



CARE LEAVERS AUSTRALASIA NETWORK

CLAN is a National, Independent, Peak Membership Body which supports, represents and advocates for people who were raised in Australian Orphanages, Children's Homes, Foster Care & Other Institutions.

Submission to the Victorian State Government: Review of Victoria's Child Safe Standards.

To Whom It May Concern,

CLAN - Care Leavers Australasia Network is a national, independent, peak membership body which represents and advocates for those who were raised in Australia and New Zealand's Orphanages, Children's Homes, other Institutions and Foster Care. There were more than 500 000 children in Australia who grew up in 900 plus Institutions. CLAN's main objective is to assist and support Care Leavers and their families through the wide variety of work we do including but not limited to advocacy, counselling, casework, records searching and publishing Care Leaver's stories.

CLAN would like to thank the Victorian Government for giving CLAN the opportunity to comment on this issues paper. As previously stated CLAN is a national organisation who does not work with children in any capacity. We do however have a vested interest in seeing institutions and organisations being made as safe and as accountable as possible for the protection and wellbeing of children. The individuals whom CLAN now represents were all harmed as children in a multitude of ways, it is now our job to support and assist these individuals to find the help they need to pick up the pieces of their lost and broken childhoods and help them to function in society. CLAN never want to see the mistakes of the past repeated again and would therefore like to take this opportunity to comment on aspects of Victoria's child safe standards.

Effectiveness of the Victorian child safe standards

As CLAN do not work with children we cannot comment about the implementation of these standards in our organisation. We do however have strong views regarding the potential effectiveness of these standards. CLAN takes huge issue with the three principles the Victorian child safe standards has outlined including Aboriginal children, CALD children and children with disabilities as groups who face additional risks.

CLAN are amazed at the fact that children in care (out of home care), have not been included in these principles. These principles and standards have come out of the work of the Royal Commission, yet the Victorian Government has seemed to ignore the fact that the largest group of individuals who came forward to the Royal Commission were Care Leavers. Does this statistic in itself not outline the fact that children in care are one of the most vulnerable and at risk populations? The organisations listed which the child safe standards apply to, reach far beyond out of home care, meaning that children in care need to be treated and specifically listed as a vulnerable group so they are acknowledged at the multitude of other types of organisations in which they may have contact with.

Children in care are vulnerable for a number of reasons and should be recognised separately by these principles. Many children in care have had negative interactions and experiences with authority figures making them much less likely to disclose any abuse. They also may be particularly scared or resentful of authority figures who may have been part of the removal process of these children from their parents. They could also be fearful or resentful of adults in general and especially for older children who may have already built up preconceived ideas about what is acceptable and what is not from their past experiences. Children in care also may have already been abused in some way and these experiences may not have been addressed (or previously disclosed). This makes them more likely to see these experiences as the norm or more likely to continue non-disclosure. Children in care often feel they have nobody to trust, they feel disposable and as if they can be abandoned again at any point. For some, they may not trust a new caregiver enough to make a disclosure or they may be fearful that the caregiver may see it as an extra problem and not want the child.

Children in care have also been removed from their family, their identity, and their culture (whatever it may be). Things may have been done very differently in their culture or have different traditions that new carers are not aware of. Lastly, because of all these factors, perpetrators of abuse will often target children in care because they are more vulnerable. The fact that the Victorian Government has not recognised this in these standards is appalling. It shows Care Leavers and children currently in care that their experiences and needs have, and are still, being ignored. CLAN cannot argue more strongly for the inclusion of children in care in these principles, if they are excluded, we are sure the next time a child abuse enquiry is conducted in Victoria the majority of people coming forward will again be the next generation of Care Leavers and children in care.

Compliance with the Victorian child safe standards

CLAN are pleased to see the wide variety of organisations which are covered by the child safe standards. Most of these are straightforward inclusions without controversy. Making children's safety a priority in all environments that they visit is of the utmost importance to keeping children free from harm. In saying that, CLAN do feel that the exemptions that Victoria has in place and that the Royal Commission has suggested, may enable children to fall through the cracks. When looking at the examples provided by the Royal Commission like sports stadiums, theatres and shopping centres, CLAN questions why these organisations wouldn't need to comply with some sort of framework with the end goal being the safety of children. Looking at these particular examples, all of these organisations/companies make a lot of money targeting children and or parents as their consumers. Shopping centres for example are usually built with children in mind, facilities like playgrounds are provided, parents rooms, rides, kids trolleys, school holiday activities etc all to make the experience more appealing to children and their parents. When services are so obviously targeted to children and they are also making money off children, why shouldn't big corporations who own these sorts of services have any obligation to make the environment as safe as possible for children to attend? Surely creating the optimal environment for child safety is something these sorts of corporations would want to do for their consumers.

When looking at the wording Victoria uses in describing their exemptions, CLAN feels that this may have to be made a lot clearer so that the public and organisations understand who is and is not exempt. Firstly, there seems to be a discrepancy between the criteria listed and the organisations included. For example, hospitals which are not specifically children's hospitals, DO NOT provide services SPECIFICALLY to children. However, they do provide services for all humans regardless of age. Nevertheless, medical centres are not on this list, and provide a similar but non-emergent type of service. Perhaps these are included in the 'applicable entities' dot point, however the limiting and contradicting nature of the exemptions and the list provided do not help to enlighten us.

Similarly, the wording of the second criteria 'provide any facilities for use by children who are under the organisations supervision' causes confusions as it does not specify if children need to be under someone's supervision, just not the organisations. For example, there are many places children may visit and not be directly under the supervision of anyone, does this mean the organisation has no duty of care to children because they are not directly supervising that child? Examples of this are gyms or play facilities where older children have the capacity to turn up themselves. This is included on the list. However, places like shopping centres and movie theatres, where countless teenagers frequent every single day with no parent or caregiver present for supervision are not entitled to be kept safe to the same standard?

CLAN believes that the only way to achieve true consistency is in making child safe standards applicable to any organisation that deals with or makes money from children, no matter what its main function. The only way that an organisation should NOT have to comply with child safe standards is if it does not deal with children at all. We also do not believe that there will be an undue burden, as the majority of the organisations who seem to be exempt are large, if not multinational corporations who own things like shopping centres, sports stadiums, medical centres and movie theatres. Surely there is more pressure on organisations like small sporting clubs who must follow the standards than there would be on organisations such as these who make millions of dollars marketing and selling to parents and their children.

Regulation of the Victorian Child Safe Standards

CLAN has had no personal experience in this area so has limited knowledge to offer. However, after reading the issues paper there does seem to be some inconsistency caused by the different roles of 'relevant' authorities and the Victorian Commission for Children and Young People. It seems that there would be a big difference in oversight, regulation and compliance between category 1 and category 2 organisations. Most likely even within category 1 there may be inconsistency depending on which department or activity the organisation is funded under, who their funding manager may be and how they interpret the regulation of child safe standards. Thus, CLAN feels that the current oversight and regulation mechanisms have the potential for flaws and gaps to emerge. It also seems that by having relevant authorities for category 1 as well as the Commission there is duplication in this instance and no duplication for category 2 services. CLAN believes that generally, the easiest way to provide adequate oversight is to have some sort of consistency across the board provided by the same body, and not numerous ones. Without this there is bound to be inconsistent application and enforcement of the child safe standards which can lead to disastrous consequences.

Towards national harmonisation of child safe standards in Australia

CLAN can see no reason why the National Principles cannot be adopted, considering that it is more extensive and inclusive than the Victorian child safe standards. The National Principles include 3 principles for which Victoria has no direct equivalent and the issues paper has made no argument for why these shouldn't be included or deemed as important as the other standards. Essentially then, it seems as if Victoria is missing 3 standards/principles which are important and could be vital in the protection of children.

CLAN believes that the more consistent the standards/laws/regulations etc are across jurisdictions the harder it is for children to fall through gaps created by one state or another. CLAN wholeheartedly agrees with the Royal Commission, and in our experience, we have seen predators/perpetrators seek out jurisdictions where regulation or penalties are lacking and abuse more and more children. It is also important that consumers, including children know what to expect of an organisation and this is easiest if there were a nationally consistent approach. Further to this point, its not only consumers but organisations like ourselves who are a national organisation who report to and follow regulations of many different agencies. Although we do not deal with children, the lack of consistency amongst states and the different regulations to follow can be confusing if not frustrating.

Lastly, CLAN must again use this opportunity to reiterate our disappointment that the Victorian child safe standards 'cross-cutting' requirements do not include children in care as a separate and vulnerable group. We have addressed the many reasons that children in care are vulnerable and continue to be. This vulnerability needs to be attended to and kept in mind just as it is with the other 3 groups. Anything less will result in children in care being disproportionately targeted by predators because the other vulnerable groups have more focus on them thanks to Victoria's 'cross-cutting requirements'. Whilst the National Principles are all inclusive and do not focus on any particular cohorts, CLAN believe it is important that adults working with children with certain vulnerabilities are informed and educated about their needs so as to work with them most effectively. However, the obvious exclusion of children in care from this list begs the question, has the Victorian government learnt anything from Care Leavers?

Conclusion

The Victorian Government is currently party to the National Redress Scheme. As part of this scheme Care Leavers (and others) can opt to have a 'direct personal response'. As part of this response the representative of an organisation (in this case the Victorian Government) has the opportunity to apologise and explain what they have done or will do to stop the abuse from happening again. CLAN sincerely hope that in this case the Victorian Government DO NOT try to say that they have implemented child safe standards to protect children, when these standards DO NOT acknowledge the vulnerabilities and unique experiences of children in care which lead them and Care Leavers to make up the majority of any single cohort who came forward to the Royal Commission. As far as CLAN are concerned these child safe standards are useless until those organisations who must comply with them understand the particular needs of children in care and how this makes them one of THE MOST VULNERABLE GROUPS OF CHILDREN IN AUSTRALIA. We hope the Victorian Government makes these changes promptly considering the devastating consequences it can have if they do not.