational or environmental risk within the organisation
- creating a child-safe organisational culture.

It considered that to achieve these goals it is essential to have written policies and processes in place that demonstrate the commitment of non-government organisation to protecting children from the harm of abuse and that provide guidance to personnel within the organisation.

The implementation of these systems and processes rely on:

- knowledge and awareness of the systems and processes required and how to implement them
- checks and balances to ensure organisation have minimum standards in place for child-safe environments
- awareness of criminal child abuse in organisations, its impacts and how to report it within the broader community.

Chapter 9

Effective prevention of criminal child abuse in non-government organisations

AT A GLANCE

Background

Non-government organisations have a responsibility to protect children from criminal child abuse while in their care. The Committee has recommended that organisations are held accountable and have a legal duty to take reasonable care to prevent criminal child abuse. The establishment of effective systems and processes for ensuring child-safe environments is an increasing priority for non-government organisations.

Key findings

- There are a number of focus areas for preventing criminal child abuse in organisations, including preventing offending, raising children’s awareness, ensuring child-safe environments in organisations and empowering the broader community to respond to criminal child abuse.
- Situational crime prevention has considerable potential as a model for prevention of criminal child abuse in non-government organisations through its focus on social and physical environments that reduce opportunity for crime and increase the risks to perpetrators associated with criminal behaviour.
- There are three core elements that are central to the prevention of criminal child abuse in organisations:
 - ♦ effective selection of suitable personnel—including paid, voluntary, ministers of religion and contractors
 - ♦ managing situational and environmental risks
 - ♦ creating child-safe organisational cultures.
- Commitment to prevention of criminal child abuse is crucial, but equally essential is the effective implementation of systems and processes through adequate knowledge, skills and awareness and appropriate oversight.

Prevention of criminal child abuse rests on the principle that all children should have safe, stable, nurturing relationships and environments.

To date, the focus of governments in the prevention of child abuse has focused on abuse perpetrated by parents or a primary carer. The recent Cummins Inquiry¹³ and research attention in this area has contributed to new policy directions in early intervention and prevention of child abuse in families.

The Committee is conscious that preventing criminal child abuse in non-government organisations requires a different focus. When parents and the community put their trust in an organisation to care for children for any period of time, they have a moral and legal duty to protect them from the harm of criminal child abuse.

The Committee identified three core elements for preventing criminal child abuse in non-government organisations:

- effective selection of suitable personnel
- managing environmental risk
- promoting child-safe cultures in organisations.

It determined that internal systems and processes are critical to creating and maintaining child-safe organisations. While non-government organisations have a responsibility to establish these processes, the Committee considered oversight is important to ensure the processes are in place and are being adequately implemented.

9.1. Prevention and duty of care to protect children

Many Inquiry participants made reference to the duty of care that organisations have to protect children in their care from harm and highlighted that organisations should:

- recognise the right of children to be protected from criminal child abuse
- ensure reasonable steps are taken to prevent children from the harm of criminal child abuse.

The Committee heard examples where organisations failed in this duty of care. Many instances related specifically to the Catholic Church in Victoria. For example, the father of a victim, Mr Ian Lawther explained:

I was forced to bring my children up as Catholic, so my wife could marry in the Church of her faith. I took this promise seriously, only to find that the Catholic Church feels it has absolutely no duty of care or sense of protection towards my children ...

With one fraction of the effort ... you could announce a zero tolerance policy for child molesters; you could prevent pedophile men from signing up to train for the priesthood.¹⁴

Former priest in the Catholic Church, Mr Phil O'Donnell, expressed his views to the Inquiry, stating that:

¹³ P. Cummins, D. Scott, OAM, & Bill Scales, AO (2012) *Report of the Protecting Victoria's Vulnerable Children Inquiry*. Melbourne, Department of Premier and Cabinet.

¹⁴ *Submission S057A*, Mr Ian Lawther, pp. 1–2.

... it is utterly bewildering how those in authority in our Church—throughout the world, and here in Melbourne—failed so spectacularly in their responsibility and duty of care.¹⁵

Others referred to the responsibility of the State in protecting children in their care from the harm of criminal child abuse within non-government organisations. They were particularly concerned with the level of government monitoring of those organisations in the past. For example, Mr Frank Golding stated that:

A very large number of children were assigned to these institutions by the state which then failed to monitor what happened to them. In this respect, there is a shared liability and an obligation in respect of accountability. The state had an overarching duty of care no matter what agency had the day-to-day responsibility of running the institution.¹⁶

Ms Helen Dawson made the similar point regarding responsibilities to protect children from criminal abuse while in the care of the State and residing in facilities operated by non-government organisations:

The Institutions were charged with a Duty of Care of each Child.

The Government was charged with a Duty of Care of each Child.¹⁷

The Committee determined that non-government organisations have a legal duty of care which needs to be reflected in Victorian law, as recommended in Part H. It also acknowledges the duty of care of the State in monitoring the operations of non-government organisations it contracts and funds to provide services. Part E makes recommendations for improved monitoring and oversight of all non-government organisations in their handling of criminal child abuse. Chapter 12 outlines the current systems the Government has put in place for community services that manage out-of-home care placements for children in the care of the State.

9.2. Non-government organisations and child-safe environments

In reviewing material from both the Australian Childhood Foundation (ACF) and Child Wise, the Committee noted that a child-safe organisation has the following features:

- Children—The organisation recognises vulnerability factors for children and the harms of all forms of child abuse and encourages children to report behaviours that make them feel unsafe.
- Offending behaviour—The organisation is aware of concerning behaviours of adults towards children and establishes clear boundaries and guidelines regarding behaviour.
- Organisational culture—The organisation has a clear understanding of moral and legal obligations and commits to a culture that is child-focused, transparent and respectful, with active staff supervision and training.

Child-safe organisation—

acknowledges that safety does not just happen. A child-safe organisation takes action to protect children from physical, sexual, emotional, psychological and cultural abuse and from neglect. In a child-safe organisation, this commitment to protecting children is embedded in the organisation's culture and responsibility for taking action is understood and accepted at all levels of the organisation.¹⁸

15 Submission S104 part 1, Mr Phil O'Donnell, p. 14.

16 Submission S105, Mr Frank Golding, p. 3.

17 Submission S248, Ms Helen Dawson, p. 7.

18 Child Safety Commissioner (2006) *A guide for creating a child-safe organisation*. Melbourne, Child Safety Commissioner, p. 1.

- Involves community—The organisation is open to people outside the organisation raising questions, comments and concerns.¹⁹

The Committee considered that organisations need to adopt an integrated approach to preventing criminal child abuse by any personnel in their organisation. There is also a role for government in supporting the prevention of criminal child abuse in non-government organisations, particularly relating to awareness raising. Table 9.1 outlines the focus areas in this approach.

Table 9.1: Focus areas for preventing criminal child abuse in non-government organisations

Focus area	Description
Preventing offending	<ul style="list-style-type: none"> • Sexual offending—developmental approaches focused on promoting emotional attachment in early childhood. • Other offending—training to raise awareness of non-abusive disciplinary practices.
Raising children’s awareness	<ul style="list-style-type: none"> • Recognise that children are not responsible for protecting themselves from the harms of criminal child abuse. • Understanding that the community has a responsibility to raise children’s awareness of inappropriate behaviour and understand the importance of disclosure when they feel unsafe or uncomfortable.
Ensuring child-safe environments in non-government organisations	<ul style="list-style-type: none"> • Using situational crime prevention approaches to reduce opportunity and increase risks to perpetrators of criminal behaviour. • Targeting social and physical environments to make them safe.
Empowering the broader community to respond to child abuse	<ul style="list-style-type: none"> • Building awareness in the broader community of criminal child abuse and targeting specific groups, such as parents. • Increasing people’s understanding of impacts of child abuse and how to respond to suspected child abuse without creating unnecessary fear in the community.

Source: Adapted from Smallbone et al (2008) *Preventing child sexual abuse*. Willan Publishing.

Finding 9.1

There are a number of focus areas for preventing criminal child abuse in organisations, including preventing offending, raising children’s awareness, ensuring child-safe environments in organisations and empowering the broader community to respond to criminal child abuse.

19 Australian Childhood Foundation *Safeguarding Children: A program resourcing organisations to protect children and young people, Information booklet*. Ringwood, ACF, p. 17; Childwise (Undated) *Choose with care: 12 steps to child safe organisation*. South Melbourne, Childwise; Childwise (2008) *Keeping your children safe: Choosing safe organisations and activities for your children*. Melbourne, Childwise, p. 7.

9.2.1. Situational crime prevention

Several expert witnesses who appeared before the Inquiry informed the Committee that situational crime prevention shows considerable potential for use in organisational contexts.²⁰

The Deputy Director of the Australian Institute for Family Studies (AIFS), Dr Darryl Higgins, explained to the Inquiry that:

To manage the situational risk of that kind of crime occurring ... means ... focusing on ... opportunity reduction—making crime more risky, making crime more effortful, reducing the rewards, reducing the excuses and preventing and not tolerating what could be potential grooming behaviour.²²

In research conducted by the John Jay College of Criminal Justice of the City University of New York, the researchers noted that ‘because potential offenders use the environment to their advantage in the commission of a crime, situational modifications may result in the reduction of criminal activity.’²³

Chapter 6 of Part C outlined the nature of offending and noted that while some is predatory and pre-meditated, other potential perpetrators may have never offended or been caught and could possibly respond to an ‘opportunity’ to offend.

Similarly, Professor Stephen Smallbone from Griffith University told the Inquiry that:

There is very significant scope for the application of situational crime prevention principles to make places safe for children. I think it is too often overlooked because the influence of the environment is underestimated, and I think the reason it is underestimated is because of the attachment to the stereotype of the predatory offender.²⁴

In their 2006 article, Wortley and Smallbone describe situational crime prevention in the context of preventing child sexual abuse in organisations.²⁵ They outline a number of strategies important in the social and physical environment of organisations. These include:

- increasing effort—to make it more difficult for potential offenders
- increasing risk—by making it more likely that the offender’s behaviour will be observed and reported.

Situational crime prevention—tackles specific crimes in specific locations where the crime event and not the offender is the object of interest.²¹ A primary objective of situational crime prevention is to reduce opportunities to offend by making the social and physical environment high risk for offending behaviour.

20 *Transcript of evidence*, Professor Stephen Smallbone, Griffith University, Melbourne, 9 November 2012, p. 6.

21 S. Smallbone, W. L. Marshall, & R. Wortley (2008) *Preventing child sexual abuse: Evidence, policy and practice*. Devon, Willan Publishing, p. 157.

22 *Transcript of evidence*, Australian Institute of Family Studies, Melbourne, 19 October 2012, p. 6.

23 K. J. Terry, M. Leland Smith, K. Schuth et al. (2011) ‘Sexual Victimization of Minors: Analyzing the Onset, Persistence, and Desistance from Abuse Incidents by Priests’. *The Causes and Context of Sexual Abuse of Minors by Catholic Priests in the United States, 1950-2010*. Washington, DC., United States Conference of Catholic Bishops, p. 99 (Chapter 5).

24 *Transcript of evidence*, Professor S. Smallbone, p. 6.

25 R. Wortley & S. Smallbone (2006) ‘Applying situational principles to sexual offences against children’. In R. Wortley & S. Smallbone (Eds.), *Crime prevention studies: Vol. 19. Situational prevention of child sexual abuse*. Monsey, NY, Criminal Justice Press, pp. 23–30.

Although the types, structures and business of organisations vary greatly, the principles that underpin situational prevention are common. As Professor Smallbone explained to the Inquiry:

I think one of the important aspects of situational prevention is that while the same principles can be applied almost universally, what you would actually do becomes completely contingent upon the specific setting that you are concerned about. So what one might do, for example, to prevent the abuse of 12 to 14-year-old boys in a religious school might be very different from what might be needed to prevent the abuse of 8 to 10-year-old girls in a care setting of some kind, but the principles are the same.²⁶

Finding 9.2

Situational crime prevention has considerable potential as a model for prevention of criminal child abuse in non-government organisations through its focus on social and physical environments that reduce opportunity for crime and increase the risks to perpetrators associated with criminal behaviour.

9.3. Core elements of prevention in non-government organisations

In considering evidence to the Inquiry, the Committee identified three core elements that form the basis for creating child-safe environments and preventing criminal child abuse in non-government organisations:

Element 1—Effective selection of suitable personnel, which involves:

- actively reducing opportunities for potential offenders to join organisations to cause harm to children
- establishing recruitment practices and assessments of suitability for employment that emphasise child safety
- undertaking criminal checks (such as police checks and Working with Children Checks).

Element 2—Managing situational and environmental risks, which involves:

- establishing appropriate policies and practices to ensure personnel in the organisation understand behavioural expectations when interacting with children, are given opportunities to learn about protecting children's safety, and are subject to ongoing performance reviews
- ensuring environmental and geographical risks are minimised—for example, by minimising opportunities for staff to be alone with children, and by considering the physical design of the environment.

Element 3—Creating child-safe organisational cultures, which involves:

- ensuring that children are heard and can disclose situations where they feel unsafe
- effective handling of reports of abuse by personnel
- self-reflective practices and promoting good leadership across the organisation
- creating child-safe environments.

²⁶ *Transcript of evidence*, Professor Stephen Smallbone, p. 9.

Written policies in organisations that demonstrate a commitment to protecting children from criminal child abuse are essential. The Committee reviewed evidence to the Inquiry by non-government organisations and considered the extent to which they have adopted and sought to implement policies that contain these three core elements. It identified that leadership and cultural change are critical elements in creating child-safe organisations.

Finding 9.3

There are three core elements that are central to the prevention of criminal child abuse in organisations:

- effective selection of suitable personnel—including paid, voluntary, ministers of religion and contractors
- managing situational and environmental risks
- creating child-safe organisational cultures.

9.4. Prevention in practice—implementing policies and processes

While it is important to ensure a prevention policy is in place, it is well known that producing a document is not a guarantee that it will be implemented. Non-government organisations also need the knowledge, skills and capability to create and implement these systems and processes. Organisations have a responsibility to ensure they build these skills and promote awareness amongst personnel in their organisation. Organisations need to be aware of criminal child abuse, the risks of it occurring and the importance of having measures in place to ensure the appointment of suitable personnel and manage risk internally.

Ensuring policies are effectively put into practice is critical, and there are many ways that non-government organisations can be assessed to ensure their policies have been effectively implemented. These include requirements to meet minimum standards, participation in registration systems and undertake accreditation.

Finding 9.4

Commitment to prevention of criminal child abuse is crucial, but equally essential is the effective implementation of systems and processes through adequate knowledge, skills and awareness and appropriate oversight.

Chapter 10

Effective selection of suitable personnel

AT A GLANCE

Background

As part of a broader strategy to take reasonable care to prevent criminal child abuse occurring in their organisation, non-government organisations need to actively reduce opportunities for potential offenders to be appointed to roles where they might have direct contact with children. A critical element in preventing criminal child abuse in organisations is the effective selection of suitable personnel (including staff, volunteers, contractors and ministers of religion).

Key findings

- To ensure the appointment of suitable personnel, organisations need to adopt a combination of recruitment and selection, screening and checking processes.
- The value in background checking—such as referee checks and Working with Children Checks (WWCC)—is that past behaviour can provide an indication of possible future behaviour.
- The Victorian WWCC is an effective screening tool but has some limitations—including a reliance on individuals to update their WWCC card, a lack of monitoring to ensure compliance and a lack of clarity regarding whether ministers of religion need to undergo checks before their appointment.
- The majority of organisations have WWCC processes in place, but can unknowingly over-rely on them as a tool for preventing the appointment of unsuitable personnel.
- Registration systems for professionals and offender registers provide an additional checking process to ensure suitable personnel are appointed to specific professions or organisations.

Recommendation

- In regard to the operations of the *Working with Children Act 2005* (Vic) (WWC Act), that the Victorian Government:
 - ♦ clarify the requirements for religious organisations to ensure ministers of religion have a current WWCC
 - ♦ institute a system of compliance monitoring and investigation of the operation of the WWC Act similar to the equivalent system in New South Wales
 - ♦ ensure that all relevant non-government organisations are required to report any allegations of misconduct relating to children to the Victorian Department of Justice WWC Unit
 - ♦ raise the awareness of organisations about the importance of regularly reviewing the status of WWCC by personnel, the need to adopt a range of screening tools, and to not over-rely on the WWCC.

Having effective systems in place to ensure the selection of suitable personnel is essential for organisations to demonstrate reasonable steps have been taken to meet their duty of care.

Over the past decade there has been an increasing focus on criminal checks as a strategy for screening unsuitable applicants for paid and voluntary positions in organisations. This included the introduction of working with children legislation in Victoria in 2005.

Pre-employment checks need to be complemented by other processes that can assist in the effective selection of suitable personnel, such as recruitment and interviewing processes and, in some instances, registers for offenders or professional registration.

The Committee considered the extent to which organisations aim to prevent opportunities for offenders of criminal child abuse to access their agency. It reviewed the processes outlined in Table 10.1.

Table 10.1: Effective selection of suitable personnel

Component	Description
Selection criteria and interviewing strategies	<ul style="list-style-type: none"> • Selection criteria—developing selection criteria that have clear messages regarding expectations, aim to attract positive role models and give reliable information about the position. • Interviews—use behavioural and situational questions in interviews, ask the difficult questions, check job knowledge and watch for red flags and warning signs in interviews. • Checks—conduct reference checks and police checks.²⁷
Criminal checks	Undertaking appropriate criminal checks, such as: <ul style="list-style-type: none"> • Working with Children Checks • police checks.
Registers	Where relevant, checking professional and offender registers to ensure there are no concerning issues relating to inappropriate behaviour in the context of working with children. These include: <ul style="list-style-type: none"> • register for teachers in Victoria—operated by the Victorian Institute of Teaching • carer register for carers in out-of-home care—operated by the Department of Human Services • offender registers—operated by the Anglican Church in Australia and the Seventh Day Adventist Church.

Source: Compiled by the Family and Community Development Committee.

Finding 10.1

To ensure the appointment of suitable personnel, organisations need to adopt a combination of recruitment and selection, screening and checking processes.

²⁷ Childwise (Undated) *Choose with care: 12 steps to child safe organisation*.

10.1. Selection criteria and interviewing strategies

The Committee heard that inadequate or inappropriate recruitment procedures are one of the most common gaps or oversights that prevent child-safe environments in non-government organisations.²⁸ The Inquiry did not specifically seek information about recruitment practices and can only make preliminary observations about the processes in place.

In its guide for creating child-safe organisations, the Commission for Children and Young People highlighted the importance of choosing suitable staff and volunteers. It emphasises the value of:

- job descriptions and duty statements—ensuring role clarity and responsibilities (unsuitable personnel can be attracted to less ‘professional’ organisations)
- promoting child safety in advertisements, duty statements and organisational material
- interviewing approaches that assess motivation to work with children, experience, professional boundaries and values.²⁹

Some organisations indicated a focus on interviewing prospective personnel to determine their suitability to work with children or young people. Scouts Victoria informed the Inquiry that in its organisation anyone who wants to join the association is required to undertake a ‘suitability interview’.³⁰ Its *Inappropriate conduct or behaviour policy* outlines that:

To assist in ensuring that appropriate Leaders are recruited, a rigorous selection process is undertaken. Prospective Leaders are interviewed by a Group Leader and/or District Commissioner and by the local Personnel Committee to ascertain their general suitability for the role for which they are being recruited.

Referee, Police Criminal Records and Working with Children checks are conducted as part of the selection process for Leaders and Lay persons.³¹

In its *Child protection—reporting policy* updated on 4 March 2013, Scouts Victoria acknowledged that ‘As part of its duty of care to young people, parents and guardians, the Association shall satisfy itself that applicants are suitable role models for young people and not likely to expose them to physical or emotional harm.’³²

The Uniting Church in Australia Synod of Tasmania and Victoria outlined its use of recruitment processes to screen for suitable personnel to work with children, explaining that selection criteria and interviewing are important in this process:

The suitability of people to work with children is ... assessed through specific questions that are asked during the interview for employment and through reference checks. UCC [Uniting Church Camping] also emphasised the attention it pays to the language used in how it advertises positions.

Expert professional assessment of whether a person is fit for their role applies to whether a person is an employee, a Minister or lay person in a position of leadership.³³

28 *Submission S388*, Child Wise, p. 17.

29 Formerly the Office of the Child Safety Commissioner. See Child Safety Commissioner (2006) *A guide for creating a child-safe organisation*, p. 16.

30 *Submission S200A*, Scouts Australia (Victoria), p. 6.

31 *Submission S200*, Scouts Australia (Victoria), p. 1 (Appendix 1).

32 *Submission S200*, Scouts Australia (Victoria), p. 36 (Appendix 4).

33 *Submission S164*, Uniting Church in Australia, p. 25.

Berry Street Victoria explained that from its perspective ‘the recruitment, selection and screening of all people engaged in child-related activities are a critical dimension in the development and maintenance of a child-safe organisation.’³⁴ Its child protection policy states that it has a:

... comprehensive approach to screening staff, carers, mentors and volunteers which includes motivational interviewing, Criminal Records Checking, Working with Children Checking, professional and/or personal reference checks, proof of identity and qualifications and pre-employment injury/disease declarations. For paid staff, this pre-employment checking is accompanied by an intensive first 3 months’ orientation and supervision, including a formal probationary review.³⁵

The Committee considered that such a comprehensive approach is particularly important in non-government organisations that work with children who are in the care of the State and have a role in managing their out-of-home care placements.

In its submission, the Catholic Church in Victoria stated that in 2007 it introduced a more comprehensive approach to screening for admission to priesthood with the introduction of the *Programme for priestly formation Australia*. The Catholic Church informed the Inquiry that:

... this screening includes a form of accompaniment prior to entry, testimony of others regarding their suitability, and a comprehensive psychological assessment by a competent practitioner.³⁶

Some organisations that participated in the Inquiry have introduced psychological assessment as a method for determining the suitability of personnel entering their organisations. In addition to the Catholic Church, the Baptist Union of Victoria explained to the Inquiry that ‘All applicants undergo a rigorous Psych Test, which addresses issues of dominance, sociability and relationships, as well as other stress factors and indicators of personality type.’³⁷

Psychological tests approach selection of personnel through a risk assessment model. This approach seeks to ‘predict the likelihood of a particular adverse event occurring in the future.’³⁸ The Committee notes, however, that there is no firm evidence base to suggest that such an approach is effective in isolation. In 2005, research findings reviewed by the National Child Protection Clearinghouse led it to conclude that:

Despite significant recent developments in risk prediction methods in the child protection field ... there is still no accurate and reliable method of predicting risks for individuals.³⁹

The Committee concluded that risk assessments can be a tool used in screening and recruitment processes, but it is important to ensure they are not used in isolation from other prevention processes.

34 *Submission S262*, Berry Street, p. 7 (Appendix 1).

35 *Submission S262*, Berry Street, p. 7 (Appendix 1).

36 *Submission S185*, Catholic Church in Victoria, p. 92.

37 *Submission S210*, Baptist Union of Victoria, p. 13.

38 L.R. Beyer, D.J. Higgins, & L.M. Bromfield (2005) *Understanding organisational risk factors for child maltreatment: A review of literature. A report to the Community Services Ministers’ Advisory Council (CSMAC) Child Safe Organisations Working Group*. Australian Institute of Family Studies, p. 80.

39 L.R. Beyer, D.J. Higgins, & L.M. Bromfield (2005) *Understanding organisational risk factors for child maltreatment: A review of literature.*, p. 80.

While the evidence demonstrated that organisations have recently used their recruitment and selection processes to prevent potential offenders gaining access to their organisation, the Committee noted that these approaches were referred to less frequently than the use of criminal checks in prevention.

10.2. Pre-employment checks

The basic premise of background or pre-employment checking is the understanding that the past behaviour of an individual provides an indication of the possible future behaviour of that individual. Research has determined that a significant proportion of first time child abuse offenders carried a previous criminal conviction. In a study regarding offender histories, researchers found that:

Almost two thirds (62.9%) of the offenders had at least one previous conviction, and this was almost twice as likely to have been for non-sexual offences (40.6%) than for sexual offences (22.2%).⁴⁰

For this reason, pre-employment checking is a vital first step in minimising risk to children. Examples or patterns of abusive or inappropriate behaviour can be evident in information available to organisations, such as an individual's employment history and criminal record. Pre-employment checks include reference checks, police checks and Working with Children Checks (WWCC).

Following the interview and selection of a preferred candidate for a position in an organisation, reference checking is essential. In its guide for creating a child-safe organisation, the Commission for Children and Young People in Victoria outlines critical questions organisations should ask. These include any concerns a previous employer may have about the person working directly with children, including working alone with children.⁴¹

The Committee noted that the most common methods for screening staff or volunteers applying for child-related work in Victoria are the WWCC and Police check.

Police checks generally identify and release relevant national criminal history information relating to convictions, findings of guilt or pending court proceedings.

The general purpose of a WWCC is more extensive and targeted than a police check and aims to make an assessment of the level of risk an individual poses to children's safety. The WWCC draws information from a range of sources, including:

- convictions—whether or not they are considered spent or were committed by a juvenile
- apprehended violence orders and other orders, prohibitions or reporting obligations
- charges (i.e. where a conviction has not been recorded because, for example, a proceeding has not been heard or finalised by a court, or where charges have been dismissed or withdrawn)

Child-related work—
paid or unpaid work involving regular direct and unsupervised contact with a child when working with or caring for children in any of the occupational categories listed in the Act.

40 S. Smallbone & R. Wortley (2001) 'Child Sexual Abuse: Offender characteristics and modus operandi'. *Australian Institute of Criminology: Trends & issues in crime and criminal justice*, Vol. 193.

41 Child Safety Commissioner (2006) *A guide for creating a child-safe organisation*, p. 17.

- any relevant allegations or police investigations involving the individual
- relevant employment proceedings and disciplinary information from professional organisations (e.g. organisations associated with teachers, childcare service providers, foster carers, and health practitioners).⁴²

Table 10.2 outlines the differences between a WWCC and a police check in Victoria.

Table 10.2: Victorian Working with Children Check and national police check

	Working with Children Check	Police check
Does it allow a person to work or volunteer with children?	Passing a WWCC allows a person to engage in child-related work for 5 years and their criminal record continues to be monitored.	No
How does it work?	The WWCC is an assessment of a person's suitability to work or volunteer with children. It involves an examination of relevant criminal offences and disciplinary findings across a person's lifetime.	A police check is only a list of those offences from a person's national criminal history which can be released. There is no assessment or investigation made.
Can a person fail a WWCC?	A person either passes or fails the WWCC after their suitability to work with children is examined	You cannot 'pass' or 'fail' a police check; it is simply a list of some offences.
What is checked?	<ul style="list-style-type: none"> • National criminal history. • Findings of professional bodies including the Victorian Institute of Teaching and the out-of-home care Suitability Panel. • Relevant determinations of the Victorian Civil and Administrative Tribunal (VCAT) under the <i>Health Professions Registration Act 2005</i>. 	National criminal history.
What kind of offences are considered?	Offences relevant to the safety of children, such as serious sexual, violent or drug-related crimes.	All offences.
How far back does the check go?	All relevant offences across a person's lifetime are examined.	Some offences cannot be disclosed, depending on when they were committed. This relies on Victoria Police's Information Release Policy.
How long is it valid?	Valid for 5 years unless suspended or revoked.	<ul style="list-style-type: none"> • Only current at the time of issue. • Employers may require employees to undergo subsequent police checks.

⁴² Australian Institute of Family Studies *Pre-employment screening: Working with Children Checks and police checks*. Accessed on 8 October 2013 from <http://www.aifs.gov.au>.

	Working with Children Check	Police check
Does it monitor criminal records?	Criminal records continue to be checked for the life of the card. Victoria Police automatically notify the department of new relevant offences so suitability to work with children can be re-assessed.	A new police check is needed to show any new offences.
What happens when a person changes employer?	The WWCC card is portable between organisations. However, if someone moves from voluntary to paid work they must apply for an Employee card and pay the fee.	<ul style="list-style-type: none"> • Employers and organisations have their own policies around requiring police checks • Employees may require a new police check when they start a new job.

Source: Adapted from Working with Children Check Unit, Department of Justice, *Working with Children Check*, Accessed on 30 September 2013 from <http://www.workingwithchildren.vic.gov.au>.

Finding 10.2

The value in background checking—such as referee checks and Working with Children Checks (WWCC)—is that past behaviour can provide an indication of possible future behaviour.

10.2.1. Victoria and the Working with Children Checks

If the Department of Justice (DOJ) considers the person applying for a WWCC is a risk to the safety of children, a negative notice is issued.

Since the WWCC commenced in 2006, at 30 June 2013, 1,480 applicants have received negative notices,⁴³ removing their capacity to work with children in the occupational fields covered by the WWC Act.

Negative notice—means an individual cannot engage in child-related work, even if they are directly supervised.

Child-related work and occupational categories listed in the WWC Act include a broad range of services and activities that involve working with children such as child care, education, religious organisations, clubs and recreational activities. These are outlined in Appendix 4.

10.2.2. Other jurisdictions

Although there are variations across Australian jurisdictions in how background checking is mandated and conducted, there is some consistency in the type of criminal offences identified as posing a potential risk of harm to children. These offences are not restricted only to those which occasion harm to children, but may also consider offences that may indicate a pattern of antisocial behaviour that raises concern when considering the safety of children (e.g. drug offences).

By way of comparison, table 10.3 reflects the key features of WWCC legislation across the country.

⁴³ Working with Children Check Unit, Department of Justice, *Statistics*. Accessed on 9 October 2013 from <http://www.workingwithchildren.vic.gov.au/home/about+the+check/statistics/>.

Table 10.3: WWCC in Australian state jurisdictions

State or territory	Legislation	Nature of WWCC	Level of screening
Vic	<i>Working with Children Act 2005</i> (Vic)	<ul style="list-style-type: none"> individuals apply for WWCC prohibited persons excluded from child-related occupations/volunteering people holding checks are monitored for serious sexual or violence related offences valid for 5 years. 	<ul style="list-style-type: none"> review of national police record consideration of findings of professional bodies findings of VCAT under <i>Health Professionals Regulations Act</i> information relating to any spent convictions, juvenile convictions and findings of guilt, pending charges the circumstances surrounding any charges or convictions weekly ongoing monitoring by VicPol.
NSW	<i>Child Protection (Working with Children) Act 2012</i> (NSW) <i>Commission for Children and Young People Act 1998</i> (NSW)	<ul style="list-style-type: none"> employers apply for WWCC—online system conviction of disqualifying offences result in an exclusion from child-related occupations/volunteering valid for 5 years exclusion of prohibited persons from child-related occupations Office of Children’s Guardian administer checks ongoing monitoring for relevant new records some records will trigger a risk assessment by the Office of Children’s Guardian which may lead to the clearance being revoked. 	<ul style="list-style-type: none"> convictions (spent or unspent) charges (whether heard, unheard or dismissed) juvenile records findings of misconduct and notifications made by the NSW Ombudsman are considered records include convictions for certain offences and charges for these same offences that have not yet been heard. Section 5 of the Act states that a conviction includes a finding that an offence is proven, or the person is guilty, even though the court does not record a conviction circumstances surrounding any charges or convictions access to full national criminal history continuous monitoring of NSW criminal record and disciplinary action.
QLD	<i>Commission for Children and Young People and Child Guardian Act 2000</i> (QLD)	<ul style="list-style-type: none"> individuals apply for a WWCC, known as a ‘Blue Card’ valid for 3 years organisations providing child-related services must have policies and procedures in place to identify and minimise risk of harm to children, which are monitored by the Commission for Children and Young People and Child Guardian. 	<ul style="list-style-type: none"> national criminal history check any charge or conviction whether recorded or not child protection prohibition orders whether a person is a respondent or subject to an application disqualification orders whether subject to legal reporting obligations⁴⁴ disciplinary information held by organisations such as teachers, foster carers, child care licensees and health practitioners information relating to police investigations into serious child related sexual offences even where no charges were laid circumstances surrounding any charges or convictions.

44 Legal reporting obligations refer to provisions under either the *Child Protection (Offender Reporting) Act 2004* (Qld) or *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld).

State or territory	Legislation	Nature of WWCC	Level of screening
NT	<i>Care and Protection of Children Act 2007</i> (NT)	<ul style="list-style-type: none"> individuals apply for a WWCC, known as a Clearance Notice⁴⁵ the Clearance Notice is valid for 2 years applies to employees and volunteers in child-related employment settings applications made to a screening authority appointed by Minister for Child Protection. 	<ul style="list-style-type: none"> national criminal record check in particular sexual offences involving children, violent offences involving children and drugs offences involving children an analysis of employment history, including an assessment of references and/or disciplinary proceedings other material which may include assessing whether an individual has attempted to change behaviours or address triggers to behaviours if they have a criminal history circumstances surrounding any charges or convictions.
WA	<i>Working with Children (Criminal Record Checking) Act 2004</i> (WA)	<ul style="list-style-type: none"> individuals apply for WWCC valid for 3 years entitles individuals to engage in child-related occupations/volunteering a review of the WWCC Act 2004 has been undertaken the Working with Children Screening Unit undertakes the checks. 	<ul style="list-style-type: none"> national criminal record check including charges or convictions as an adult or a juvenile; any spent convictions; any pending or finalised charge for a Class 1 or Class 2 offence⁴⁶ whether or not it resulted in a conviction information obtained from authorised bodies in WA and similar authorities in other states and territories such as Police, Department of Public Prosecutions, the Department of Corrective Services, the Department of the Attorney General and courts circumstances surrounding any charges or convictions.
SA	<i>Children's Protection Act 1993</i> (section 8b) (SA)	<ul style="list-style-type: none"> employer driven 'point-in-time' system requiring employers and responsible authorities to obtain criminal history checks for those engaging in child-related occupations/volunteering Act requires all government organisations and certain non-government organisations to develop appropriate policies and procedures to establish and maintain child safe environments. 	<ul style="list-style-type: none"> criminal history check including circumstances surrounding any charges or convictions development of workplace policies and procedures to establish and maintain child safe environments.

⁴⁵ In addition to the Clearance Notice, people are provided with an 'Ochre Card' which can be carried as proof that a person may legally work with children and carries a unique clearance number.

⁴⁶ Class 1 and 2 offences include various sexual offences against a child as well as offences such as murder, manslaughter, grievous bodily harm, indecent assault, making/viewing child pornography and involvement in child prostitution.

State or territory	Legislation	Nature of WWCC	Level of screening
Tas	No legislation	<ul style="list-style-type: none"> the Good Character Check screening program came into force on 1 January 2012, requiring that staff members, volunteers and students on placement obtain a security screen clearance in order to engage in work with regulated education and care services only employers in other child-related work may require police checks at their discretion. 	<ul style="list-style-type: none"> the Good Character Check includes consideration of crimes of violence; sex-related offences; serious drug offences; crimes involving dishonesty; and serious traffic offences as the Good Character Check is only applicable to government employees the Tasmanian Department of Health and Human Services is proposing to form a Working with Children and Vulnerable People Screening Unit once established, people wanting to work with vulnerable people in Tasmania will need to apply for registration with the Screening Unit prior to commencing work.
ACT	<i>Working with Vulnerable People (Background Checking) Act 2011</i> (ACT)	<ul style="list-style-type: none"> individuals apply for registration with the screening unit, the Office of Regulatory Services, which will complete a risk assessment on the applicant in accordance with the Risk Assessment Guidelines a Commissioner for Fair Trading conducts background checks and risk assessment relates to contact with children or vulnerable people in the course of regulated activities or services registration valid for 3 years registration may be general,⁴⁷ conditional⁴⁸ and position based.⁴⁹ 	<ul style="list-style-type: none"> national criminal history check review of non-conviction information consideration of relevant offences employment history past WWC registration history any other information which may include information from: an employer, a counsellor, a psychotherapist, a treatment program, a Care and Protection agency or a professional referee advice from independent advisors appointed by the Commissioner under the Act.

Source: Compiled by the Family and Community Development Committee.

47 General registration relates to low risk applicants who will be free to move between all regulated activities without the need to be re-checked.

48 Conditional registration allows the Commissioner to register higher risk applicants by imposing specific conditions on the registration which address any specific risks posed by a particular applicant.

49 Position based registration will restrict a person to engaging only in a specified regulated activity with a specified employer.

New South Wales

In New South Wales, there is an additional system set up to safeguard children in an organisational setting. This is known as the ‘reportable conduct’ scheme, administered by the NSW Ombudsman. The NSW reportable conduct system is outlined in greater detail in Chapter 18 of Part E, though there are some important aspects of that system that relate directly to information provided regarding the granting and administration of NSW WWCC. Recent amendments to the *Child Protection (Working with Children) Act 2012* (NSW) came into effect in June 2013. The principal effect of the amendment was to transfer several functions, including responsibility for the WWCC from the NSW Commission for Children and Young People to the NSW Office of Children’s Guardian.

Under this scheme, an employer with NSW WWCC requirements is expected to report any allegation of reportable conduct to the Office of Children’s Guardian. This includes all allegations other than those found to be vexatious, misconceived, or where it was determined that the reportable conduct did not occur.

This provision places a positive onus on the employer to report relevant employment proceedings to the Office of Children’s Guardian. This Office then maintains a database of all relevant employment proceedings which can be factored into future risk assessments associated with either new applications or renewals.

Further, s.25C of the *Ombudsman Act 1974* (NSW) requires designated government and non-government organisations to notify the Ombudsman of any reportable allegation, whether or not a conviction ensues and whether or not the organisation intends taking any disciplinary action. Adverse findings in relevant employment proceedings and/or the substantiation of reportable conduct against employees are then considered by the NSW Children’s Guardian in granting, suspending, or cancelling a WWCC for an employee.

Information received by the Ombudsman in the course of exercising any of its functions which reveals a risk to the safety of children can also be referred to the Children’s Guardian. Additionally the Children’s Guardian and the Ombudsman are both prescribed bodies and are able to exchange information pursuant to the NSW legislation.⁵⁰

On receipt of information from the Ombudsman, a ‘risk assessment’ is triggered and undertaken by the Children’s Guardian in relation to whether a person poses a risk to children.

Other recent amendments to the NSW WWCC regime include:

- a requirement that any adult who resides at the home of an authorised carer obtain a WWCC⁵¹
- the establishment of a carers register.⁵²

50 *Children and Young Persons (Care and Protection) Act 1998* s.16A.

51 *Child Protection (Working with Children) Act 2013* s.10.

52 *Child Protection (Working with Children) Act 2013* s.18(1)(d).

10.2.3. Strengthening the Working with Children Check in Victoria

The Committee reviewed the WWCC in Victoria in comparison with those systems in operation in other jurisdictions. It identified that while the WWCC scheme in Victoria is beneficial and has effectively screened out many unsuitable people for child-related work, there is room for strengthening the legislation. In particular:

- clarifying the expectations for ministers of religion to hold a current WWCC card
- placing a stronger onus on employers to report relevant misconduct and employment proceedings relating to children
- strengthening the monitoring and compliance of organisations in ensuring personnel have up-to-date WWCC cards.

Ministers of religion—clarifying requirements

In religious organisations, a WWCC is required for ministers of religion that engage with children. Contact with children is not always easily defined in religious contexts. The Committee noted that some organisations have taken a broad view of their obligations under the WWC Act, while others only comply with the specified requirements.

While religious organisations are not exempted from ensuring ministers of religion hold a current WWCC card, the Principal Commissioner for Children and Young People in Victoria, Mr Bernie Geary, told the Inquiry that the focus of the legislation in this context is too narrow. He stated:

Religious organisations are special places of trust. They work with vulnerable people in their most vulnerable moments. This highlights the need for a special emphasis on religious organisations. For example, all religious personnel should be required to have a working with children check. Currently only religious personnel who have regular, direct and unsupervised contact with children are required to have a check.

I think this classification is ridiculous and too narrow for religious organisations.⁵³

The Committee noted there is uncertainty among some religious organisations about the application of the WWCC requirements for religious personnel. For example, the Buddhist Council of Victoria advised the Inquiry that ‘some Temples with non-English speaking backgrounds are unaware that their overseas Monks and Nuns need a working with children check.’⁵⁴ Similarly, the Islamic Council of Victoria said ‘we suspect few Imams would have a Working with Children Check’.⁵⁵

Table 10.4 outlines the manner in which some religious organisations comply with their requirements under the WWC Act. The table demonstrates that some religious organisations in Victoria recognise the unique position of trust they hold within the community and have implemented policies that require ministers of religion, employees and volunteers to hold a current WWCC card.

53 *Transcript of evidence*, Commission for Children and Young People, Melbourne, 5 April 2013, p. 4.

54 *Submission S155*, Buddhist Council of Victoria Inc., p. 1.

55 *Submission S398*, Islamic Council of Victoria, p. 7.

Table 10.4: Requirements by religious organisations for ministers of religion to hold a WWCC card

Religious organisation	WWCC requirements
Catholic Church in Victoria	The Archdiocese of Melbourne together with the Dioceses of Ballarat, Sale and Sandhurst all require WWCC for: <ul style="list-style-type: none"> all clergy and other religious who are in active ministry involving children all persons over 18 years of age who are engaged as workers (whether contractors, volunteers or paid employees) associated with a parish, school or various other activities that bring them into contact with children.
Anglican Diocese of Melbourne	Regardless of the nature of their engagement with children, the Diocese requires police checks and WWCC for: <ul style="list-style-type: none"> candidates for ordination licensed clergy authorised lay ministers and lay readers stipendiary authorised lay ministers all with permission to officiate authorities any others who work with children in either an employed or voluntary capacity.
Baptist Union of Victoria	All ministers who have children or young people in their congregation are required to hold a WWCC. ⁵⁶
Uniting Church in Australia Synod of Tasmania and Victoria	The Synod requires a WWCC to be obtained by all Ministers and people employed to work with children including volunteers. ⁵⁷
The Salvation Army	In its submission, the Salvation Army states that it requires that all clergy (whether or not they work with children) together with every employee and volunteer who works with children have a WWCC. ⁵⁸ In its Child Protection Policy, the Salvation Army indicates that those who do not have ongoing contact with children do not require a WWCC (such as corporate volunteers or training college staff). ⁵⁹

Source: Compiled by the Family and Community Development Committee.

Other religious organisations maintain that not all ministers of religion need to hold a WWCC card because they are not engaged in regular direct and unsupervised contact with a child. The Committee determined that the Victorian Government needs to review the application of the WWC Act to religious organisations to clarify how it applies to ministers of religion in view of the broad and unspecified nature of their work which involves some contact with children in their communities. See Recommendation 10.1.

The Department of Justice (DOJ) advised the Inquiry that religious organisations were briefed when the system was introduced:

⁵⁶ *Submission S210*, Baptist Union of Victoria, p. 9.

⁵⁷ *Submission S164*, Uniting Church in Australia, p. 25.

⁵⁸ *Submission S241*, The Salvation Army, Australia Southern Territory, p. 6.

⁵⁹ *Supplementary evidence*, Child Protection Policy, The Salvation Army, 27 June 2013.

The working-with-children check unit conducted a number of information sessions, prior to it being applicable in July 2007, in which religious organisations were phased in. These had been attended by a number of appropriate religious organisations so that they can understand the operation of the scheme when it was being brought in. They specifically focused on compliance with the check scheme in those religious organisations, so there was an educative role before the scheme came in.⁶⁰

The Committee considers that further efforts are needed to ensure ministers of religions (including those within culturally and linguistically diverse communities) understand their obligations under the WWC Act.

Stronger onus on employers

In Victoria the WWCC assesses the suitability of an applicant to work in child-related employment. It does not assess the suitability of potential employees or volunteers against a specific position. Once an applicant is granted a WWCC it is the responsibility of the individual employer to undertake an assessment of the specific risks inherent in a particular position that involves working with children on some level. This system implies a degree of knowledge and expertise on the part of an employer to be able to perform this assessment effectively.

The requirement for an employer to undertake their own risk assessment presents a number of challenges to an employer who does not have access to information upon which to base a comprehensive risk assessment. In most cases, the employer is also unlikely to possess the specialised expertise to make the most appropriate judgment.

Implementing a system such as the reportable conduct scheme⁶¹ would put employers in a stronger position by creating an opportunity to gather relevant information they would otherwise not have had access to. See Recommendation 10.1.

Monitoring compliance with the WWCC

The CEO of vicsport, Mr Mark McAllion advised the Inquiry that one of the central difficulties that arises from inadequate monitoring and compliance of the WWCC:

The weaknesses are that you can get a check for one organisation and have not nominated that to another organisation, so you may be volunteering at a primary school, and if you get a working-with-children check and nominate the school on that and you then become a sports coach, something happens and you are convicted of something, then the school will be notified but the sports club may not be. There are certainly limitations, and that is recognised. There is also the time lag, so if something happens in a period, then the sporting clubs probably only ask, 'Have you got a working-with-children check; what is the number?', and they will record that, but they may not be going back to check.⁶²

Although there are provisions under the WWC Act that require notification of changes to personal or employment details within 21 days, these could be categorised as administrative matters.⁶³ As indicated by Mr McAllion, compliance with the notification of changes to working or volunteering arrangements can be poor and this represents a risk which needs to be addressed.

60 *Transcript of evidence*, Department of Justice, Melbourne, 19 October 2012, p. 4.

61 The NSW reportable conduct scheme was discussed earlier in this section.

62 *Transcript of evidence*, vicsport, Melbourne, 12 April 2013, p. 6.

63 *Working with Children Act 2005* (Vic) s.20A. Penalty 1 unit for failure to comply.

A further limitation associated with organisational compliance with WWCC was highlighted by a witness who told the Inquiry that:

The Working with Children Act has no provision for parents to ask an organisation if they are compliant with the laws. It has no provision to ask a minister of religion if he has a working with children check. The only provisions under the legislation—not in the legislation itself, it is in the guidelines—is that parents have responsibilities, and it uses the illustration: if you have a piano tutor come to you, check their credentials.⁶⁴

The Committee noted that there are a number of offences under the WWC Act. For an individual, these include:

- engaging in child-related work without an assessment notice
- holder of negative notice applying for child-related work
- engaging a worker in child-related work when that person does not have an assessment notice
- using a false or other person's assessment notice.

All offences carry a penalty of a maximum of two years imprisonment and/or a fine of up to \$34,646.40 (at 1 July 2013). In addition the following offence exists under the WWC Act:

- an agency offers the services of a person who does not have an assessment notice (maximum two years imprisonment or up to 1200 penalty points for body corporate, that is \$173,232.00 at 1 July 2013).⁶⁵

The Cummins Inquiry found that:

The collection and publication of data on the number of investigations and prosecutions for breaches of the Working with Children Act 2005 could be a valuable indicator of the effectiveness of this Act as part of the legal framework protecting vulnerable children.⁶⁶

In its explanation regarding how the Department of Justice monitors compliance with the legislation and identifies breaches of the WWC Act, the Acting Secretary, Dr Noone, stated that:

In relation to compliance with a working-with-children check, there is not specifically for the unit a compliance function with respect to enforcing the Act. If there are suspected breaches of the Act, they are referred to Victoria Police for investigation and possible prosecution, with the department providing assistance where that is required.⁶⁷

The Committee noted that in some other jurisdictions there are monitoring and compliance requirements under the working with children legislation.

The Office of Children's Guardian has this responsibility in NSW. Additionally the Office of Children's Guardian carries out a 'risk assessment' if a relevant trigger occurs, namely the commission of an offence, finding of misconduct, notification by

⁶⁴ *Submission S483*, Name withheld.

⁶⁵ *Working with Children Act 2005* (Vic) s.36.

⁶⁶ P. Cummins, D. Scott, OAM, & B. Scales, AO (2012) *Report of the protecting Victoria's vulnerable children Inquiry*, p. 1xviii.

⁶⁷ *Transcript of evidence*, Department of Justice, p. 4.

the Ombudsman or a pattern of behaviours are observed. This process is set out in the material available on the website of the Office of the Children's Guardian.⁶⁸

Finding 10.3

The Victorian WWCC is an effective screening tool but has some limitations—including a reliance on individuals to update their WWCC card, a lack of monitoring to ensure compliance and a lack of clarity regarding whether ministers of religion need to undergo checks before their appointment.

10.2.4. Exemptions—parents

Under s.27 of the WWC Act, a 'parent engaging in work as a volunteer in relation to an activity in which his or her child is participating or ordinarily participates is exempt from a Working with Children Check in respect of that activity'.⁶⁹ Some participants noted that being a parent does not make a person less likely to be an offender of criminal child abuse.

While the exemption exists, the Committee noted that a number of organisations require parents in specific roles or positions in child-related work to have a current WWCC card. For example, vicsport explained to the Inquiry that:

State Sporting Associations have proactively promoted the need for WCC by all relevant individuals within sport and anecdotally the concept has been fully embraced at the club level. Many clubs have taken the level of compliance within the club to higher levels than legislated. For example—if you are a coach with a child in your team you are not required to have a WCC however many clubs require all coaches to have WCC regardless.⁷⁰

Similarly Scouts Victoria advised that 'By far the majority of our leaders would be parents of children in the organisation'.⁷¹ In response to the Committee's questions regarding whether WWCC are required by all leaders, the Chairman of the Executive Branch Committee, Mr John de Wijn, explained that 'it is our requirement'.⁷² He explained that:

Every Scout Leader who has anything to do with the youth program goes through this induction process.⁷³

Scouts Victoria also explained that for all its leaders 'We do more than the current Working-With-Children Checks'.⁷⁴

After reviewing its evidence, the Committee determined there was no reason to conclude that the exemption for parents constitutes an imminent risk to children. It considered that the exemption for parents is a practical necessity to encourage and facilitate the important contribution that parents make by their involvement in their children's activities.

68 NSW Office of the Children's Guardian (September 2013) *The new working with children check: Risk assessment. Fact sheet 8*. Accessed on 16 October 2013 from <http://www.kids.nsw.gov.au/Working-with-children/New-Working-With-Children-Check/Publications-and-resources>.

69 *Working with Children Act 2005* (Vic) s.27.

70 *Submission S389*, vicsport, p. 4.

71 *Transcript of evidence*, Scouts Victoria, Melbourne, 11 April 2013, p. 4.

72 *Transcript of evidence*, Scouts Victoria, p. 4.

73 *Transcript of evidence*, Scouts Victoria, p. 4.

74 *Transcript of evidence*, Scouts Victoria, p. 4.

10.2.5. Over-reliance on Working with Children Checks

The Committee identified that organisations can potentially over-rely on WWCC in their processes for ensuring the appointment of suitable personnel. In its assessment of screening processes, the Committee identified that many organisations had referred to WWCC and police checks yet made no reference to other practices or preventive approaches. It acknowledges that the lack of reference to practices in evidence to the Inquiry may not always mean that they are non-existent. It appeared, however, that for a number of organisations the WWCC is the primary approach to screening and, at times, the only prevention tool used.

A number of Inquiry participants told the Committee that there are risks in relying solely on WWCC. For example, Mr Geary from the Commission for Children and Young People, told the Inquiry that on its own the WWCC is not sufficient:

Working with children checks are an important part of preventing such abuse, but they are not sufficient on their own. Organisations need to develop a culture of safety that includes screening, supervision, monitoring and importantly listening to children. Churches and community groups must develop child safe practices that hold the protection of children at their core. Policies and practices are required to guide senior staff on how to respond to any concerns raised about child safety. Central to these policies and practices is the development of a culture within an organisation that does not accept or tolerate concerning or criminal behaviour towards children.⁷⁵

The risk for employers relying solely on a WWCC is that offenders who seek access to children may have no traceable history through a police check or WWCC, as they have never been reported or prosecuted. Research reviewed by the Committee supported this assessment, finding that some high risk individuals do not have criminal convictions for child abuse.⁷⁶ In its submission, Child Wise stated that despite being a useful deterrent, the WWCC system may result in organisations becoming complacent in their recruitment and selection processes.⁷⁷

Some organisations indicated to the Inquiry that they recognised the limitations of WWCC when used in isolation. For example, the Presbyterian Church of Eastern Australia stated in its submission that the ‘Working with Children Check is useful in excluding convicted offenders but inadequate of itself and may even give false confidence to organisations.’⁷⁸ Similarly, Anglicare explained that:

... whilst screening processes must be a part of any effective set of protections designed to prevent abuse in institutional contexts, it is important not to be overly reliant on these processes, and to thereby consider them sufficient alone in minimising the likelihood of abuse occurring.⁷⁹

Evidence before the Committee suggests a degree of over-reliance on WWCC in some organisations. The Committee considers that some organisations may believe that simply requiring employees and volunteers to have WWCC creates safety in an organisation. This false sense of security may prevent organisations from developing

⁷⁵ *Transcript of evidence*, Commission for Children and Young People, p. 3.

⁷⁶ M. Erooga (2009) *Towards safer organisations: Adults who pose a risk to children in the workplace and implications for recruitment and selection*. London, National Society for the Prevention of Cruelty to Children (NSPCC), pp. 36–37.

⁷⁷ *Submission S388*, Child Wise, pp. 11–12.

⁷⁸ *Submission S072*, Presbyterian Church of Eastern Australia, Law & Advisory Committee, p. 4.

⁷⁹ *Submission S146*, Anglicare Victoria, p. 6.

other complimentary measures to enhance child safety such as those policies and practices discussed in Chapter 11.

Finding 10.4

The majority of organisations have WWCC processes in place, but can unknowingly over-rely on them as a tool for preventing the appointment of unsuitable personnel.

→ Recommendation 10.1

In regard to the operations of the *Working with Children Act 2005 (Vic)* (WWC Act), that the Victorian Government:

- clarify the requirements for religious organisations to ensure ministers of religion have a current Working with Children Check (WWCC)
- institute a system of compliance monitoring and investigation of the operation of the WWC Act similar to the equivalent system in New South Wales
- ensure that all relevant non-government organisations are required to report any allegations of misconduct relating to children to the Victorian Department of Justice WWC Unit
- raise the awareness of organisations about the importance of regularly reviewing the status of WWCC by personnel, the need to adopt a range of screening tools, and to not over rely on the WWCC.

10.3. Registration

The Committee considered the use of offender registers and professional registration in the context of pre-employment checking processes. These registers have been established by specific professions or within large national organisations as a way to monitor movement of employees. For example:

- Professional registration—used in professions such as carers in out-of-home care and teaching.
- Offender registers—used by religious organisations such as the Anglican Church and the Seventh Day Adventist Church to monitor cross-jurisdictional personnel movement.

While they provide an additional means of pre-employment checking, the Committee determined that like other checking processes these registers and registration systems are not without their limits.

10.3.1. Offender registers and databases

In evidence to the Inquiry, some religious organisations advised that they have established national offender registers or databases and others were considering their establishment. Their key purpose for establishing such databases was to enable the identification of movement within the organisation of any individuals who have been subject to an allegation of sexual misconduct or a child sexual abuse offence in another Australian state jurisdiction.

The Committee determined that the registration of individuals suspected of misconduct on internal organisational registers should not replace the reporting of known child sex offenders to police.

In 2007, the national Anglican Church passed the National Register Canon. The role of the Register is to:

- provide a national repository for information on clergy and laity about whom a complaint of sexual misconduct or child abuse has been alleged
- provide a national repository for information on clergy and laity about whom adverse information has been received relative to a WWCC, a criminal history or a safe ministry check
- establish a duty of care obligation on diocesan bishops to reference the Register in appropriate circumstances (appointment to a position, for example) and where practicable to have regard to it
- provide a useful reference point (among others) in respect to the process regarding the suitability of clergy seeking appointment within a diocese where there may be limited prior knowledge of their ministry.⁸⁰

Archbishop Philip Freier of the Anglican Diocese of Melbourne explained to the Committee that:

The National Register gives us a lot more confidence now. Any professional standards matter is recorded, however resolved, even if a complaint has been resolved in favour of a person who is the respondent, and is available to us as we are looking at appointments and people coming from other areas.⁸¹

The Committee was advised that information has been shared with Victoria Police on request. In its review of the files of the Anglican Church, however, the Committee did note that since the introduction of the Register in 2007, in 2009 there was an instance when a minister of religion on the Register was appointed to another diocese. This was due to a failure of the diocese to check the register.⁸²

The Seventh Day Adventist Church has also established a system for monitoring individuals who may be a risk to children and young people. It developed a database, which facilitates an auditing process of the WWCC to enable the Church to check across state jurisdictions:

Every record on the Membership Database, whether pertaining to a Member or Non-Member, has the ability to store WWCC details.

The WWCC Stats Report is a simple statistical record which provides church administration with comparative totals of WWCC issued and any negative notices received.⁸³

The 'National Safe Place Register' includes people within the Church 'and its environments' who have:

- a) a conviction for a violent or sexually-related offense;
- b) a sustained finding against them of a Sexual Abuse or Sexual Misconduct

⁸⁰ *Submission S244*, Anglican Diocese of Melbourne, p. 16.

⁸¹ *Transcript of evidence*, Anglican Diocese of Melbourne, Melbourne, 22 April 2013, p. 4.

⁸² Anglican Diocese of Melbourne, files accessed by the Family and Community Development Committee.

⁸³ *Submission S258*, Victorian Conference of the Seventh-day Adventist Church, p. 25.

nature, against an adult or child; or

- c) have been involved in a Church-based investigation.⁸⁴

As discussed above, Scouts Victoria indicated its awareness of the risk of people accessing the organisation to move into positions in which they might offend. To manage this risk, the organisation has a policy of not appointing anyone to any position in the organisation with a history of offending against children or young people.

10.3.2. Professional registration

Another approach that assists in ensuring that only suitable personnel can work in positions involving direct contact with children is the registration of professionals through statutory bodies or government departments. This includes:

- The Victorian Institute of Teaching (VIT) registration of school teachers in Victoria.
- The registration of carers providing out-of-home care, such as foster carers.

Early education professionals in Victoria currently have no registration requirements. On this issue, the CEO of VIT, Ms Melanie Saba, provided the following evidence to the Inquiry:

It should be stated that the government is considering options for the registration of early childhood teachers. I think if that happens it would be a very useful adjunct because it increases the mandatory reporting to teachers for that full gamut.⁸⁵

Schools

Teachers working in Victorian government, Catholic and independent schools are required to be registered by VIT. Teachers' registration with VIT is subject to a national police check, which is repeated every five years when registration is renewed.

Up until early 2012, VIT relied solely on national criminal record checks every five years, whereas it can now check the database of teachers against the Victorian Law Enforcement Assistance Program (LEAP) database weekly. Legislative amendments in 2011 to the *Education Training & Reform Act 2008* (Vic) have enabled greater scrutiny of the ongoing fitness of registered teachers through the implementation of systematic, routine, ongoing criminal record checking. Victoria Police monitor registered teachers through weekly police checks to establish if they have been charged with any relevant offences. Teachers are obliged to advise VIT when they have been charged with a relevant offence in any jurisdiction, and the weekly checks guard against a teacher's failure to do so. This registration and screening process for teachers is used instead of the WWCC, which teachers are not required to have.

The Committee noted that there are some limitations in this registration process. The weekly police checks only reveal whether a teacher has been charged with an offence or is subject to a police investigation in Victoria. They cannot identify a relevant investigation, charge or conviction in another state or territory.

Consequently, unless the teacher advises VIT of an interstate charge or conviction as required by the *Education Training and Reform Act 2008* (Vic), the matter will not be

⁸⁴ *Submission S258*, Victorian Conference of the Seventh-day Adventist Church, p. 25.

⁸⁵ *Transcript of evidence*, Victorian Institute of Teaching, Melbourne, 15 April 2013, p. 11.

identified until the national police check is undertaken at the five-year renewal point. In view of this, it is possible for a teacher who has been convicted of a serious sexual offence against a child in New South Wales to maintain VIT membership until he or she is required to undergo a national police history check at the five-year point.

The Committee sought and received evidence from VIT in regard to the systems and processes in place for registering teachers. Ms Saba, explained to the Inquiry that ‘information sharing’ across agencies that are involved in child protection is currently difficult. The Committee considers that there is room for improvement to enable more information to be shared across relevant authorities to provide the best protection possible to Victorian children.

The Committee did note, however, while VIT is not affected, there have been recent improvements in the information exchange between the Commonwealth and all Australian states and territories in regard to WWCCs. Under the authority of the Council of Australian Governments (COAG), a memorandum of understanding was established to allow ‘participating screening units’ across all Australian jurisdictions to routinely access each other’s relevant information about WWCC applicants. This includes:

- spent convictions (convictions which, after a rehabilitation period, are otherwise no longer part of the person’s criminal history and which the person need not otherwise disclose)
- current charges not yet heard by a court
- prior charges; for example, charges withdrawn before being heard by a court
- further police information about the circumstances of convictions or charges; for example, whether a child was the victim of, or involved in, an alleged offence.

This agreement is known as the National Exchange of Criminal History Information for People Working with Children Memorandum of Understanding.

The Committee understands that VIT does not have access to this information given that teachers are exempt from the WWC Act and VIT is not a ‘participating screening unit’ under the agreement.

Out-of-home care services

The Department of Human Services (DHS) has a three-tier approach that aims to prevent harm to children and young people placed in out-of-home care. This approach is linked to the principle that children must ‘reside in a safe environment free from abuse and neglect’.⁸⁶ Table 10.5 outlines the three elements of this approach.

⁸⁶ Department of Human Services ‘Goals and principles for placement’ *Protecting Victoria’s Children—Child Protection Practice Manual*. Accessed on 22 August 2013 from <http://www.dhs.vic.gov.au/cpmanual/about-the-manual>.

Table 10.5: DHS approach to protecting children in out-of-home care

Tier	Description
Agency registration	<ul style="list-style-type: none"> • Before any agency can provide a service funded by the department it must be registered. • To be registered or to apply for renewal of registration, agencies need to demonstrate compliance with the relevant DHS standards through an independent review every three years. • Agencies must also enter into a service agreement with DHS which details obligations, objectives, rights and responsibilities of the agency.
Approval of carers	<ul style="list-style-type: none"> • Apart from kinship carers all carers are required to have a Working with Children Check. All carers are required to have a police check prior to commencing care. • Kinship carers undergo an assessment for suitability, including a child protection check prior to a child being placed. • Foster carers undertake mandatory training and a competency based assessment prior to being approved to provide care. • Residential carers are screened and assessed for suitability by employing agencies with a preferred qualification being a Certificate IV in Child, Youth and Family Intervention (out-of-home care).
Registration of carers	<ul style="list-style-type: none"> • Groups required to be registered on the carer register are foster carers; all rostered staff, including permanent, part-time, casual and temporary agency staff in residential care; and all labour hire firm personnel engaged by Community Service Organisations (CSOs). • DHS maintains the register for use by agencies. • CSOs have responsibility for removing carers from the Carer Register, which may be due to the carer no longer providing care for personal reasons or because the agency has removed their accreditation or ceased their employment.

Source: Compiled by the Family and Community Development Committee.

The Secretary of DHS, Ms Gill Callister, explained that carers can be deregistered for a range of reasons:

Carers can be removed from the register by Community Service Organisations for a range of reasons—either because carers decide to stop providing care or because agencies have removed their accreditation or have ceased to employ them. Carers who are disqualified are removed from the carer register by the department.⁸⁷

Ms Callister also outlined that:

The disqualified carer check is a legislative requirement, and it requires Community Service Organisations to check with the department if a carer is disqualified or under investigation. Once confirmation has been provided by the department that a carer is clear the agency can complete the registration of a carer on the register.⁸⁸

Anglicare Victoria explained how it has integrated the screening checks for carers into its processes in out-of-home care:

⁸⁷ *Transcript of evidence*, Department of Human Services, Melbourne, 22 October 2012, p. 4.

⁸⁸ *Transcript of evidence*, Department of Human Services, p. 4.

For carer registration to be successful, the carer must pass a complete criminal history check and Working With Children Check. Furthermore, before Anglicare Victoria places any child or young person with a carer, the agency requests what is known as a ‘disqualification check’ of that carer which is facilitated by DHS as part of their carer registration facility, and involves another criminal history check and WWCC being carried out. This ensures that both DHS and Anglicare possess the most up-to-date criminal records history about any carer who is being considered for a placement.⁸⁹

Finding 10.5

Registration systems for professionals and offender registers provide an additional checking process to ensure suitable personnel are appointed to specific professions or organisations.

⁸⁹ *Submission S146*, Anglicare Victoria, p. 5.

Chapter 11

Managing situational risk and ensuring a child-safe culture

AT A GLANCE

Background

While the effective selection of suitable personnel may prevent many potential offenders from gaining access to organisations, managing the internal risks of offending by existing personnel is equally important for non-government organisations.

Key findings

- Managing internal situational risks involves assessing risk to the organisation, establishing behavioural expectations of personnel, providing ongoing support, supervision and training and considering risks in the physical environment.
- Identifying high risk activities and children's varying needs is important, yet there is minimal guidance to assist organisations to assess and mitigate risks specific to criminal child abuse.
- Organisations need to establish clear behavioural expectations and boundaries for personnel interacting with children without creating an environment of undue suspicion.
- A number of organisations indicated that education and training are strategies they use to ensure their personnel are informed about child safety, yet there can be inconsistencies in the nature of the training provided by organisations.
- Non-government organisations that provide activities and services for children would benefit from greater awareness of how to use regular supervision and performance monitoring to identify concerns regarding the conduct of personnel interacting directly and regularly with children.
- There is a need to build the capacity of leaders and managers to increase their awareness of how to create an organisational culture that ensures children are reasonably protected from criminal child abuse.

The previous chapter identified that to ensure the appointment of suitable personnel most organisations have considered and put in place systems relating to pre-employment checks. The Committee identified that organisations have given less attention to other aspects of prevention that relate more specifically to managing situational and environmental risk within the organisation and creating child-safe cultures. This is about reducing the risk of existing personnel in organisations committing criminal child abuse.

In 2012, a study by researchers in the UK National Society for the Prevention of Cruelty to Children suggested that:

... whilst interview and pre-employment screening may serve to highlight dispositional factors e.g. by previous convictions or markedly inappropriate attitudes to children, situational factors are potentially easier to control and manage and have the potential to impact positively on the likelihood of an offence occurring.⁹⁰

As outlined in Chapter 10, pre-employment checks and other screening processes will not always prevent unsuitable personnel being appointed to an organisation. The Committee considered there is a need for a stronger focus by organisations to ensure they provide social and physical environments that are child-safe and that reduce opportunities for criminal child abuse.

11.1. Managing situational and environmental risks

Evidence to the Inquiry emphasised that there are a number of factors that non-government organisations need to put in place to ensure they are child-safe environments. These address both the social and physical aspects of the environment.

The Committee identified that these environmental factors relate to managing risk, setting behavioural expectations, ensuring support for staff and volunteers and considering the physical environment. Table 11.1 outlines these aspects of a child-safe organisation.

Table 11.1: Components for managing social and physical risks in organisational environments

Component	Description
Risk assessment	Identifying, assessing and mitigating risk by considering: <ul style="list-style-type: none"> • organisational structure and culture • types of abuse that occur—physical most common • children involved with the organisation—age, gender, disability • type of activities—youth groups, sport, travel, overnight camping • level of understanding of appropriate behaviours—disciplinary practices, physical boundaries, etc.

90 M. Erooga, D. Allnock, & P. Telford (2012) *Towards safer organisations II: Using the perspectives of convicted sex offenders to inform organisational safeguarding of children*. London, National Society for the Prevention of Cruelty to Children (NSPCC), p. 31.

Component	Description
Behavioural expectations	Establishing clear standards of behaviour and boundaries. Ensuring Code of Conduct states expectations regarding appropriate behaviour between children and adults and has guidelines on boundaries.
Education and training	Providing relevant education and training. Increasing awareness within the organisation regarding: <ul style="list-style-type: none"> • understanding children • understanding child abuse—what it is, the dynamics of child abuse, the signs and symptoms of all forms of abuse • policy to protect children—ensuring personnel in the organisation are familiar with the internal child protection policy • reporting procedures—who might report, how to respond to any reports and timelines for responding • accessible resources and support materials—for personnel in the organisation, for children and for parents.
Performance supervision and support	Recognising the preventive value of support and supervision. Using supervision by managers, external professionals, peers or teams to enable concerning behaviour to be more readily identified.
Physical environment	Reviewing and considering the safety aspects of the physical environment. Raising awareness of the preventive value in ensuring safe physical design of buildings and spaces in which children interact with adult personnel—including location, such as camps and other isolated events.

Source: Compiled by the Family and Community Development Committee.

Finding 11.1

Managing internal situational risks involves assessing risk to the organisation, establishing behavioural expectations of personnel, providing ongoing support, supervision and training and considering risks in the physical environment.

11.1.1. Organisational risk assessment

The Committee found that few organisations that submitted to the Inquiry put a strong emphasis on assessing and mitigating risks within their organisation. There is minimal guidance for organisations on how to conduct a risk assessment specific to the risk of criminal child abuse.

The Commission for Children and Young People's *Guide for creating a child-safe organisation* encourages organisations to review how child-safe they are. It suggests organisations consider:

- the activities they provide and those that pose higher risk to children's safety than others

- the needs of children, which vary depending on their age, abilities and developmental needs.⁹¹

The Committee noted that Save the Children Australia referred to a process for undertaking a risk assessment when designing a program or activity. Box 11.1 provides an overview of this risk assessment process. Other organisations that made reference to conducting risk assessments included Wesley Mission Victoria, Anglicare Victoria and the Uniting Church in Australia Synod of Tasmania and Victoria.

Box 11.1: Save the Children Australia risk assessment matrix

All activities within Save the Children Australia (whether humanitarian or emergency responses, programmatic/policy/campaigning work or other work involving child participation) are assessed to make sure that any child protection risks are identified and adequate controls developed.

Each State and Country office must conduct a Child Protection Risk Assessment when designing a program or activity or review each program from a child protection perspective and identify risk interventions appropriate to the level and nature of risk. To support this process, a Child Protection Risk Management Matrix is completed. The Matrix complies with AusAID recommended Risk Management Guidelines and summarises the context, risk analysis, rating and risk responses as they relate to each program's current operations and projects. The Risk Assessment and Risk Management Matrix is reviewed annually at the Program Review time. Particular activities which are deemed 'high risk' are subject to additional monitoring and reporting procedures.

Identifying and managing risk is an integral part of Save the Children's approach to decision making and accountability. Whilst it is never possible to eliminate all risk, the aim of child protection risk management is to create awareness of the specific risks to children's safety and wellbeing and ensure any opportunities for children to be abused or exploited are minimised. Assessing and managing any child protection risks ensures that a proactive and preventive approach underpins Save the Children's programs and activities.

Source: *Submission S252*, Save the Children Australia, p. 5.

The Committee noted that guidance for risk management is often provided by accrediting bodies and insurance agencies. Insurance agencies have an interest in contributing to the degree to which organisations effectively manage risk. For example, Ansvar Insurance informed the Inquiry that it imposes very specific requirements on the organisations it insures. Mr Andrew Moon, the CEO of Ansvar explained that:

We require our insureds to certify to us that they do in fact have policies and protocols in place to ensure that abuse does not occur and cannot occur. We seek detailed information over the previous 12-month period, and we identify risk management procedures, particularly relating to the escalation of issues or events of which they become aware, training programs and refresher programs. We have a series of surveyors across our business who are risk surveyors both for property risk in terms of the construction of buildings, but also for these policies and procedures. They check

⁹¹ Formerly the Office of the Child Safety Commissioner. See Child Safety Commissioner (2006) *A guide for creating a child-safe organisation*, p. 5.

that they exist and that they are in fact being adhered to and implemented within those organisations. Of course we have to adopt a principle of utmost good faith.⁹²

Ansvar does not provide advice on child safety or practices, but shares its experience so that the practices within organisations are improved to the best extent possible. It recommends that organisations put the following preventative measures in place:

- Understand the legal obligations the organisation must comply with.
- Develop a policy statement on client protection to demonstrate the seriousness with which the organisation views the prevention of abuse and allow a framework to be drafted to guide actions in the future.
- Document the way in which staff are selected, including paid and unpaid employees, volunteers, students, people on work experience, management, board members, contractors and others who may act on behalf of the organisation.
- Reduce the risk through sound supervision practices during all activities and events.
- Have an appropriate response plan including advising the statutorily responsible authority to investigate such incidents.⁹³

The Committee noted, however, that organisations that implement risk management processes only with the motivation of reducing their insurance premiums can ultimately prioritise their financial and legal concerns over their moral responsibility to protect children from criminal child abuse.

Finding 11.2

Identifying high risk activities and children's varying needs is important, yet there is minimal guidance to assist organisations to assess and mitigate risks specific to criminal child abuse.

11.1.2. Behavioural expectations

Organisations highlighted to the Inquiry that the establishment of a code of conduct demonstrated their commitment to preventing criminal child abuse. Others emphasised that they had clear statements on the expectations regarding appropriate boundaries with children. For some organisations these boundary expectations were included in the organisation's code of conduct, others had established a separate policy.

The Committee identified that a number of organisations had codes of conduct in place relating to child protection, including:

- Anglican Church
- Baptist Union
- Berry Street Victoria
- Catholic Church
- Girl Guides Victoria
- Scouts Victoria

92 *Transcript of evidence*, Ansvar Insurance Ltd., Melbourne, 4 April 2013, p. 2.

93 Ansvar Insurance Limited (2009) *Risk management guide: Preventing abuse*. pp, 1–3.

- Seventh Day Adventist Church
- Uniting Church in Australia Synod of Tasmania and Victoria.

These codes of conduct are outlined in Appendix 6.

The Committee found that while most organisations have a code of conduct, they vary considerably in content and quality. Some were standalone codes relating specifically to children's safety, such as the code established in 2011 by the Catholic Church in Victoria. Others were integrated into a broader code of conduct relevant to all expectations about appropriate behaviour of personnel in the organisation, such as Berry Street Victoria.

Very few organisations provided clear explanation regarding their processes for ensuring the code of conduct on paper was translated into practice. The Committee did note, however, that some organisations provide training for personnel to ensure awareness of the code of conduct. For example, the Uniting Church has bi-annual training on its Code of Ethics in Ministry. The Seventh Day Adventist Church also advised that it has incorporated workshops on its boundary expectations and undertakes refresher training every two to three years.

The Committee found that not all organisations referred to their processes for managing misconduct in their code of conduct. The Committee cannot conclude that processes for managing such breaches do not exist, but it was concerned that the way breaches of the code are dealt with is not always integrated into the code of conduct or cross-referenced to a relevant document. This potentially limits the extent to which personnel can be aware of the implications of not abiding by the organisation's expectations.

The Committee considered it important that organisations balance expectations regarding appropriate boundaries while avoiding an environment of suspicion. Professor Stephen Smallbone from Griffith University explained to the Inquiry that this is a fine balance between not having exceptions to rules and also not creating an environment where everybody feels like they are under suspicion.⁹⁴

Finding 11.3

Organisations need to establish clear behavioural expectations and boundaries for personnel interacting with children without creating an environment of undue suspicion.

11.1.3. Education and training

A number of organisations identified education and training as an important part of their commitment to taking reasonable care to prevent criminal child abuse in their organisation. The Committee found variations in how organisations approached training and whether they engage external providers or conduct in-house training. It also identified inconsistencies in the nature of training provided and how decisions are made about training requirements.

Some organisations considered they have an obligation to ensure personnel understand the importance of creating safe environments for children. Others placed

⁹⁴ *Transcript of evidence*, Professor Stephen Smallbone, p. 9.

an emphasis on educating children in protective behaviours. Another small category focused on educating parents. Examples of training and education approaches in a range of organisations are outlined in Appendix 6.

The Anglican Church explained its education and training processes to the Inquiry. It stated that in addition to training on its *Professional Standards Act 2009* (Vic):

... clergy and lay leaders are regularly exposed to training and other publications which are designed to build their awareness of the risk factors inherent in pastoral ministry to the vulnerable and to provide ways of keeping themselves and other safe in a ministry context.⁹⁵

In its submission to the Inquiry, the Catholic Church in Victoria also explained that the *Programme for Priestly Formation Australia* (established in 2007) informs training in Australian diocesan seminaries. The Catholic Church advised that through the National Committee for Professional Standards (NCPS), established under *Towards Healing*, a wide range of training is provided. This training targets different religious and lay personnel in the Church. It explained that:

Education and training days are ... held in each state frequently, with presentations from experts on understanding abuse and its effects, on the *Towards Healing* program *Integrity in Ministry* and *Integrity in the Service of the Church*.⁹⁶

The Catholic Church also indicated that ‘presentations are made to a wide variety of groups, including youth ministers, deaneries, Congregational schools and Centacare’ on its codes of conduct and ‘preventive measures generally, and awareness and understanding of the effects of abuse’.⁹⁷

The Catholic Church, the Anglican Church and other religious organisations indicated that they collaborate with other religious denominations through the National Council of Churches Australia and the Safe Church Network. Under the auspices of the group, the inter-denominational *Safe Churches Training Agreement* established a training manual template, which includes four Modules for Church Boards. The template is used by over 40 Christian groups and denominations. The Seventh Day Adventist Church and the Baptist Union have used the training manual template.

Other organisations did not appear to have any training in place, such as the Greek Orthodox Archdiocesan District of Victoria, the Islamic Council of Victoria and the Federation of Indian Associations Victoria. The Committee did note that as a consequence of their participation in the Inquiry, these organisations indicated a commitment to improving their processes and to seeking the appropriate guidance and assistance to establish training and to raise awareness.

The Community Child Care Association advised the Inquiry that child care staff are not required to have training on child safety before they commence work. Under the National Quality Framework (see Section 12.4.2), Regulation 84 of the *Education and Care Services National Regulations 2011* requires that child care workers be aware of child protection laws. Ms Catherine Kimber, Professional Support Consultant to the association, stated that:

Everyone in that service has to have an awareness of child protection law. Previously

95 *Submission S244*, Anglican Diocese of Melbourne, p. 29.

96 *Submission S185*, Catholic Church in Victoria, p. 101.

97 *Submission S185*, Catholic Church in Victoria, p. 102.

it tended to be the team leader, the director or the coordinator who would do the more formal training and would then just inform their assistants and casual staff, whereas everyone needs to have an awareness, which is why right now there is a peak of services trying to access the protocol training online, because it is also accessible to services that cannot afford to release staff for formal training.⁹⁸

The Committee notes that the online training focuses on child abuse in families rather than criminal child abuse by carers or other staff at a child care centre.

Professor Desmond Cahill from the School of Global, Urban and Social Studies at RMIT made a recommendation that there is ‘monitoring of the education and training of all religious personnel, because education is the key to overcoming the issues associated with child sexual abuse and other issues.’⁹⁹

Finding 11.4

A number of organisations indicated that education and training are strategies they use to ensure their personnel are informed about child safety, yet there can be inconsistencies in the nature of the training provided by organisations.

11.1.4. Ongoing support and supervision

The Committee determined that ongoing support and supervision of personnel in organisations is an important component of preventing criminal child abuse. This includes the induction process and probation periods for personnel in organisations. In the same vein as the code of conduct, the Committee noted the importance of balancing expectations without creating an atmosphere of suspicion.

Some organisations told the Inquiry that they had introduced induction processes for new personnel in their organisation as a strategy to help prevent criminal child abuse. For example, Jesuit Social Services informed the Committee that:

Members of staff are provided with opportunities to become familiar with and enhance their practice in accordance with our values through a comprehensive induction process.¹⁰⁰

It has also established a six-month probation period that includes a performance review.

In evidence to the Inquiry, some organisations referred to how they use supervision arrangements to oversee the interactions of their staff and volunteers with children. In its submission, Berry Street Victoria outlined its program for supervising and supporting staff in the context of child safety. These arrangements are outlined in its *Child safety and wellbeing policy*:

Quality staff supervision is a hallmark of good human service management practice and indicative of a mature and child-safe organisation. Solid staff support and supervision structures/processes are a central feature of Berry Street’s commitment to child safety. It is a mandatory part of a staff member’s work with Berry Street. Staff support and supervision are closely linked with initial orientation and induction

98 *Transcript of evidence*, Community Child Care Association, Melbourne, 15 April 2013, p. 7.

99 *Transcript of evidence*, Professor Desmond Cahill, School of Global, Urban and Social Studies, RMIT University, Melbourne, 22 October 2012, p. 5.

100 *Submission S206*, Jesuit Social Services, p. 5.

processes undertaken when a new staff member commences with Berry Street.¹⁰¹

Staff supervision requirements are also set out in the agency's code of conduct.¹⁰² Berry Street provides support and development opportunities for home-based carers as set out in the Berry Street Foster Carers' Charter. Such activities include regular telephone contact, visits to carers' homes, caregiver reviews, placement reviews, quality of care reviews, group training, care teams and after hours telephone support.¹⁰³ Examples of supervision arrangements in other organisations are outlined in Table 11.2.

Table 11.2: Examples of supervision and support in organisations

Organisation	Type of training and education
Anglicare Victoria	<ul style="list-style-type: none"> Require staff to account for activities in program documentation.
Anglican Church	<ul style="list-style-type: none"> Mandatory appraisals of all clergy every three years.
Jesuit Social Services	<ul style="list-style-type: none"> Focus on supporting and developing staff to ensure practice reflects culture. Commitment to continuous improvement and supervision.
Scouts Victoria	<ul style="list-style-type: none"> District Personnel Committee conducts performance reviews of all leaders after 3 years.

Source: Compiled by the Family and Community Development Committee.

The Committee determined that many organisations working with children would benefit from greater awareness of how to use regular supervision practices and performance monitoring to identify any issues of concern. In relation to the conduct of personnel interacting with children, the former Child Safety Commissioners' *Guide to creating a child-safe organisation* (now the Commission for Children and Young People) states that:

If staff and volunteers are provided with regular opportunities to meet with and talk to a 'supervisor', they are more likely to share any observations or problems they experience or are concerned about. This could act as an alert when something is not going well or someone is not acting in the best interests of the organisation or the children in their care.¹⁰⁴

Finding 11.5

Non-government organisations that provide activities and services for children would benefit from greater awareness of how to use regular supervision and performance monitoring to identify concerns regarding the conduct of personnel interacting directly and regularly with children.

101 Berry Street (2009) *Child safety and wellbeing policy*. Richmond, Berry Street, p. 8 (Section 4.4.4).

102 *Submission S262*, Berry Street, p. 34 (Code of Conduct).

103 Berry Street (2009) *Child safety and wellbeing policy*, p. 8 (Section 4.4.4).

104 Child Safety Commissioner (2006) *A guide for creating a child-safe organisation*, p. 21.

11.1.5. Physical environments

In reviewing evidence to the Inquiry, the Committee noted that some organisations had assessed their physical spaces and how they might be adjusted to prevent the risk of criminal child abuse. For example, Wesley Mission explained that it had adopted a principle for working with children, which ensures:

... physical spaces for children ... are safe and secure and meet appropriate standards.¹⁰⁵

Other organisations, such as Anglicare Victoria and Baptist Union Victoria, indicated a need to consider physical spaces as part of their broader prevention framework.

In evidence to the Inquiry, Professor Smallbone from Griffith University commented on the idea that:

... the physical environment itself can be altered. As an example ... reducing blind spots and out of the way places. In one case that I was involved with, abuse in an organisational setting had occurred in two specific places where the offender had a kind of unique access because of their role but they were also places where people were not routinely walking by; they were out of the way places.¹⁰⁶

One strategy used by organisations seeking to create safer physical environments for children included ensuring two people are with children at all times. The Seventh Day Adventist Church has established this policy and the Federation for the Preservation of the Mahayana Tradition in Australia is proposing a similar approach in its draft child protection policy.

In this context, the Committee heard that low and single-staff ratios pose an increased risk to children. For example, Ms Leanne Giardana, CEO of the Community Child Care Association, a peak organisation for long day care and outside school hours care, expressed her concern regarding single-staff models. The current regulations that apply to outside school hours care services allow one staff member to care for up to 15 children at one time.¹⁰⁷ The Association advised that single staff models pose a risk not just for the children but also for the adult, and it ‘happens a lot in regional and rural areas, where numbers for services are quite low’.¹⁰⁸ It recommended that there should be no services that operate with only one staff member, that there should be a minimum of two staff at all times. The Committee recognises, however, that this presents a significant resourcing issue and that it is necessary to further explore strategies to address this issue.

11.2. Child-safe organisational cultures

Criminal child abuse thrives on secrecy and a key strategy for organisations in preventing risk to children is to cultivate a culture of awareness, transparency and communication. Child Wise told the Inquiry that:

It is through organisational cultures of secrecy, denial and ignorance that children are rendered vulnerable to abuse, and that allows child sex offenders to gain access to our children.¹⁰⁹

¹⁰⁵ *Submission S165*, Wesley Mission Victoria, p. 12.

¹⁰⁶ *Transcript of evidence*, Professor Stephen Smallbone, p. 9.

¹⁰⁷ *Transcript of evidence*, Community Child Care Association, p. 3.

¹⁰⁸ *Transcript of evidence*, Community Child Care Association, p. 3.

¹⁰⁹ *Transcript of evidence*, Child Wise, Melbourne, 5 April 2013, p. 5.

A child-safe culture potentially assists personnel in organisations to readily identify inappropriate behaviour, to raise any issues and to discuss them in appropriate ways.

Based on evidence to the Inquiry, the Committee determined that processes can be put in place to assist organisations to develop or sustain a child-safe culture. Table 11.3 outlines the factors that contribute to child-safe cultures in organisations.

Table 11.3: Components of child-safe organisational cultures

Component	Meaning and examples
Effective leadership and management	<ul style="list-style-type: none"> Management and leadership styles that are open and egalitarian, that encourage people to speak out, that avoid high risk situations and that promote ongoing learning.¹¹⁰
Takes children's disclosure seriously	<ul style="list-style-type: none"> Engaging children and young people in discussion and giving them opportunity to be heard. Acting on all disclosures, encouraging early disclosure, clarifying unacceptable behaviour, empowering children to disclose and responding appropriately to criminal behaviour.
Encourages reports of suspected abuse	<ul style="list-style-type: none"> Processes that encourage reporting and administer any reports sensitively with appropriate safeguards for all who may be involved in their use to ensure they are not used inappropriately.¹¹¹

Source: Compiled by the Family and Community Development Committee.

Of all the prevention elements reviewed by the Committee, the actions of non-government organisations in relation to organisational culture were the least developed. As outlined in Chapter 7 of Part C, the culture of the Catholic Church in Victoria contributed to the existence of systemic criminal child abuse.

The Committee determined that there is a need to build the capacity of leaders and managers in understanding how to create an organisational culture that ensures children are reasonably protected from criminal child abuse.

11.2.1. Changing organisational culture

Creating a child-friendly and child-safe environment will often involve changing an organisation's culture. It is widely acknowledged that changing organisational culture is challenging.

The Committee did not systematically compare the range of organisational structures of those organisations that participated in the Inquiry. It did note, however, that the structure of many religious organisations makes cultural change particularly difficult. For example, the Uniting Church highlighted to the Inquiry the challenges

110 L.R. Beyer, D. J Higgins, & L.M. Bromfield (2005) *Understanding organisational risk factors for child maltreatment: A review of literature.*, p. 55.

111 M. Erooga, D. Allnock, & P. Telford (2012) *Towards safer organisations II: Using the perspectives of convicted sex offenders to inform organisational safeguarding of children*, p. 83.

in changing its culture to increase its capacity to provide a safe environment for children. According to its submission, the Uniting Church stated that:

It is crucial to develop and maintain a culture of safety for children and for all people in the church

The handling of child abuse by the Synod takes place within the specific organisational culture and structures of the Synod ...

The creation of a culture of safety needs to occur in traditional and new expressions of the Church. There is an opportunity to create a culture that makes these new expressions of Church safe from the outset ...

It is important to note the Synod is comprised of many units and agencies within the one entity and that the structure is based on inter-related, delegated power structures. The Synod is not structured nor does it operate as a linear, top down bureaucracy ...

Given the inter-related model of the Uniting Church, which is non-hierarchical in structure, a challenge for the Synod is how to achieve accountability for the development and quality of these policies and procedures.

There is merit in the argument for policies to be developed and owned at the local level. This approach increases the likelihood of the policy being responsive to and fitting the environment in which it applies. However this dispersed, local approach also means there is no coordinating body or mechanism for ensuring these policies are in place across the Church or to assess their quality and effectiveness.

Whilst acknowledging the interrelated model of the Church and the non-hierarchical structure of the Synod, general support was expressed as part of the development of this submission for the Church to have a 'bottom line' on the issue of child abuse and for this to be communicated and directed centrally ...

A safe church relies on good practice in policies, processes, culture and structure.¹¹²

Other organisations identified that they had considered the need to address organisational culture. These include Jesuit Social Services, the Catholic Church in Victoria and the Seventh Day Adventist Church. The Seventh Day Adventist Church explained that in the 1990s it had identified:

... a need to develop an 'aware culture' within the Church that understood abuse, abusers and victims of abuse.¹¹³

It expressed the reality that:

... transforming Church culture is not something that has happened very easily or quickly—yet, it has been affected intentionally and has mostly occurred slowly over time.¹¹⁴

11.2.2. Effective leadership and cultural change

Non-government organisations that have not previously established child-safe environments need to consider changes to their organisational culture. Leadership is critical in achieving cultural change in organisations.

To achieve a child-friendly environment that promotes child safety, leadership styles need to be open and egalitarian. Management needs to encourage people to speak out.

112 *Submission S164*, Uniting Church in Australia.

113 *Submission S258*, Victorian Conference of the Seventh-day Adventist Church, p. 13.

114 *Submission S258*, Victorian Conference of the Seventh-day Adventist Church, p. 13.

It also needs to assess organisational risk and be prepared to put in place measures that minimise high risk situations. In addition, cultural change occurs through leaders that promote ongoing learning and a willingness to change.¹¹⁵

Professor Smallbone from Griffith University emphasised to the Inquiry the importance of leadership in the prevention of criminal child abuse in organisations:

There is a physical environment, but there is also the social environment to do with the culture of the organisation, the clarity of rules, policies and procedures and so on, and the commitment of managers and so on to administer those rules and codes of conduct and not to make exceptions.

Very often I have seen cases where after somebody has been arrested for sexually abusing a child in an organisational setting a number of other people have said, 'We saw this and we saw that but we didn't put two and two together'. It is often small things that people observe but only when those pieces of information are joined up does it start to make some kind of sense of a problem. For example, in a school I am aware of where there was abuse of students other teachers had walked into a room with this person, the offender, and a victim—they did not actually see sexual abuse. There was a rule in the school, 'You are not allowed to do that', but they did not report it because they thought, 'Well, this guy, we know him, he's trusted'.¹¹⁶

Dr Higgins from the AIFS suggested to the Inquiry that to achieve cultural change organisations can use 'sponsors or champions' who can 'talk about what that policy means, regularly bring it up in team meetings and flesh it out and mentor new staff who might be coming into an organisation.'¹¹⁷

Finding 11.6

There is a need to build the capacity of leaders and managers to increase their awareness of how to create an organisational culture that ensures children are reasonably protected from criminal child abuse.

115 L. R. Beyer, D. J. Higgins, & L. M. Bromfield (2005) *Understanding organisational risk factors for child maltreatment: A review of literature.*, p. 55.

116 *Transcript of evidence*, Professor Stephen Smallbone, p. 9.

117 *Transcript of evidence*, Australian Institute of Family Studies, p. 6.

Chapter 12

Policies to protect children from criminal child abuse

AT A GLANCE

Background

A written child-safe policy demonstrates an organisation's commitment to its duty to reasonably protect children from criminal child abuse while in their care. It may be long or short depending on an organisation's purpose, size or the activities it undertakes. Ideally it should contain a statement of zero tolerance of criminal child abuse, principles to guide decisions, procedures on the employment of new personnel, a risk management approach and processes for reporting allegations of criminal child abuse.

Key findings

- Many non-government organisations have given consideration to the need to develop policies to protect children from criminal child abuse, but these are often basic and fragmented across other policies.
- Those organisations that voluntarily participated in the Inquiry had often considered policies for protecting children, while those directly requested to participate were less likely to have adequately considered their duty to take reasonable care to ensure children are safe with their personnel.
- The level of knowledge and the degree of action in establishing and improving child safety policies varied greatly, ranging from proactive to inactive.
- Funded organisations and registered professionals are expected to meet standards relating to child safe practices that vary considerably across sectors such as early education, teaching and community services.

Recommendation

- That the Victorian Government review its contractual and funding arrangements with education and community service organisations that work with children and young people to ensure they have a minimum standard for ensuring a child-safe environment, including the following principles:
 - ♦ a statement of zero tolerance of criminal child abuse
 - ♦ principles to guide decisions
 - ♦ procedures on the employment of new personnel
 - ♦ a risk management approach
 - ♦ processes for reporting and responding to allegations of criminal child abuse.

That the Victorian Government consider the potential for extending a standard for child-safe environments to other organisations or sectors that have direct and regular contact with children.

The Committee heard that organisations need to do more than acknowledge the problem of criminal child abuse. The core elements of prevention need to be clearly articulated in a written policy and effectively implemented.

Dr Daryl Higgins from the Australian Institute of Family Studies explained this to the Inquiry:

It is not good enough ... for organisations to claim to be aware of and responding to issues of child abuse and neglect unless there are actually written policies that clearly talk about what the expectations are and what they intend to do in response to concerns that are raised, clearly articulating how those issues should be raised and the kind of supports that will be provided and the processes they will undertake. Obviously they will be quite different for different organisational contexts, but there are some overarching principles.¹¹⁸

12.1. Key components of internal organisational policies to protect children

The Committee identified a number of guidelines designed to assist organisations develop a child safety policy relevant for non-government organisations. These are provided by statutory bodies, such as the Victorian Commission for Children and Young People, the New South Wales Ombudsman and Australian Agency for International Development (AusAid). Non-government organisations, such as the Australian Childhood Foundation and Child Wise have been instrumental in informing these guidelines. Child Wise explains that policies to protect children from abuse in non-government organisations should serve a number of purposes. It states that they need to:

- state the organisation's commitment to keeping children safe, and how this commitment will be implemented
- set out a series of principles that will help guide decisions on keeping children safe
- provide a clear direction and a pre-planned, uniform approach to issues that arise
- assist when a difficult situation arises—such as a disclosure
- be accessible and tailored to a specific organisation in order to be meaningful
- be regularly reviewed.¹¹⁹

The Committee acknowledges that policies will differ from organisation to organisation in view of the variability in their size, purpose and the activities they undertake. For example, in its *Guide to creating a child-safe organisation*, the former Child Safety Commissioner stated that:

In some organisations, the Child Safety Policy is a short document, which provides an overview of the key elements of the organisation's approach to creating a child-safe organisation. In these organisations, the Child Safety Policy does not stand alone but is supported by other documents, such as a detailed Code of Conduct. In other organisations, the Child Safety Policy is a longer document, which incorporates more detailed information, such as the Code of Conduct and procedures for reporting complaints.¹²⁰

¹¹⁸ *Transcript of evidence*, Australian Institute of Family Studies, p. 9.

¹¹⁹ Childwise (2004) *Choose with care: A handbook to build safer organisations for children*. South Melbourne, Childwise, pp, 56–57.

¹²⁰ Child Safety Commissioner (2006) *A guide for creating a child-safe organisation*, p. 8.

In reviewing the available guides and information relating to child safety policies, the Committee identified that regardless of length, a policy should contain the five components outlined in Table 12.1.

Table 12.1: Five components of a child safety policy

Check	Includes
Policy commitment	<ul style="list-style-type: none"> • zero tolerance to criminal child abuse • commitment to children’s best interests and to keeping them safe • statement on prevention.
Principles to guide decisions	<ul style="list-style-type: none"> • roles and responsibilities of personnel involved in protecting children • definitions of terms relevant to the policy • appropriate boundaries and cross-reference to the code of conduct if not incorporated in the policy • any relevant legislative or regulatory requirements.
Employment of new personnel	<ul style="list-style-type: none"> • recruitment, screening and pre-employment checking processes • induction process.
Risk management approach	<ul style="list-style-type: none"> • identifying and managing risks associated with any activities involving children • training, support and supervision of personnel • commitment to creating a child-safe culture.
Process for reports and allegations of criminal child abuse	<ul style="list-style-type: none"> • procedural fairness • support to all parties • documentation processes.
Review process	<ul style="list-style-type: none"> • states who is responsible for reviewing the policy • states the date it will be reviewed.

Source: Compiled by the Family and Community Development Committee.

In Victoria there is no current legislative requirement for non-government organisations to comply with their duty of care to protect children by establishing preventive policies. Some other jurisdictions have introduced screening and protection legislation that requires organisations to have systems and processes in place to ensure they meet their duty of care.

For example, in South Australia, the *Children’s Protection Act 1993* (SA) requires that all government organisations and non-government organisations that provide services either wholly or partly for children develop appropriate policies and procedures to establish and maintain child safe environments. These policies and procedures must reflect the standards and principles of good practice developed by the Chief Executive, Department for Families and Communities. Currently it ‘requires transparent assessment policies and procedures that include consideration

of situational factors, the nature of vulnerability of the children receiving the services, and personal factors relating to the applicant.¹²¹

Similarly, in Queensland, organisations which are included within the scope of the working with children's check system must implement child and youth risk management strategies covering eight minimum requirements. To comply with the requirements that are set out in the legislation, a child and youth risk management strategy must include a number of components:

- a statement of commitment
- a code of conduct
- policies for recruiting, selecting, training and managing employees (including volunteers)
- procedures for handling disclosures and suspicions of harm
- a risk management plan for high risk activities and special events.¹²²

12.2. Establishment and implementation of policies by organisations for the protection of children

The establishment and implementation of policies relating to the protection of children by an organisation is a demonstration of its level of commitment to preventing criminal child abuse and meeting its duty of care to protect children.

Child Wise has identified that organisations in Victoria generally fall into one of three categories:

- no policy and/or surrounding procedures
- policies and procedures that are scattered across a number of different documents: sexual harassment, recruitment, discipline, social media
- comprehensive policies which cover some/all aspects of child protection, to varying degrees of effectiveness.¹²³

The majority of the organisations Child Wise works with have policies that fall into the first and second categories, where there are no policies or fragmented policies. It explained that:

This applies to all organisations, from small child-care centres or sporting clubs through to large state—or national-level bodies that operate throughout Victoria, Australia and internationally.¹²⁴

It clarified that often 'ineffective policies are not due to deliberate avoidance or obstructionism, but to a lack of resources and/or understanding of how child abuse can best be prevented within an organisation.'¹²⁵ It also explained that:

We are certainly seeing some organisations wanting to be incredibly open and transparent and accountable, and we have seen other organisations that do not

121 Government of South Australia Department of Families and Communities (2007) *Child Safe Environments: Principles of Good Practice*. Adelaide, DECD, p. 31.

122 Queensland Commission for Children and Young People and Child Guardian (2013) *Child and youth risk management strategies*. Accessed on 7 June 2013 from www.ccypcg.qld.gov.au.

123 *Submission S388*, Child Wise, p. 5.

124 *Submission S388*, Child Wise, p. 5.

125 *Submission S388*, Child Wise, p. 5.

work in that kind of realm. They are happy to take on board the concepts of child protection but what that actually means to them is something different from other organisations.¹²⁶

The Committee's findings were consistent with this, with organisations demonstrating a willingness to be transparent and accountable and others that were just gaining an awareness of their need to consider issues relating to child-safety in their organisation.

Finding 12.1

Many non-government organisations have given consideration to the need to develop policies to protect children from criminal child abuse, but these are often basic and fragmented across other policies.

12.3. Existing policies to protect children from criminal child abuse

The Committee identified a range of practices, policies and protocols in place in non-government organisations to prevent criminal child abuse. It found that the majority of organisations voluntarily participating in the Inquiry had given some thought to a policy to protect children from the harms of criminal child abuse.

The Committee determined that there are notable differences in the processes adopted by non-government organisations and those adopted by religious organisations. In some respects this tends to relate to their organisational structures and the activities they undertake. Some organisations integrate their child protection policy into their code of conduct or duty of care policy, whereas other organisations have a separate policy.

Table 12.2 outlines some of the policies that organisations have developed to protect children from the harm of child abuse.

¹²⁶ *Transcript of evidence*, Child Wise, p. 10.

Table 12.2: Examples of child-safety policies

Date	Organisation	Policy	Features
Adopted 1999	Uniting Church	Policy for child safe organisations	<ul style="list-style-type: none"> • all agencies required to adopt policy • code of conduct • selection and recruitment • supervision • abuse notification • complaints process • ongoing training.
Adopted 2002	Baptist Union	Duty of care policy	<ul style="list-style-type: none"> • biblical concern for people • definition of duty of care • needs of different groups—children, playgroups, youth • leaders • recruitment of leaders • supervisory practices • responding to suspicions & allegations of abuse.
Adopted 2004	Anglican Church	<ul style="list-style-type: none"> • Faithfulness in service • Safe ministry policy check 	<ul style="list-style-type: none"> • statement on child protection • chapter on children • definition of child abuse, grooming, sexual abuse of child • statement on children's rights • screening & selection • supervision • reporting suspected abuse • activities • disciplining children • record keeping.
Reviewed 2009	Berry Street	Child and safety wellbeing policy	<ul style="list-style-type: none"> • commitment to prevention, policy objectives • definitions—staff, safety, foreseeable risk • complaint handling process • privacy and confidentiality • aboriginal cultural competence • recruitment, code of conduct, supervision and support • client interaction • service environments • care environments • authorities and accountabilities • links to relevant policies.

Date	Organisation	Policy	Features
Current version 2009	Salvation Army	Child protection policy	<ul style="list-style-type: none"> • definitions • outlines police checks and Working with Children Checks processes.
Current version 2010	Girl Guides	Child protection policy	<ul style="list-style-type: none"> • statement on protection of children • acceptable behaviours and boundaries.
Adopted 2011	Catholic Church	May our children flourish	<ul style="list-style-type: none"> • statement on valuing children • definitions—child, parent, parish activities • scope of code of conduct • legislative responsibilities • creating a positive environment • appropriate behaviours for adults • appropriate behaviours for children • reporting child abuse • review of policy.
Updated 2012	Scouts Victoria	Child protection & protection from harm policy	<ul style="list-style-type: none"> • statement on duty of care • authorised person in charge • role of branch • rights of the child • respect for others & personal standards • privacy • procedures for safe practice.
No date	vicsport	Member protection policy template for all members	<ul style="list-style-type: none"> • child protection position statement • develop code of conduct • definitions • responsibilities • identify and analyse risk of harm • recruitment, support, training and supervision • complaints procedures • legislative requirements • policy review.

Source: Compiled by the Family and Community Development Committee.

In reviewing the policies non-government organisations have developed, the Committee noted that very few organisations had comprehensive models of prevention in place. Most organisations had developed a basic policy or had fragmented policies in place.

As discussed in Chapter 2 of Part A, it is important to note that the majority of organisations assessed by the Committee were voluntary participants in the Inquiry and potentially represent those organisations open to a degree of scrutiny or are confident their policies are adequate.

Notably, those organisations that the Committee directly requested to participate in the Inquiry often had given no consideration to the criminal abuse of children in their sector. The Committee is concerned that a significant number of organisations and at-risk sectors across Victoria might not have assessed the risk of criminal child abuse.

The Committee sought the view of the Victorian Commission for Children and Young People regarding the extent to which prevention models are currently being implemented in religious and other non-government organisations in Victoria. The Principal Commissioner, Mr Bernie Geary, advised the Inquiry that:

I have not conducted detailed research on how well organisations are doing today, but based on the information I have received from various areas of work at my office, I believe that more can and should be done to assist all organisations to put in place best practice strategies for keeping children safe. In addition, specific strategies should be put in place for those children who are most vulnerable.¹²⁷

The Committee identified that there has been no baseline research conducted into the practices, policies and protocols organisations have established to prevent criminal child abuse in Victoria. The extent to which organisations are addressing this issue cannot be accurately assessed.

In reviewing the policies of organisations that participated in the Inquiry, the Committee identified five broad categories:

- Proactive—indicated an understanding of core elements of their duty of care to children and committing to prevent child abuse and to continuous improvement.
- Active—policy demonstrated an understanding of child abuse and the need to address it through good systems and processes and to improve them when necessary.
- Compliant—an understanding that organisations have a responsibility to address child abuse. They have achieved a level of compliance and have little commitment to ongoing improvement.
- Reactive—given little consideration to issues relating to child safety and have not previously considered the risk associated with child abuse, but reactive to pressure.
- Inactive—given no consideration to child abuse, do not consider there is an issue in their organisation and have little intention of doing things differently.

Finding 12.2

Those organisations that voluntarily participated in the Inquiry had often considered policies for protecting children, while those directly requested to participate were less likely to have adequately considered their duty to take reasonable care to ensure children are safe with their personnel.

¹²⁷ *Transcript of evidence*, Commission for Children and Young People, p. 3.

Proactive approach to prevention

Organisations that had a comprehensive understanding of the core components to meet their duty of care and are ‘proactive’ in their approach tend to have the following knowledge and commitment to action:

- Knowledge—have an understanding of the core elements of their duty of care to children and are committed to preventing child abuse.
- Action—have adopted all elements of a risk management framework and committed to continuous improvement.

Those organisations with government service agreements and funding arrangements tended to have more extensive policies in place and revealed a commitment to ongoing improvement in their policies. Yet the Committee is mindful that written policies also need to be implemented to be effective. Table 12.3 outlines the Committee’s review of two policies that were particularly comprehensive:

- Save the Children Australia—*Child protection policy & code of conduct*
- Berry Street Victoria—*Child safety and wellbeing*

Table 12.3: Review of child-safe policies—Save the Children Australia and Berry Street Victoria

Policy components	Save the Children	Berry Street Victoria
Policy commitment	<ul style="list-style-type: none"> • outlines the scope of the policy and who it applies to • statement committing the organisation to protect children • zero tolerance to child abuse. 	<ul style="list-style-type: none"> • introduction and scope of policy outlined • policy objectives to demonstrate organisational commitment to child safety and wellbeing.
Principles to guide decisions	<ul style="list-style-type: none"> • contains a number of definitions relevant to the policy • refers to confidential storage of information • refers to code of conduct • refers to the roles and responsibilities relevant to the policy. 	<ul style="list-style-type: none"> • clear definitions of terms in policy • specific reference to authorities and accountabilities • refers to relevant legislation • refers to document management and confidentiality • refers to code of conduct.
Employment of new personnel	<ul style="list-style-type: none"> • recruitment practices referred to, including checking and screening processes. 	<ul style="list-style-type: none"> • outlines recruitment processes and links to relevant policies, including checking and screening.
Risk management approach	<ul style="list-style-type: none"> • risk assessment not referred to in the policy, but submission outlines approach and the tool used • refers to staff management practices . 	<ul style="list-style-type: none"> • no reference to risk assessment processes • outlines supervision and support, behaviour expectations and specific environments of service provision.

Policy components	Save the Children	Berry Street Victoria
Process for reports and allegations of criminal child abuse	<ul style="list-style-type: none"> reference to reporting processes, including one-page flow chart outlines roles responsible for handling complaints. 	<ul style="list-style-type: none"> states that all complaints are handled in accordance with established reporting and investigation processes and refers to relevant policy.
Review process	<ul style="list-style-type: none"> review policy every two years. 	<ul style="list-style-type: none"> specifies the review date.

Source: Adapted from *Submission S252*, Save the Children Australia, Appendix 1, and *Submission S262*, Berry Street, Appendix 1.

In reviewing the two policies, the Committee determined that they both appear to contain the majority of components for an effective policy to demonstrate that an organisation is taking reasonable care to protect children from criminal abuse.

Save the Children was notable in its adoption of a risk management tool for assessing the risk of specific activities within the organisation.¹²⁸ This was outlined in more detail in Chapter 11. In its review of the Berry Street Victoria *Child safety and wellbeing policy*, the Committee identified that on the whole it appeared ‘proactive’.

Both Berry Street Victoria and Save the Children Australia receive government funding to provide services and have contractual requirements to meet minimum standards. Berry Street provides residential, out-of-home care, youth and education services for children and young people. Save the Children Australia is an international organisation for children and provides programs that focus on school attendance, early childhood care and development, youth engagement, parenting support, reconciliation, and multicultural early learning.

Active approach to prevention

The Committee considered organisations that are active in their approach to protect children from criminal child abuse have established aspects of a risk management policy and have the following knowledge and action levels:

- Knowledge—have an understanding of child abuse and the need to address it through good systems and processes.
- Action—have established elements of a risk management framework and are willing to improve systems and processes if required.

The Committee identified that Scouts Victoria have an active child protection policy which the organisation is continuing to improve. The policy reveals that the organisation has considered issues relating to the safety of children and young people. In reviewing the *Child protection and protection from harm policy* established by Scouts Australia Victorian Branch, the Committee identified that it meets many of the key requirements of a good child protection policy.

It noted, however, that the Scouts policies on child protection are fragmented, with the complaints handling processes containing some of the aspects that relate to protecting children from harm. Table 12.4 outlines the Committee’s review of Scouts Victoria’s two child protection policies.

¹²⁸ *Submission S252*, Save the Children Australia, Appendix 1.

The Committee noted that Scouts Victoria makes a strong statement regarding its zero tolerance approach in its most recent *Child protection—reporting policy* authorised on 4 March 2013. It also noted that Scouts Victoria makes no reference to risk assessment or identification processes that the organisation might undertake.

Table 12.4: Review of Scouts Victoria policies—duty of care and child protection reporting

Policy components	Overview
Policy commitment	<ul style="list-style-type: none"> states its duty of care to protect members from harm states Scouts Victoria has a zero tolerance for any form of child abuse towards children and young people.
Principles to guide decisions	<ul style="list-style-type: none"> defines child abuse, but no list of other relevant definitions states positions of those with responsibility for reporting suspected abuse refers to the importance of keeping documents in secure storage.
Employment of new personnel	<ul style="list-style-type: none"> makes reference to induction processes undertaking suitability interviews are covered in a different policy.
Risk management approach	<ul style="list-style-type: none"> no reference to risk assessment process specific to organisation.
Process for reports and allegations of criminal child abuse	<ul style="list-style-type: none"> reference to fair process in complaints handling policy.
Review process	<ul style="list-style-type: none"> states who has responsibility for reviewing the policy policy reviewed every 3 years.

Source: Adapted from *Submission S200 and S200A*, Scouts Australia (Victoria).

Compliant approach to prevention

The Committee identified a number of organisations that have basic child protection policies in place. While this indicates these organisations recognise they have a duty of care, the Committee observed that some of these policies are minimal in their coverage of the issues and others are fragmented. This includes the following knowledge and level of action:

- Knowledge—understand that organisations have a responsibility to address child abuse.
- Action—have established a basic policy that touches on basic elements of a risk management framework, have achieved a level of compliance and have minimal commitment to ongoing improvement. They might be reactive to pressure.

For example, Girl Guides Victoria established a child protection policy that meets the basic requirements of its duty of care to children and young people. In reviewing

this policy, the Committee noted that it has a number of elements that are consistent with a good child protection policy. The policy contains the following components:

- statement that Girl Guides Australia recognises that all children should be protected from harm
- definition of a child in the policy
- guidance to adult volunteers on the acceptable behaviours and appropriate boundaries when working with children
- statement that leaders in charge of children should be aware of and have access to the policy.¹²⁹

In its submission, Girl Guides Victoria also explained to the Committee that:

- policies are reviewed every three years for currency or more frequently if necessary, with a clear process for authorisation
- an alleged offender would be treated by the relevant policy and if necessary reported to the appropriate authority
- support for victims would be provided through the most appropriate professional group.¹³⁰

These additional aspects of its approach, however, are not listed in the written child protection policy.

The Salvation Army provides another example of a policy to protect children that meets the basic requirements to comply with its duty of care. The central purpose of the policy is to outline the screening process through the police check and Working with Children Check (WWCC) processes. In addition, the Salvation Army acknowledges its moral and legal responsibility. However, it does not extend beyond the minimal requirements. Other components of the Salvation Army's organisational policies relating to protecting children are contained in other policies, such as their Orders and Regulations and Guidelines for Salvationists.

Reactive approach to prevention

Some organisations had given little consideration to their duty of care to protect children from the harms of criminal child abuse. Of the organisations the Committee directly requested to provide information, some fell into this category of reactive approaches to prevention. This includes the following knowledge and level of action:

- Knowledge—have given little consideration to issues relating to child safety and have not previously considered the risks that contribute to child abuse.
- Action—have taken no action to address issues relating to child abuse within their organisation, but pressure might lead to some action.

The Committee noted that both individual organisations and peak bodies for some sectors were reactive in their approach but with some pressure, were willing to consider steps they may need to take.

For example, the Committee identified that the Greek Orthodox Church, the Islamic Council of Victoria and the Australian Camping Association had not given attention

¹²⁹ *Submission S084*, Girl Guides Australia (Victoria), Appendix 1, p. 2.

¹³⁰ *Submission S084*, Girl Guides Australia (Victoria), p. 2.

to preventing criminal child abuse in organisations within their communities or membership. These organisations indicated a willingness to be guided on the most appropriate systems and processes for preventing criminal child abuse and to meet their duty of care to protect children in their care.

In evidence to the Inquiry, Bishop Iakovos of Miletoupolis, Greek Orthodox Archdiocesan District of Victoria, stated that ‘we would all benefit from guidelines and structures.’¹³¹ The Greek Orthodox Church’s *Child protection policy* (2013) makes a brief statement regarding its commitment to the safety and welfare of all children. It contains a list of the prevention strategies it will employ and highlights the importance of reporting suspected criminal abuse of children.¹³²

The Australian Camping Association makes it clear in its objectives that it considers it has a role ‘To improve the management of the risks inherent in camps and adventure activities.’¹³³ Yet the Association initially did not consider it had a role in supporting its members to manage the risks of criminal child abuse that can occur in camping and adventure activities. Its CEO, Mr David Petherick, agreed to appear before the Inquiry and he advised the Committee that:

Since I had the phone call in regard to this inquiry I have been in touch with Child Wise. I have had an initial meeting with them, and I have indicated to them that we have multiple roles here.¹³⁴

Notably, the Islamic Council of Victoria told the Inquiry that:

there are gaps where there are no policies. We are aware, and we heavily speculate, that there are organisations that do not have any policies. They have practices—the practices are referred to in the [submission], and this is again based on very minimal consultation—but we think there is an absence with regard to policies within certain organisations, just complete absence.¹³⁵

Yet they advised the Committee that policies were in place in some sections of their community that fall within funded and regulated sectors, such as Islamic schools:

We have schools that are doing wonderful things. I have had extensive consultation with Islamic schools. They have wonderful policies. They are laid out, they are being implemented, and we think that some of that infrastructure is best practice because they have been around for a very long time. They are also funded organisations, and they are not volunteer organisations. I think that is a big distinction to make.¹³⁶

The next section discusses the disparity between funded and unfunded sectors in the expectations of their regulatory requirements. It identifies strategies for building the capacity of unfunded organisations to increase their focus on prevention where there are no regulatory requirements.

131 *Transcript of evidence*, Greek Orthodox Archdiocesan District of Victoria, Melbourne, 12 April 2013, p. 9.

132 Primate of the Greek Orthodox Church in Australia (2013) *Child protection policy*. Accessed on 5 September 2013 from <http://www.greekorthodox.org.au>.

133 Australian Camps Association *About Us*. Accessed on 21 February 2013 from <http://www.auscamps.asn.au/about>.

134 *Transcript of evidence*, Australian Camps Association, Melbourne, 11 April 2013.

135 *Transcript of evidence*, Islamic Council of Victoria, Melbourne, 15 April 2013, p. 10.

136 *Submission S398*, Islamic Council of Victoria, p. 4.

Inactive in prevention efforts

The Committee identified that some organisations had not established policies to ensure the safety of children engaging in activities with their personnel. Some organisations informed the Inquiry that they did not consider the protection of children from abuse to be relevant to their organisation.

The Committee determined that these organisations could be considered naive in their understanding of criminal child abuse in organisations and in denial about the likelihood of it occurring in their organisation. This includes the following level of knowledge and action:

- Knowledge—given no consideration to child abuse and have no understanding of the issue.
- Action—do not consider there is any issue and have little intention of doing things differently.

The Committee determined that there were two levels of inactivity in adopting preventative approaches. On the individual organisational level, some non-government organisations were unaware that they might need to consider the risk of criminal child abuse occurring by their personnel. At the level of peak bodies, some organisations did not consider they had a responsibility for supporting their members to understand and respond effectively to the issue of criminal child abuse.

For example, the Committee requested that Independent Schools Victoria participate in the Inquiry to clarify its role in supporting its members to develop child-safe policies and to respond to allegations of criminal child abuse. In its subsequent written submission made to the Inquiry on 28 March 2013, it stated that:

Independent Schools Victoria is a not a system authority managing schools, but a membership organisation providing professional services to inform schools and raise quality standards ...

Our association does not impose conditional standards on our members because they are independently-managed schools.¹³⁷

It explained that it provides information and advice about government legislation and regulations.

In the context of individual organisations, the Committee sought information from a range of organisations, including the Sikh Council of Australia. The Council advised the Inquiry that in its community:

Child abuse such as physical, psychological, neglect, or sexual is not an issue and almost non-existent ...

Since no child abuses have been reported ... at this stage, [it has] not developed any means or processes to respond to the issue.¹³⁸

Part C outlined the Committee's view that all religious and non-government organisations that have any interaction with children are potentially at risk of criminal child abuse, irrespective of whether any allegations have been brought to the attention of the organisation.

¹³⁷ *Submission S399*, Independent Schools Victoria.

¹³⁸ *Supplementary evidence*, Response to request for information, Sikh Council of Australia, 12 March 2013, p.2.

The lack of understanding of some organisations about the potential risk of criminal child abuse illustrates that there is a need for greater awareness of these and the critical importance of having a child-safe policy in place. It also highlights the need to engage peak organisations more effectively to support organisations in developing child-safe practices to prevent criminal child abuse. Chapter 13 discusses this further.

Finding 12.3

The level of knowledge and the degree of action in establishing and improving child safety policies varied greatly, ranging from proactive to inactive.

12.4. Standards—Government funded services

While mindful that not all organisations will fit into these groupings, the Committee identified three main types of non-government organisations:

- Unfunded and largely volunteer based organisations—which often find it difficult to get the support and guidance they need to develop policies to prevent child abuse.
- Funded—organisations that can be required to meet contractual obligations to ensure ongoing funding.
- Religious organisations—often well-financed, international organisations with unclear hierarchies, accountabilities and organisational structures.

The Australian Childhood Foundation (ACF) highlighted to the Committee that non-funded organisations are not covered by any regime which supports them to develop and implement child-safe policies and systems. In its submission, the ACF explained that:

Using compliance to safeguarding children standards by organisations is increasingly viewed as an effective approach to protecting children from harm by employees and volunteers ...

More critically, non-funded organisations are not covered by any regime which supports them to develop and implement child safe policies and systems. This leaves a major gap in compliance in Victoria.¹³⁹

Anglicare Victoria commented on the influence of regulatory requirements for different types of organisations:

Not every religious and other organisation that is involved with children and young people ... has the same sort of program focus as Anglicare Victoria. Because of this, some organisations employ few or no workers who possess the knowledge and skill base as those who work for our agency.

... where such workers are not required to be ‘child abuse experts’ due to the nature of their work, it is far less likely that the organisations for which they work will have to abide by such regulatory frameworks as does Anglicare Victoria. Again, these include the legislation and DHS [Department of Human Services] guidelines previously mentioned in this submission which direct Anglicare Victoria’s response to allegations of organisational abuse—and which we have extended in our internal policies to pertain to non-DHS funded programs.¹⁴⁰

¹³⁹ *Submission S224*, Australian Childhood Foundation, p. 5.

¹⁴⁰ *Submission S146*, Anglicare Victoria, p. 14.

The Committee identified that certain professions and sectors that receive funding from the Government have contractual requirements in relation to minimum standards and registration processes. The sectors and professions that currently have requirements to meet minimum standards include:

- Victorian teaching profession
- early education providers
- out-of-home care services.

The Committee noted that there are variations in the compliance requirements of different professions and sectors which do not always directly relate to the prevention of criminal child abuse.

12.4.1. Standards for Victorian teachers

Teachers are required by the Victorian Institute of Teaching (VIT) to meet specific standards relating to codes of conduct and professional development. The standards are broad and are relevant to knowledge, practice and engagement in ongoing learning.

Teachers in Victoria are expected to meet the Australian Professional Standards for Teachers, which are monitored by VIT. In the context of ensuring children's safety, the relevant standard is Standard 4, which requires teachers to 'create and maintain supportive and safe learning environments', and more specifically:

4.4 Maintain student safety—Ensure students' well-being and safety within school by implementing school and/or system, curriculum and legislative requirements.¹⁴¹

There is no specific reference to preventing criminal child abuse. Registered teachers in Victoria, however, are also required to comply with the Victorian Teaching Profession Code of Conduct. This stipulates that:

Principle 1.5: Teachers are always in a professional relationship with the students in their school, whether at school or not.

Teachers hold a unique position of influence and trust that should not be violated or compromised. They exercise their responsibilities in ways that recognise that there are limits or boundaries to their relationships with students.¹⁴²

In its submission to the Inquiry, VIT explained that this professional relationship will be violated if the teacher:

- (a) Has a sexual relationship with a student
- (b) Uses sexual innuendo or inappropriate language and/or material with students
- (c) Touches a student without a valid reason
- (d) Holds conversations of a personal nature or has contact with a student via written or electronic means including email, letters, telephone, text message or chat lines, without a valid consent
- (e) Accepts gifts, which could reasonably be perceived as being used to influence them, from students or their parents.¹⁴³

141 Victorian Institute of Teaching *Professional Standards*. Accessed on 7 October 2013 from <http://www.vit.vic.edu.au/standardsandlearning/Pages/professional-standards.aspx>.

142 Victorian Institute of Teaching *Professional Standards*.

143 *Submission S406*, Victorian Institute of Teaching, p. 3.

Each new registered teacher is provided with a copy of the Code of Conduct on gaining registration. VIT also presents information sessions to final year cohorts of teacher education students at higher education institutions.

12.4.2. Standards in the early education sector

Long day care, family day care, preschool/kindergarten and outside school hours care services are expected to comply with the National Quality Framework and be rated against the National Quality Standard. The Quality Assessment and Review Division (QARD) of the Department of Early Education and Childhood Development (DEECD) is responsible for ensuring compliance with these standards.

Protection of children in these services falls under Element 2.3.4 of Standard 2.3, which requires that:

Educators, co-ordinators and staff members are aware of their roles and responsibilities to respond to every child at risk of abuse or neglect.¹⁴⁴

This standard sets an expectation that early education providers undertake education and keep up-to-date with child protection legislation in their state or territory. The standard focuses on protecting children and responding to child abuse that might be occurring in families, but not on preventing criminal child abuse within the organisation.

National regulations require services to have a policy and procedure on 'providing a child-safe environment'. The Committee notes, however, that what constitutes a 'child-safe environment' is not defined by the regulations and it is unclear whether this meets the minimal requirements necessary to guard against criminal child abuse. There is no requirement for early learning and child care services to have a child abuse prevention framework in place. As noted by Berry Street in its submission to the Inquiry:

The Education and Care Services National Regulations 2011 are relatively silent on quality service standards relating to providing a child safe environment or in relation to establishing robust policies and procedures for responding to allegations of child abuse or maltreatment.¹⁴⁵

Although most early childhood services fall under the National Quality Framework and associated legislation, a smaller number of services are subject to the *Children's Services Act 1996* (Vic) and the Children's Services Regulations 2009. As with the National Law and National Regulations, the Children's Services Act and Regulations do not create a positive obligation for services to develop and maintain policies and procedures to prevent physical, emotional and sexual harm from staff and visitors. As Berry Street's submission indicates:

The regulations [Children's Services Regulations 2009] have a predominant focus on the physical environment, staff qualifications and child:staff ratios and the physical safety of children.¹⁴⁶

144 Australian Children's Education & Care Quality Authority (2013) *Guide to the National Quality Standard*. Sydney, ACECQA, pp, 44, 76.

145 *Submission S262*, Berry Street, p. 9.

146 *Submission S262*, Berry Street, p. 7.

12.4.3. Standards in out-of-home care

Deputy Director of the AIFS, Dr Higgins, informed the Inquiry that where adults are acting in the role of parents, children can be more vulnerable to child abuse. He explained that:

It automatically brings to mind situations like children and young people in out-of-home care, whether that be placed in the broader kinship networks but particularly in foster and residential care settings.¹⁴⁷

DHS indicated it recognised the significance of this issue. In the guidelines for responding to allegations of physical or sexual assault, it states that:

Staff should be aware that many clients, including young people, and people with a disability, are at greater risk of physical and sexual assault than the general population.¹⁴⁸

This includes the risk of physical and sexual assault by adults and other clients in the out-of-home care system. The Secretary of DHS, Ms Gill Callister, expressed to the Inquiry that:

... the worst thing that can happen to a child who has already been removed from their family for abuse or neglect is to suffer any further abuse in their care environment.¹⁴⁹

As part of the funding arrangements for services, organisations funded to provide out-of-home funded agencies enter into service agreements and need to be registered and comply with the departmental service quality standards.

The DHS Standards reflect mandatory requirements under the *Children, Youth and Families Act 2005* (Vic) (CYF Act) in child care service provision and quality. They are also consistent with the National Standards in Out-of-Home Care.

In evidence to the Inquiry, the Department highlighted the role of service agreements and compliance with DHS Standards.¹⁵⁰ Section 60 of the CYF Act requires community services to comply with the relevant performance standards. Standard 3.5 emphasises the need for providing safe services:

Services are provided in a safe environment for all people, free from abuse, neglect, violence and/or preventable injury.¹⁵¹

Indicators for meeting this Standard for safe environments are that:

The service provider promotes an environment where people are free from abuse, neglect, violence and preventable injury.

The service provider has clearly documented policies and processes for responding to potential or actual harm, abuse, neglect, violence and/or preventable injury.

People are safe from abuse, neglect, violence and preventable injury, in service environments.¹⁵²

¹⁴⁷ *Transcript of evidence*, Australian Institute of Family Studies, p. 4.

¹⁴⁸ Department of Human Services (2008) *Responding to physical and sexual assault*. Melbourne, DHS, p. 1.

¹⁴⁹ *Transcript of evidence*, Department of Human Services, p. 4.

¹⁵⁰ *Transcript of evidence*, Department of Human Services, Melbourne, 3 June 2013, pp. 6–7.

¹⁵¹ Department of Human Services (2011) *Department of Human Services standards evidence guide*. Melbourne, DHS, p. 36.

¹⁵² Department of Human Services (2011) *Department of Human Services standards evidence guide*, p. 36.

To remain registered, agencies must undergo an independent review by a DHS accreditation agency every three years. This review also requires agencies to perform an annual self-assessment against the standards set out in the service agreement or in relation to accreditation conditions required by DHS.

However, DHS does not provide any comprehensive information about the key components of a policy to ensure organisations are child-safe. In the absence of prescribed benchmarks, the Committee determined that it is unclear how funded non-government organisations are assessed for compliance with DHS Standard 3.5 when they undergo the accreditation process. For instance, it is unclear how the quality of policies is evaluated and the degree to which associated processes are implemented in practice.

Discussing the requirements of DHS-funded agencies in the context of ensuring children are protected from abuse in non-government organisations, the CEO of the Australian Childhood Foundation, Dr Joe Tucci advised the Inquiry that:

Most organisations would say that within the standards that the Department sets in their funding and service agreements, child protection is one category that is already met and therefore it does not require additional resourcing, does not require an additional level of accreditation.

Dr Tucci went further to explain his views:

I do not take the same view, because of those organisations that we work with, when we have gone in to examine their policies and procedures, on the surface they look good but when you dig deep you find that staff are not necessarily trained, that staff do not necessarily know what their obligations are and that those systems are not always easy to follow, so there is a good reason to separate out child protection as its own set of standards and its own accreditation process.¹⁵³

The Cummins Inquiry¹⁵⁴ made recommendations for greater transparency in the approaches of the DHS to show how community service organisations are complying with the standards. It recommended that:

The Department of Human Services should produce a comprehensive annual report on its regulation and monitoring of community service organisations. This report should include information on:

- The registration of community service organisations and their performance against the standards
- The registration and disqualification of out-of-home carers.¹⁵⁵

The Committee considers the Victorian Government needs to explore strengthening its standards for funded agencies to ensure that there is a minimum requirement to create child-safe environments. See Recommendation 12.1 which suggests that the Victorian Government considers reviewing its funding arrangements.

¹⁵³ *Transcript of evidence*, Australian Childhood Foundation, Melbourne, 9 November 2012, p. 6.

¹⁵⁴ P. Cummins, D. Scott, OAM, & B. Scales, AO (2012) *Report of the Protecting Victoria's Vulnerable Children Inquiry*.

¹⁵⁵ P. Cummins, D. Scott, OAM, & B. Scales, AO (2012) *Report of the Protecting Victoria's Vulnerable Children Inquiry*, p. lxiii.

12.4.4. Example of standards for funded agencies

The Committee considered how government agencies can leverage their reach and role as funders to protect children from criminal child abuse in non-government organisations. One example it noted is the approach adopted by the Australian Agency for International Development (AusAID), which requires its funded agencies to comply its *Child protection policy*.

The standards used by AusAID for funded organisations requires them to:

- have a child protection policy in place that applies to all personnel, partners and subcontractors that are engaged by a contractor or civil society organisation to perform any part of an AusAID-funded activity
- have robust screening processes for all personnel in contact with children
- have a documented reporting procedure for child exploitation and abuse allegations and policy non-compliance, including available sanctions for breaches
- provide child protection training for personnel
- have a child protection code of conduct that meets the minimum standards set by AusAID (Attachment 2 of AusAID’s policy)
- prevent a person from working with children if they pose an unacceptable risk
- have employment contracts that contain provisions for dismissal, suspension or transfer to other duties for any employee who breaches the child protection code of conduct
- regularly review its child protection policy—at least every five years
- undertake a risk assessment that covers all AusAID-funded activities that involve contact with children.¹⁵⁶

Finding 12.4

Funded organisations and registered professionals are expected to meet standards relating to child safe practices that vary considerably across sectors such as early education, teaching and community services.

¹⁵⁶ AusAID (2013) *Child Protection Policy*. Canberra, Commonwealth of Australia (Attachment 1).

→ **Recommendation 12.1**

That the Victorian Government review its contractual and funding arrangements with education and community service organisations that work with children and young people to ensure they have a minimum standard for ensuring a child-safe environment, including the following principles:

- a statement of zero tolerance of criminal child abuse
- principles to guide decisions
- procedures on the employment of new personnel
- a risk management approach
- processes for reporting and responding to allegations of criminal child abuse.

That the Victorian Government consider the potential for extending a standard for child-safe environments to other organisations or sectors that have direct and regular contact with children.

Chapter 13

Improving preventive systems and processes

AT A GLANCE

Background

Non-government organisations are in various stages of progressing their systems and processes to ensure reasonable care to prevent criminal child abuse occurring in their organisation. Greater knowledge and awareness is necessary to assist them to understand their responsibilities and duty of care.

Key findings

- Some organisations indicated a willingness to be subjected to higher levels of accountability through accreditation processes that involve both self-assessment and external scrutiny of prevention systems.
- Sector peak bodies potentially have an important role in supporting their members to become child-safe organisations and many are well positioned to promote child-safe practices by their members.
- Children should never be responsible for protecting themselves from the harm of criminal child abuse, and prevention approaches that target children should be focused on initiatives that build their awareness.
- Many organisations have a poor understanding of criminal child abuse and often people find the issue too confronting to acknowledge, respond to or address.

Recommendations

- That through the relevant statutory body or department the Victorian Government should:
 - ♦ identify an effective approach or model for supporting peak bodies to build preventative capacity in sectors that interact with children
 - ♦ identify ways to encourage smaller organisations or activities to be affiliated with peak bodies to enable access to capacity building opportunities.
- That the Victorian Government expand on its response to Recommendation 10 in the Cummins Inquiry report to ensure that non-government organisations are equipped with high quality information and advice about the prevention of criminal child abuse in organisations.

As noted in previous chapters, organisations are in various stages of progress in developing systems and processes that ensure child-safe environments. Some organisations are yet to acknowledge that the issue of protecting children from harm is necessary, while others have basic policies in place. The Committee identified an overemphasis on screening processes with less attention on internal systems to protect children from the harms of criminal child abuse.

To improve the preventive approaches in place by organisations and to ensure that they are actively implemented, the Committee identified the following areas for reform:

- accreditation—self-assessment and external oversight
- building the knowledge of organisations and their capacity to take preventative action
- increasing awareness within organisations of the need for internal systems to protect children
- raising the awareness of children and the community.

13.1. Accreditation—self-assessment and external oversight

Critical to creating a culture that nurtures a child-safe environment is the willingness of organisations to be open to scrutiny and accountability. Some organisations that participated in the Inquiry acknowledged this. For example, Jesuit Social Services expressed the view that:

We believe that a full account and absolute scrutiny of the handling of child sexual abuse by religious and community organisations is overdue and hope that the inquiry will fulfil this role.¹⁵⁷

It went on further to state that ‘We hope that opening ourselves up to scrutiny will allow us to restore the trust and integrity that forms the basis of our relationship with the community.’¹⁵⁸

One strategy for promoting accountability and independent scrutiny is the requirement that organisations participate in accreditation processes either voluntary or as part of an expectation by funding bodies. The former National Child Protection Clearinghouse explained that:

An accreditation system for child organisations is one way in which to encourage and guide adoption of child safety strategies. All organisations working with children could be subject to the same quality control processes including minimum standards and processes of external validation.¹⁵⁹

Other research findings support this view. A study on safeguarding children in organisations in the United Kingdom found that:

There is a potential role for kite-marking [a UK service quality certification mark] and accreditation schemes to complement regulation, particularly for the voluntary and community sectors.¹⁶⁰

¹⁵⁷ *Submission S206*, Jesuit Social Services, p. 2.

¹⁵⁸ *Submission S206*, Jesuit Social Services, p. 2.

¹⁵⁹ L.R. Beyer, D.J. Higgins, & L.M. Bromfield (2005) *Understanding organisational risk factors for child maltreatment: A review of literature.*, p. 68.

¹⁶⁰ M. Erooga, D. Allnock, & P. Telford (2012) *Towards safer organisations II: Using the perspectives of convicted sex offenders to inform organisational safeguarding of children*, p. 13.

Similarly, the Director of Child Abuse Prevention Research Australia, Professor Chris Goddard, explained to the Inquiry that:

There are programs like the Australian Childhood Foundation's Safeguarding Children program, a voluntary accreditation scheme for organisations that have a duty of care to children when delivering services. Such programs should be extended and made compulsory because they recognise children's vulnerabilities, they design and implement policies and procedures and train staff.¹⁶¹

Some organisations that provided information and evidence to the Inquiry, particularly government funded agencies, indicated that they participate in accreditation processes. It found, however, that organisations use a range of different accreditation providers, depending on the services they deliver. Many of these accreditation processes are focused on ensuring compliance with required standards by funding bodies, such as standards required by the Department of Human Services (DHS) and the Department of Education and Early Childhood Development (DEECD). As outlined in Chapter 12, those standards do not have specific requirements relating to child-safe environments.

The Committee recognises that many organisations could potentially experience an additional regulatory burden if requested to become a child-safe accredited organisation, particularly if they are already involved with other accreditation processes. For example, vicsport explained to the Committee that this is an issue for volunteers in its sector:

It is not suggested that regulatory burden is a greater problem than Child Abuse, however many of Victoria's 349,000 volunteer administrators are now time-poor and struggling to cope with the increased demands placed upon them in managing and providing participation opportunities in community sport. Such demands include; responsible serving of alcohol, food handling, code of conduct and respect agendas, club administration, regulatory compliance, coaching, officiating and dealing with complex disputes.¹⁶²

Yet it is critical that organisations that work directly with children have the appropriate systems and processes in place to ensure that they are child-safe environments. Based on the findings in the Inquiry, the Committee does not consider there is room to be anything less than vigilant about having the right processes in place.

Some organisations indicated a willingness to be subjected to higher levels of scrutiny and accountability. For example, the Registrar of the Anglican Archdiocese of Melbourne, Mr Ken Spackman, stated that:

We would be very open to having our process accredited. We would also be very open to having the next step, which might be a process of audit and reporting; we would be open to that as well'.¹⁶³

The Committee recognises that there are existing accreditation and certification schemes that specifically relate to child safety. Two organisations—the Australian Childhood Foundation (ACF) and Child Wise—have developed programs with specific standards that provide a baseline for accreditation or certification for a

161 *Transcript of evidence*, Professor Chris Goddard, Child Abuse Prevention Research Australia, Monash University, Melbourne, 19 October 2012, p. 7.

162 *Submission S389*, vicsport, p. 7.

163 *Transcript of evidence*, Anglican Diocese of Melbourne, p. 15

child-safe environment. A brief overview of the two programs is outlined below. The programs are:

- ACF: *Safeguarding children*—7 standards
- Child Wise: *Choose with care*—12 standards

Finding 13.1

Some organisations indicated a willingness to be subjected to higher levels of accountability through accreditation processes that involve both self-assessment and external scrutiny of prevention systems.

13.1.1. *Safeguarding children* program—Australian Childhood Foundation

The national accreditation scheme—*Safeguarding children*—is operated by the ACF. It is an approach to assist organisations to build protective environments for children and young people.

The *Safeguarding children* program aims to ensure expert advice from experienced child protection practitioners. It helps organisations to develop policies to prevent harm to children and also offers a range of resources, including training manuals.

Over a four-week period, the program assists organisations to build their knowledge and capacity to keep children and young people safe from abuse and exploitation by staff, volunteers or other relevant individuals. Following this process, organisations may achieve accreditation.

Dr Joe Tucci, CEO of the ACF, explained the framework to the Committee at a hearing:

... what it requires an organisation to do is evaluate itself against seven standards that have been researched around the world ... That is not complicated. That just requires a commitment to seeing that child protection is as important as occupational health and safety.¹⁶⁴

In order to receive accreditation under the *Safeguarding children* program organisations must meet seven standards, outlined in Appendix 5. In November 2012, between 50 and 60 organisations were undertaking the process of accreditation through the scheme across Australia.

The Committee noted that only 15 organisations have been accredited in Victoria including Big Brothers Big Sisters (Geelong and Melbourne), Jewish Care, The Salvation Army—Crisis Services, and the YMCA (Ballarat, Bendigo, Geelong, Manningham and Whittlesea).¹⁶⁵ The limited number of accredited Victorian agencies may be due to the regulatory burden experienced by organisations. The ACF advised the Committee that interest in its program has expanded with the recent focus on criminal child abuse in organisations.

¹⁶⁴ *Transcript of evidence*, Australian Childhood Foundation, p. 5.

¹⁶⁵ Australian Childhood Foundation *Safeguarding Children. Which organisations are already Safeguarding Children accredited?* Accessed on 9 September 2013 from <http://www.safeguardingchildren.com.au/the-program/accredited-organisations.aspx>.

In 2005, as part of the initial pilot for the accreditation program, a review found that 96 per cent of participants in the evaluation found it was useful to their organisation. The review concluded that the project had been successful according to its major aim: increasing the number of organisations on the accreditation pathway.¹⁶⁶

13.1.2. *Choose with care* program—Child Wise

In 2001, Child Wise established the *Choose with care* program, which provides a certification process for religious and non-government organisations. Once an organisation can demonstrate it meets a series of minimum standards, it can receive certification as a child-safe organisation.¹⁶⁷

The program is based on a general content of principles that are tailored to different organisations and different industries. Child Wise has developed 12 standards for child-safe organisations.

Child Wise states that in designing the program and establishing the 12 standards it aimed to ground the elements in well-established prevention models, such as public health models and situational crime prevention. Appendix 5 outlines the 12 standards that form the *Choose with care* program.

13.2. Capacity building to create child safe organisations

The Committee identified that many organisations are evolving in their response to the prevention of criminal child abuse in their organisation, providing an opportunity to support them to further develop their responses. The Committee considered that peak bodies and sector networks are important avenues in supporting organisations to build their prevention capacity.

Those peak bodies that participated in the Inquiry demonstrated different levels of commitment to their role in supporting member organisations to increase their knowledge and actions in preventing criminal child abuse by personnel within their organisations.

13.2.1. Organisations—seeking support and guidance

As noted in Chapter 12, Child Wise informed the Inquiry that ineffective policies are not generally due to deliberate avoidance or obstructionism, but to lack of resources and/or understanding of how child abuse can best be prevented within an organisation. It also explained that:

... many organisations mean well and seek to provide safe environments but may take safety for granted and are unaware of the risks, or do not have the capacity to develop safe environments effectively.¹⁶⁸

The Committee heard that many non-government organisations acknowledge the importance of preventive frameworks and are very willing to develop them in their organisations. It also heard, however, that many feel a need for assistance and

166 L. Hoiles, I. Prilleltensky, & J. Sharples (2003) *Evaluation of the Australian Council for Children and Youth Organisations (ACCYO) pilot accreditation project*. St Albans, Wellness Promotion Unit, Victoria University, p. 1.

167 *Transcript of evidence*, Child Wise, pp. 5–7.

168 *Submission S388*, Child Wise, p. 5.

expert guidance in doing so. For example, the President of the Federation of Indian Associations of Victoria, Mr Vasan Srinivasan, advised the Committee that:

We understand logic and we understand other issues, but not the law and order issues or step-by-step what needs to be done. I put a request through the Chair that if there is a platform for us to come together to share and learn and educate our community, that would be very useful.¹⁶⁹

The Director of the Australian Muslim Women's Centre for Human Rights, Ms Joumanah El Matrah explained to the Committee that:

There is also no religious precedent or teaching or anything that specifically deals with child sexual abuse. I have not been able to find anything overseas, and I know there is not anything here, so there is nothing which the religious leaders can use as a springboard for a response. This would really need to be driven outside the religious institutions.¹⁷⁰

The Committee also noted that some organisations with established processes demonstrated a willingness to continue learning and improving on their systems for preventing child abuse, such as the Anglican Church and the Uniting Church. Yet it also identified that there were some that appeared less willing to adopt a continuous learning approach.

13.2.2. Capacity building—strengthening the role of peak organisations

The Committee considered that peak bodies can have an important role in supporting organisations to become child-safe. Peak organisations have a potential role in assisting non-government organisations to reduce the regulatory burden often experienced by their members.

The Committee identified, however, that there are mixed views among peak bodies regarding their role in supporting their members to become child-safe organisations. It noted that some peak bodies consider they have a direct role in supporting their organisations to manage risk, including risks to children. Others, however, did not see a role for them as peak bodies in this capacity.

A number of peak organisations appeared before the Inquiry or provided a written submission. Some included:

- sports sector (vicsport)
- community and private child care sector
- religious organisations (and religious education sector)
- camping sector (Australian Camps Association).

The Committee heard that some peak organisations have conditions of membership, such as a requirement to have a code of conduct in place. For example, the Australian Camps Association (ACA) stated that:

We have the capacity to put in place guidelines through our membership requirements, for example. Our members sign a code of conduct. I am sure my board would be amenable to adding something in there as a requirement that they have appropriate child protection policies.¹⁷¹

¹⁶⁹ *Transcript of evidence*, Federation of Indian Associations of Victoria, Melbourne, 12 April 2013, p. 8.

¹⁷⁰ *Transcript of evidence*, Australian Muslim Women's Centre for Human Rights, Melbourne, 22 April 2013, p. 7.

¹⁷¹ *Transcript of evidence*, Australian Camps Association, p. 3.

Others, such as vicsport, indicated a willingness to support its membership to build capacity in providing child-safe environments. It recommended to the Committee that:

That Victorian State Sporting Associations receive additional support to ensure the adoption of existing programs, policies and procedures related to safe sport environments at all levels.¹⁷²

Similarly, the Jewish Community Council of Victoria (JCCV) highlighted its efforts since July 2011 to address child abuse and attitudes towards the problem within the local Jewish community. The Council has publicly condemned child abuse and a new child protection policy was ratified in 2012. In addition in September 2013, Australia's most senior Orthodox rabbi apologised for years of mishandling and cover-up of child sexual abuse within the Jewish community.

In 2011, a Child Protection Reference Group was established in the Jewish community to promote resources that educate parents about protecting their children. The group also works with organisations to assist with policy development and practices and link victims to support services. JCCV has requested that the Australian Childhood Foundation (ACF) be engaged to assess organisational policies and practices. The President of the JCCV, Ms Nina Bassat, told the Inquiry that:

... first of all we do have to play a role. The role is one of creating a culture that is responsive and of creating a culture that understands this is an issue—it is not something that does not touch our community; in fact it does—and where a child, or even an adult, will feel comfortable enough to come forward and speak and know that they will be heard and understood and responded to appropriately.

She went on to explain that:

I think we [JCCV] definitely have a role to play in creating that process, but it would be very arrogant of me to assume that we as a community body can play that role solely. It is a role that needs to be supported by government. It is a role that needs to be supported by the education system. It is a role that needs to be supported by campaigns.¹⁷³

The Committee recognises that steps have been taken in the Jewish community to address issues relating to criminal child abuse.

The Committee noted, on the other hand, that some peak bodies were reluctant to assume a stronger role in protecting children. The Australian Association of Christian Schools stated that all its member schools were also members of the Independent Schools Victoria (ISV) and that if they had any concerns relating to child abuse they expected they would contact ISV for advice.¹⁷⁴

As noted in Chapter 12, however, ISV informed the Inquiry that it considers it has a minimal role in this regard:

Our association does not impose conditional standards on our members because they are independently-managed schools.¹⁷⁵

¹⁷² *Submission S389*, vicsport, p. 8.

¹⁷³ *Transcript of evidence*, Jewish Community Council of Victoria (JCCV), Melbourne, 22 April 2013, p. 57.

¹⁷⁴ *Supplementary evidence*, Response to request for information, Australian Association of Christian Schools, 11 March 2013, p.1.

¹⁷⁵ *Submission S399*, Independent Schools Victoria, p. 3.

It does, however, provide some advice to schools on safety and welfare. Organisations indicated that they would turn to ISV for advice, revealing some confusion regarding the role of the peak body for independent schools. For example, Bishop Iakovos of Miletoupolis from the Greek Orthodox Archdiocesan District of Victoria explained that ‘our schools have got the relevant material that is necessary to adhere to the ISV legislative requirements.’¹⁷⁶ The Committee recognises that ISV does not have the same statutory responsibilities as the Victorian Institute of Teaching.

The Committee considered there is scope for peak bodies to liaise with organisations such as Child Wise and the Australian Childhood Foundation in order to promote child-safe practices in their sector. These might include developing codes of conduct, training programs or sector specific accreditation processes.

Currently, the Committee notes that the Working with Children Unit in the Department of Justice (DOJ) does not routinely share the data it collects with peak organisations. For example, the Australian Camps Association told the Inquiry that prior to being contacted to give evidence to the Inquiry, it had not had any contact with DOJ regarding the high level of negative notices issued in the camping sector.¹⁷⁷ It expressed a keen interest in receiving such information from the Department so it could act on it. Overnight camps are a high risk activity for children in relation to child abuse because carers take the place of parents in supervising children. There are multiple opportunities for isolating children and the camps are often held overnight or over several nights.

The Committee determined that the Commission for Children and Young People has the potential to work more closely with peak bodies to assist them in their role in supporting members and sectors to build their knowledge and capacity to take effective preventative action. The Committee was informed of two approaches by peak organisations to build the capacity of their members:

- Scripture Union—ChildSafe
- vicsport—Play by the Rules.

Finding 13.2

Sector peak bodies potentially have an important role in supporting their members to become child-safe organisations and many are well positioned to promote child-safe practices by their members.

→ Recommendation 13.1

That through the relevant statutory body or department the Victorian Government should:

- identify an effective approach or model for supporting peak bodies to build preventative capacity in sectors that interact with children
- identify ways to encourage smaller organisations or activities to be affiliated with peak bodies to enable access to capacity building opportunities.

¹⁷⁶ *Transcript of evidence*, Greek Orthodox Archdiocesan District of Victoria, p. 4.

¹⁷⁷ *Transcript of evidence*, Australian Camps Association, p. 4.

ChildSafe—Scripture Union

ChildSafe is an initiative of Scripture Union Australia. It demonstrates the potential that networks can provide in supporting their affiliates to build capacity to become child-safe environments. Scripture Union Australia is an evangelical Christian movement. Separate, affiliated movements operate in each Australian state and territory. In Victoria, Scripture Union describes itself as a Christian based children, families and youth community development organisation.

Scripture Union conceived and developed ChildSafe as an internal project before creating ChildSafe Limited as a separate entity in 2007.¹⁷⁸ While the program resources are suitable for all types of organisations, ChildSafe focuses particularly on the needs of churches.

ChildSafe gave evidence to the Inquiry and provided an overview of the framework developed by Scripture Union, which has been endorsed by Ansva Insurance. The framework emphasises the importance of protecting children from harm. The Committee noted that the approach highlights the importance of organisations ensuring compliance with legislative and other requirements.

In explaining its approach, ChildSafe identifies three critical processes for an organisation. These are:

- the appointment process for people working with children
- the training required of those people
- the control taken by the organisation over its programs with children.¹⁷⁹

It aims to support organisations in improving those processes by providing training materials and an online resource. ChildSafe can also assist organisations to plan safe activities and programs using a risk management framework.

ChildSafe states that children and young people deserve the best endeavours of an organisation towards their safety. This involves more than good intentions, or the assumption that harmful incidents will not happen.

In its promotional material, ChildSafe highlights that there is increasing scrutiny on organisations:

- Governments are increasingly legislating standards and requirements for organisations working with children.
- Insurers are rightly expecting organisations to have effective risk management processes in place to minimise claims.

Over 3,000 churches in the Christian sector are either using ChildSafe or are getting ready to use it. Currently, organisations that are using Childsafe in Victoria include:

- Scripture Union Victoria
- Prison Fellowship
- Uniting Church
- Baptist Churches

¹⁷⁸ Childsafe *Childsafe—About us*. Accessed on 25 March 2013 from <http://www.childsafe.org.au/about-us>. See also Scripture Union Australia *Childsafe—Safety Management System*. Accessed on 25 March 2013 from <http://www.scriptureunion.org.au>.

¹⁷⁹ *Transcript of evidence*, Scripture Union Victoria, Melbourne, 5 April 2013.

- Christian Reformed Churches
- Churches of Christ Victoria/Tasmania
- Australian Christian Churches Victoria
- The Salvation Army
- Lutheran Church (national)
- Youth for Christ.¹⁸⁰

Play by the rules: vicsport

The *Play by the rules* model is used by some sporting organisations and clubs. It is overseen by the Australian Sports Commission, and promoted by vicsport for its members. vicsport explained to the Inquiry that:

Play By The Rules [PBTR] has been well promoted within the Victorian sports sector and many sporting organisations are using it as a resource.

The website is considered very useful within sport and provides step by step guides for organisations and individuals in the event they are dealing with a child abuse related issue. vicsport and many of its members would refer to the PBTR websites if a general query in regard to child protection was received.¹⁸¹

The program provides information, resources and online training to increase the capacity and capability of administrators, coaches, officials, players and spectators to prevent and deal with discrimination, harassment and child safety issues in sport. This includes child abuse that occurs both within and outside the family.

13.3. Awareness raising and behaviour change

Preventing criminal child abuse in non-government organisations requires an integrated approach to a number of different focus areas that include individuals, organisations and the community. The Committee identified that a key component in preventing criminal child abuse is raising awareness. This section considers each of the areas and the strategies that need to be undertaken to achieve increased understanding and confidence in identifying and responding to criminal child abuse in organisations.

13.3.1. Awareness in organisations

The Committee identified a need to raise awareness amongst non-government organisations regarding the critical importance of protecting children from criminal child abuse in their organisations.

The Committee heard that there are challenges for small, volunteer-based organisations in developing prevention strategies. In its submission to the Inquiry, the now Commission for Children and Young People stated that:

A key challenge going forward is to ensure that these (child-centred, child-safe) principles are put into practice across all organisations. For this to happen, organisations (particularly those which are small and run by volunteers) need more than access to information, they also require:

¹⁸⁰ *Transcript of evidence*, Scripture Union Victoria, p. 5.

¹⁸¹ *Submission S389*, vicsport, p. 5.

- assistance to formulate policies that will work well within their organisation
- high quality training and information so that they can educate staff, volunteers and committee members about how to create a child-safe organisation
- training for all staff on how to identify and respond to behaviours which are of concern and
- in particular, ready access to advice on how to particular issues when they arise.¹⁸²

The Committee heard that there is a particular need for greater support for smaller organisations, unfunded agencies and organisations in culturally diverse communities. The Principal Commissioner for Children and Young People, Mr Bernie Geary explained his views about the help required by small organisations:

To help organisations, especially those which are small and volunteer based, I recommend that other supports be considered, including funding, to better assist organisations to develop their own policies and practices and to respond appropriately when they suspect that someone within their organisation may be unsafe or inappropriate to work with children. In a small organisation that can become helpful because relationships are involved.¹⁸³

In his submission to the Inquiry he recommended that a body be established and funded to support and advise organisations on the implementation of strategies to reduce the risk of abuse occurring, and how to respond to any allegations that arise.¹⁸⁴

The Committee considers, however, that the current Commission for Children and Young People is well positioned to assume greater responsibility for preventive activities with organisations that work with children and provide some oversight of those activities. It sees scope for strengthening the prevention role of the Commission.

The Committee noted that the Commission for Children and Young People has developed some awareness raising material for organisations. In 2006, as the former Office for Child Safety, it circulated a series of publications for organisations and parents on child-safe organisations. These included:

- a guide for creating a child-safe organisation
- a booklet, information for parents—things to look at when selecting child-safe activities or services for your child
- a DVD and fact sheets entitled *Wise choices: safe children*.

13.3.2. Children's awareness

While programs that focus on developing children's capacity to protect themselves from child abuse are popular, the Committee heard that they need to be approached with caution. A consistent message made to the Committee was that children should never be responsible for protecting themselves from the harms of child abuse. Yet it also heard about the importance of encouraging children to disclose behaviour that makes them feel unsafe or uncomfortable.

While acknowledging the ethical complexities of educating children about safety and child abuse, researchers Smallbone, Marshall and Wortley suggested that there

182 *Submission S202*, Office of Child Safety Commissioner, p. 3.

183 *Transcript of evidence*, Commission for Children and Young People, p. 3.

184 *Submission S202*, Office of Child Safety Commissioner, p. 1.

could be value in reframing some of the current strategies for protective behaviour programs for children. The reframing approaches they recommended include:

- Exploring the use of resilience programs over resistance programs.
- Assisting young people to identify the complexity of grooming in sexual abuse.¹⁸⁵

The Committee identified an example of a recently released protective behaviour program specifically designed to help young people to understand and identify grooming behaviours. In Western Australia, an organisation known as Protective Behaviours WA recently released a guide titled *Teenager's guide to personal safety*. It outlines the grooming process and how to identify and respond to grooming attempts. It also acknowledges that most adults in our community are trustworthy and want to make sure children and teenagers are safe.¹⁸⁶

The Committee received information from the Victorian Department of Early Education and Development (DEECD) advising that it is considering the introduction of a child safety curriculum in Victoria based on the Queensland Daniel Morcombe Child Safety Curriculum. It is based around three key messages:

- Recognise—the message encourages students to be aware of their surroundings and to recognise warning clues.
- React—the message helps students to consider choices that may keep them safe or help make them safe again as quickly as possible.
- Report—the message encourages students to report unsafe incidents to an adult.

The Committee is aware that a number of organisations use some element of educating children about safety in their approach to prevention. For example, Scouts Australia in conjunction with Scouts Canada produced a parent's guide in 2002 called *Protecting your children*. The guide states that:

As a major youth-serving organisation, Scouts Australia has a unique opportunity to help protect youth. This booklet will help you teach your children how to protect themselves. It will help you and your children establish open communication on this sensitive topic.¹⁸⁷

At the same time, however, it is also aware that some members of the community have concerns about the focus on raising children's awareness. For example, in her submission to the Inquiry Ms Vivien Refosky expressed a view that the strategy adopted by the Jewish community has some limitations. She participated on the Child Protection Reference Group established by the Jewish Community Council of Victoria (JCCV) and explained that she has had a close association with the development of the Jewish community's prevention policy.

Ms Refosky's key concern was that the approach of the Jewish Community Council of Victoria and the Jewish Taskforce Against Family Violence and Sexual Assault has a primary focus on teaching children personal safety to prevent abuse. She expressed the view that:

The Taskforce's emphasis has been on educating Rabbis and telling children to say

¹⁸⁵ S. Smallbone, W.L. Marshall, & R. Wortley (2008) *Preventing child sexual abuse: Evidence, policy and practice*.

¹⁸⁶ Protective Behaviours WA Inc (2013) *Teenagers guide to personal safety*. East Perth, Department of Education WA.

¹⁸⁷ Scouts Australia (2002) *Protecting your children: a parent's guide*. Chatswood, National Executive Committee of The Scout Association of Australia, p. 1.

NO but parents in the Jewish community are not being provided with very important information they need to protect their children from being abused. They are not being informed about the need for institutional child protection policies, codes of conduct etc and how to assess whether policies are good.¹⁸⁸

Importantly, the Committee determined that any prevention strategies that focus on children or victims should not do so in isolation from a broader preventive approach targeting organisations and the broader community.

Finding 13.3

Children should never be responsible for protecting themselves from the harm of criminal child abuse, and prevention approaches that target children should be focused on initiatives that build their awareness.

13.3.3. Community awareness

The Committee heard that there are ranging levels of understanding about child abuse across the wider community. Awareness about child abuse is still growing, particularly with respect to ways in which child abuse should be addressed. The Committee identified that there is less chance that people will effectively report suspected abuse if communities have a poor understanding of what child abuse is.

Professor Chris Goddard, Director of Child Abuse Prevention Research Australia at Monash University advised the Inquiry of the low level of community understanding of child abuse. Box 13.1 outlines the findings of research relating to awareness.

Box 13.1: Community understanding of child abuse

Research conducted by Monash University, Quantum Market Research and the Australian Childhood Foundation over the last decade has found:

- Child abuse is not well understood by the Australian public.
- The public does not understand the true extent of child abuse and lacks an understanding of the social and financial costs.
- A 2003 survey found child abuse was perceived to be a far less serious problem than council rates.
- A 2006 survey identified that child abuse was perceived to be less serious than the rising cost of petrol.
- In 2010, a survey revealed that 26 per cent of respondents advised they had seen a child that they believed had been abused. One in four had identified a child who had been abused or neglected in the past five years. 21 per cent involved child sexual abuse. 60 per cent of the children, they said, were under the age of eight. 44 per cent of those seeing children whom they suspected of having been abused had made a report, while 16 per cent did nothing.

Source: Adapted from *Transcript of evidence*, Prof Chris Goddard, Director, Child Abuse Prevention Research Australia, Monash University, Melbourne, 19 October 2012, p. 4.

188 *Submission S424*, Ms Vivien Resofsky, p. 3.

Researchers have identified that there is a range of reasons why awareness of child abuse is low. These include:

- Gaze aversion—people find it easier to turn away from the issue. 28 per cent of people reported they felt tense and anxious talking about child abuse and nearly 60 per cent could not bear to look at pictures in the media of children who were abused or neglected, thereby contributing to the silencing of children.
- Disbelief—32 per cent of people believe children make up stories about being abused despite evidence to the contrary.
- Confusion about abuse—17 per cent said that children were unlikely to know the perpetrator.¹⁸⁹

Evidence to the Committee aligned with these research findings. For example, Ms Joumanah El Matrah from the Australian Muslim Women's Centre for Human Rights, stated that:

I think at the moment the vast majority of the community are not aware of what child sexual abuse is and that is something that they need to be aware of and something they may potentially need to protect their children from.¹⁹⁰

The Committee determined, therefore, that there is a need to increase understanding about abuse in the community if people are to effectively identify criminal child abuse and report it.

The broader objective of raising awareness in communities is to strive for change in behaviour and responses to child abuse. The CEO of the Australian Childhood Foundation, Dr Joe Tucci, emphasised this point to the Inquiry and compared the required outcomes of such campaigns to other major awareness raising efforts:

Just like you have to build an awareness of problems in the community like smoking and other public health issues, child abuse should be considered one of those, and community campaigns that are sustained over time will build that knowledge base.¹⁹¹

The Committee determined that awareness raising efforts need to be targeted to the broad community and to parents and families. In addition, there needs to be initiatives in place to improve the understanding of organisations that work with children.

The Cummins inquiry recommended that DEECD develop a wide-ranging education and information campaign for parents and caregivers of all school-aged children on the prevention of child sexual abuse.¹⁹² In its response to this recommendation, the Government stated that:

The Victorian Government will aim to equip families with high quality information and advice about the prevention of child sexual abuse. The Department of Education and Early Childhood Development, Department of Human Services, Department of Justice and Victoria Police will work together to develop child sexual abuse prevention strategies tailored to children and young people. This will also involve using an

189 *Transcript of evidence*, Sexual Offences and Child Abuse Investigation Team (SOCIT), Victoria Police, Melbourne, 9 November 2012; *Transcript of evidence*, Australian Institute of Family Studies.

190 *Transcript of evidence*, Australian Muslim Women's Centre for Human Rights, p. 28.

191 *Submission S224*, Australian Childhood Foundation, p. 4.

192 P. Cummins, D. Scott, OAM, & B. Scales, AO (2012) *Report of the Protecting Victoria's Vulnerable Children Inquiry*, p. li.

evidence-based curriculum on sexuality education, respectful relationships and building protective factors'.¹⁹³

The Principal Commissioner of the Commission for Children and Young People, Mr Bernie Geary, advised the Inquiry that a committee was established at the end of 2012 to progress this recommendation. The Commissioner has strongly advocated for the development of a state-wide campaign to educate parents, carers and teachers about the incidence and nature of child abuse within the family, which is often a precursor to a child becoming vulnerable to other forms of abuse, including abuse in organisations.¹⁹⁴

The Committee believes that any campaign to educate about child abuse needs to extend beyond child sexual abuse and beyond abuse that occurs only in families. Although educating children and young people is important, the Committee believes that the adults should be the primary target audience for education campaigns. The consistent message received in the Inquiry is that children should not be responsible for protecting themselves from abuse, and that the community has a responsibility to raise their awareness of abuse.

Finding 13.4

Many organisations have a poor understanding of criminal child abuse and often people find the issue too confronting to acknowledge, respond to or address.

→ Recommendation 13.2

That the Victorian Government expand on its response to Recommendation 10 in the Cummins Inquiry report to ensure that non-government organisations are equipped with high quality information and advice about the prevention of criminal child abuse in organisations.

193 Victorian Government (2012) Victoria's vulnerable children. *Our shared responsibility. Directions paper*. Melbourne, Victorian Government, pp. 15–16.

194 *Supplementary evidence*, Response to request for information, Commission for Children and Young People, 21 May 2013, p.2.