

## INDEPENDENT OVERSIGHT RECOMMENDATIONS

Four areas of oversight were recommended in the December 2017 *Final Report* of the Royal Commission into Institutional Responses to Child Sexual Abuse. The Department of the Premier and Cabinet has been asked by Government to provide advice on the implementation of 11 recommendations across the four areas of oversight.

Area of Oversight	Recommendations
<b>1</b> Introducing monitoring and enforcement of Child Safe Standards	6.9, 6.10, 6.11
<b>2</b> Introducing a legislated reportable conduct scheme	7.9 – 7.12
<b>3</b> Independent oversight of contemporary out of home care providers, including accreditation of out of home care providers	12.4 and 12.5
<b>4</b> Independent oversight of youth detention	15.9 and 15.10

1. Introducing monitoring and enforcement of Child Safe Standards	2. Introducing a legislated reportable conduct scheme
<p>Recommendation 6.9 Legislative requirements to comply with the Child Safe Standards should cover institutions that provide:</p> <ul style="list-style-type: none"> <li>a. accommodation and residential services for children, including overnight excursions or stays</li> <li>b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children</li> <li>c. childcare or childminding services</li> <li>d. child protection services, including out-of-home care</li> <li>e. activities or services where clubs and associations have a significant membership of, or involvement by, children</li> <li>f. coaching or tuition services for children</li> <li>g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions</li> <li>h. services for children with disability</li> <li>i. education services for children</li> <li>j. health services for children</li> <li>k. justice and detention services for children, including immigration detention facilities</li> <li>l. transport services for children, including school crossing services.</li> </ul>	<p>Recommendation 7.9 State and territory governments should establish nationally consistent legislative schemes (reportable conduct schemes), based on the approach adopted in New South Wales, which oblige heads of institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution’s employees.</p>
<p>Recommendation 6.10 State and territory governments should ensure that:</p> <ul style="list-style-type: none"> <li>a. an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. Where appropriate, this should be an existing body.</li> <li>b. the independent oversight body is able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator.</li> <li>c. regulators take a responsive and risk-based approach when monitoring compliance with the Child Safe Standards and, where possible, utilise existing regulatory frameworks to monitor and enforce the Child Safe Standards.</li> </ul>	<p>Recommendation 7.10 Reportable conduct schemes should provide for:</p> <ul style="list-style-type: none"> <li>a. an independent oversight body</li> <li>b. obligatory reporting by heads of institutions</li> <li>c. a definition of reportable conduct that covers any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child</li> <li>d. a definition of reportable conduct that includes the historical conduct of a current employee</li> <li>e. a definition of employee that covers paid employees, volunteers and contractors</li> <li>f. protection for persons who make reports in good faith</li> <li>g. oversight body powers and functions that include: <ul style="list-style-type: none"> <li>i. scrutinising institutional systems for preventing reportable conduct and for handling and responding to reportable allegations, or reportable convictions</li> <li>ii. monitoring the progress of investigations and the handling of complaints by institutions</li> <li>iii. conducting, on its own motion, investigations concerning any reportable conduct of which it has been notified or otherwise becomes aware</li> <li>iv. power to exempt any class or kind of conduct from being reportable conduct</li> <li>v. capacity building and practice development, through the provision of training, education and guidance to institutions</li> <li>vi. public reporting, including annual reporting on the operation of the scheme and trends in reports and investigations, and the power to make special reports to parliaments.</li> </ul> </li> </ul>
	<p>Recommendation 7.11 State and territory governments should periodically review the operation of reportable conduct schemes, and in that review determine whether the schemes should cover additional institutions that exercise a high degree of responsibility for children and involve a heightened risk of child sexual abuse.</p>

<p>Recommendation 6.11 Each independent state and territory oversight body should have the following additional functions:</p> <ol style="list-style-type: none"> <li>provide advice and information on the Child Safe Standards to institutions and the community</li> <li>collect, analyse and publish data on the child safe approach in that jurisdiction and provide that data to the proposed National Office for Child Safety</li> <li>partner with peak bodies, professional standards bodies and/or sector leaders to work with institutions to enhance the safety of children</li> <li>provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe</li> <li>coordinate ongoing information exchange between oversight bodies relating to institutions' compliance with the Child Safe Standards.</li> </ol>	<p>Recommendation 7.12 Reportable conduct schemes should cover institutions that:</p> <ul style="list-style-type: none"> <li>exercise a high degree of responsibility for children</li> <li>engage in activities that involve a heightened risk of child sexual abuse, due to institutional characteristics, the nature of the activities involving children, or the additional vulnerability of the children the institution engages with.</li> </ul> <p>At a minimum, these should include institutions that provide:</p> <ol style="list-style-type: none"> <li>accommodation and residential services for children, including: i. housing or homelessness services that provide overnight beds for children and young people; ii. providers of overnight camps.</li> <li>activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children</li> <li>childcare services, including: i. approved education and care services under the Education and Care Services National Law; ii. approved occasional care services</li> <li>child protection services and out-of-home care, including: i. child protection authorities and agencies; ii. providers of foster care, kinship or relative care; iii. providers of family group homes; iv. providers of residential care</li> <li>disability services and supports for children with disability, including: i. disability service providers under state and territory legislation; ii. registered providers of supports under the National Disability Insurance Scheme</li> <li>education services for children, including: i. government and non-government schools; ii. TAFEs and other institutions registered to provide senior secondary education or training, courses for overseas students or student exchange programs</li> <li>health services for children, including: i. government health departments and agencies, and statutory corporations; ii. public and private hospitals; iii. providers of mental health and drug or alcohol treatment services that have inpatient beds for children and young people</li> <li>justice and detention services for children, including: i. youth detention centres; ii. immigration detention facilities</li> </ol>
<p><b>3. Independent oversight of contemporary out of home care providers, including accreditation of out of home care providers</b></p>	<p><b>4. Independent oversight of youth detention</b></p>
<p>Recommendation 12.4 Each state and territory government should revise existing mandatory accreditation schemes to:</p> <ol style="list-style-type: none"> <li>incorporate compliance with the Child Safe Standards identified by the Royal Commission</li> <li>extend accreditation requirements to both government and non-government out-of-home care service providers.</li> </ol>	<p>Recommendation 15.9 State and territory governments should review the current internal and external complaint handling systems concerning youth detention to ensure they are capable of effectively dealing with complaints of child sexual abuse, including so that:</p> <ol style="list-style-type: none"> <li>children can easily access child-appropriate information about internal complaint processes and external oversight bodies that may receive or refer children's complaints, such as visitor's schemes, ombudsmen, inspectors of custodial services, and children's commissioners or guardians</li> <li>children have confidential and unrestricted access to external oversight bodies</li> <li>staff involved in managing complaints both internally and externally include Aboriginal and Torres Strait Islander peoples and professionals qualified to provide trauma-informed care</li> <li>complaint handling systems are accessible for children with literacy difficulties or who speak English as a second language</li> <li>children are regularly consulted about the effectiveness of complaint handling systems and systems are continually improved.</li> </ol>
<p>Recommendation 12.5 In each state and territory, an existing statutory body or office that is independent of the relevant child protection agency and out-of-home care service providers, for example a children's guardian, should have responsibility for:</p> <ol style="list-style-type: none"> <li>receiving, assessing and processing applications for accreditation of out-of-home care service providers</li> <li>conducting audits of accredited out-of-home care service providers to ensure ongoing compliance with accreditation standards and conditions.</li> </ol>	<p>Recommendation 15.10 State and territory governments should ensure they have an independent oversight body with the appropriate visitation, complaint handling and reporting powers, to provide oversight of youth detention. This could include an appropriately funded and independent Inspector of Custodial Services or similar body. New and existing bodies should have expertise in child-trauma, and the prevention and identification of child sexual abuse.</p>