

Victorian Child Safe Standards: What do they look like? Where is there still work to do?

Kevin Moloney

Loreto Mandeville Hall Toorak
10 Mandeville Crescent, Toorak, VIC
kevin.moloney@loretotoorak.vic.edu.au

Nicholas Duggal

Moray & Agnew Lawyers
505 Little Collins Street, Melbourne, VIC
nduggal@moray.com.au

Ahead of the outcomes of the *Royal Commission into Institutional Responses to Child Sexual Abuse*, the recommendations of the Victorian Parliamentary inquiry *Betrayal of Trust* led to changes to the Crimes Act and to the implementation of seven Child Safe Standards designed to bring about a change in the culture of organisations. As a condition of their registration, schools have to not just tick the box but have to be able to demonstrate that there are processes in place, and that there are mechanisms to measure their effectiveness, to shift the mindset regarding child protection across the whole school from the Board/Council through Leadership and staff down to casuals, sessionals, contractors and volunteers. Now that we are one year in with implementation, this presentation looks at some practical ways that schools can demonstrate that it is working to change the culture and to embed the intent of the Standards. While the Department and other sectors have provided templates and resources, we look at examples of strategies that have appeared to work well in practice on the ground in achieving the stated intentions of the Standards in one particular setting. We also look at some of the unintended consequences and where schools may still not be compliant.

Keywords: Betrayal of Trust, Child Safe Standards, reportable conduct

1. Background

While the Royal Commission¹ is due to release its long awaited recommendations by the end of 2017, the Victorian Parliament held its own inquiry in 2012/13, *Betrayal of Trust*, and handed down its final report in November 2013² which has brought about three major sets of reforms so far:

1. Changes to the Crimes Act;
2. The introduction of seven Child Safe Standards that all Victorian schools must comply with as a condition of their ongoing registration;
3. The establishment of a Reportable Conduct Scheme administered by the Commission for Children and Young People.

¹ Royal Commission into Institutional Responses to Child Sexual Abuse, Australian Government, 2013-2017, <http://www.childabuseroyalcommission.gov.au/>

² <http://www.parliament.vic.gov.au/fcdc/inquiries/article/1788>

1.1 Changes to the Crimes Act

Under changes to the Victorian Crimes Act, it has become an offence for any adult to:

- **Fail to disclose:** Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.³
- **Fail to protect:** The offence will apply where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a relevant organisation will become a victim of a sexual offence committed by an adult associated with that organisation. A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.⁴
- **Groom:** This offence targets predatory conduct designed to facilitate later sexual activity with a child. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails.⁵ From 1 July 2017 two new additions have further broadened what may constitute grooming: a possible offence may arise from “encouraging” a child under 16 to engage in, or just be involved in, sexual activity⁶; or “encouraging a 16 or 17 year old to do likewise.”⁷ Encourage includes suggesting, urging, requesting; it is not required to prove that the child engaged in the act but rather these provisions make it an offence for an adult to encourage such activity by giving presents or threatening, for example, either in person or by electronic communication.

1.2 Victorian Child Safe Standards

The Child Safe Standards, set out in Ministerial Order 870⁸, were to be implemented from 1 January 2016 with a deadline of 1 August 2016 to have them in place or a detailed plan for implementation by the end of 2016. The focus of this paper is to outline the process of practical implementation of the Standards in one setting and will be expanded on later but briefly they are that the School’s governing body must ensure:

1. There are strategies to embed an organisational culture of child safety;
2. There is a child safe policy or statement of commitment to child safety;
3. There is a code of conduct that establishes clear expectations for appropriate behaviour with children;
4. There are screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel;
5. There are processes for responding to and reporting suspected child abuse;
6. There are strategies to identify and reduce or remove risks of child abuse;
7. There are strategies to promote the participation and empowerment of children.

1.3 Reportable Conduct Scheme

³ *Crimes Act 1958* (Vic), s.327

⁴ *Ibid*, s49 O

⁵ *Ibid*, s49 M

⁶ *Ibid*, s49 K

⁷ *Ibid*, s49 L

⁸ Ministerial Order 870, 22 December 2015

<http://www.gazette.vic.gov.au/gazette/Gazettes2016/GG2016S002.pdf>

The Reportable Conduct Scheme, to apply from 1 July 2017, is administered by the Commission for Children and Young People and includes overseeing investigations or conducting investigations itself. Under the Scheme the Principal is obliged to notify the Commission of any reportable allegation against an employee (including contractors and volunteers) of their school within 3 business days after becoming aware of the allegation and then, as soon as practicable and within 30 days after becoming aware of the allegation, notify the Commission of: more detailed information about the reportable allegation; whether or not the school proposes to take any disciplinary or other action in relation to the employee and the reasons why, and any written submissions of the employee in relation to what disciplinary or other action should be taken by the school.

Reportable conduct includes:

- a. a sexual offence committed against, with or in the presence of, a child;
- b. sexual misconduct committed against, with or in the presence of, a child;
- c. physical violence committed against, with or in the presence of, a child;
- d. any behaviour that causes significant emotional or psychological harm to a child;
- e. significant neglect of a child.

The Principal is obliged to investigate a reportable allegation against an employee or permit either the Victorian Registration and Qualifications Authority (VRQA) or an independent investigator engaged by the school to investigate the allegation. The Principal is also required to inform the Commission of the identity of the investigator and then give the Commission a copy of the findings of the investigation and the reasons for those findings, and details of any disciplinary or other action that the Principal proposes to take and the reason why, or why no such action will be taken.

The School must ensure that it meets its obligations by having systems in place to: prevent the commission of reportable conduct by an employee of the school within the course of the employee's employment; enable any person, including an employee of the school, to notify the Principal of a reportable allegation against an employee of which the person becomes aware; enable any person, including an employee of the school, to notify the Commission of a reportable allegation involving the Principal of which the person becomes aware; investigate and respond to a reportable allegation against an employee of the school.

2. The Victorian Child Safe Standards

If we are to bring about cultural change then the whole community needs to be part of preventing abuse from occurring in the first place. Protecting children from abuse has to be part of our collective mindset from the top down which includes the School Board, the Leadership Team, academic staff, support staff, administrative staff, onsite contractors, school associates, clergy and volunteers. The seven Victorian Child Safe Standards (the Standards), summarised in Table 1 below, were introduced to ensure cultural change is not just aspirational but that preventative practices are embedded in our day to day operations. The Chair of the School Board and the Principal were required to attest in writing that the Standards had been complied with by either having a specific item in place or a detailed plan to do so within a given timeframe.

As a necessary requirement for the ongoing registration, Ministerial Order 870⁹ sets out what schools *must* do to implement specific policies, procedures and strategies to bring about this cultural change and it is clear that the responsibility for ensuring their implementation and ongoing monitoring for effectiveness rests ultimately with the School governing body. Policies, procedures, statements, codes, and so on, must be living, breathing, readily accessible documents which are constantly visited to inform what we do. Cultural change does not happen overnight: by definition it is a long term work in progress. The Standards are, therefore, less a list of compliance items and more a framework to underpin an ongoing core operational issue for the school – the safety and wellbeing of the children its care. This is not a simple compliance exercise. The Victorian Government, the VRQA and the Catholic Education Commission of Victoria (CECV) in our case, are to be commended for their provision of extensive assistance to schools for developing the basic required material.¹⁰

Table 1: The Victorian Child Safe Standards

Standard	Compliance Item	Intent of Standard
1	Strategies to embed an organisational culture of child safety, including through effective leadership arrangements	The school governing authority has the responsibility to embed a culture of child safety and develop strategies (policies procedures and practices) that demonstrate zero tolerance of child abuse in the school.
2	A child safe policy or statement of commitment to child safety	The school governing authority must ensure that the school's policy and procedures provide the foundation for and commitment to child safety in the school.
3	A code of conduct that establishes clear expectations for appropriate behaviour with children	The school governing authority must ensure that all school staff in the school environment abide by a Child Safety Code of Conduct which makes clear the boundaries and behavioral expectations around how staff interact with students.
4	Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel	The school governing authority must ensure that robust recruitment processes are in place. In addition, processes must be in place to ensure appropriate staff induction programs, staff professional development and staff supervision arrangements maintain a child-safe environment.

⁹ fn 6 above

¹⁰ <http://www.education.vic.gov.au/about/programs/health/protect/Pages/childsafestandards.aspx>

5	Processes for responding to and reporting suspected child abuse	The school governing authority must ensure that the school's policies and procedures for reporting and responding to suspected child abuse are clear and enable individuals to take the appropriate course of action to protect the safety of students.
6	Strategies to identify and reduce or remove risks of child abuse	The school governing authority must ensure the development, implementation, monitoring and evaluation of risk management strategies to maintain child safety in school environments
7	Strategies to promote the participation and empowerment of children	Schools must support students to develop appropriate knowledge and skills so that children can identify and communicate when they don't feel safe. The school governing authority must ensure that there are accessible procedures for children to know how to raise concerns about child safety and report abuse.

3. Implementing the Standards in our setting

3.1 Making a plan and assigning roles

The starting point was to prioritise the Standards. It was noted that Standards 2, 3, 4, 5 and 7 could be approached by:

- Documenting what we currently do;
- Using templates provided by the Department or the CECV who had far more resources and legal people at their disposal than any individual school could muster;
- Identifying any gaps and enhancing current documents and processes or bringing together existing documents in the required format;
- Developing new documents as required and where that was viewed as a simpler exercise.

It was clear that Standards 1 and 6 were going to require a new way of thinking and working that required an extensive personal approach to bring and keep child protection front of mind across the organisation, making the implicit more explicit and introducing staff to the language, science and art of risk management. If we could shift mindset and mitigate risks, that is, do Standards 1 and 6 well, then we would be well on the way achieving the aim of demonstrating a Child Safe environment. Producing statements and documents and posting them on websites and intranets was not by itself going to change

anything. There needed to be a communication strategy, not just to staff but to the whole school community.

Well before the deadline set for compliance a summary planning document was prepared for the Leadership Team with the Standards, the stipulated elements required, a list of what was currently in place and action steps to itemise what needed to be done by whom and when. It was not difficult for the School Board and the Leadership to be hands on because the Standards were clearly placing ultimate responsibility for implementation on them. In some respects, at this stage, we were already demonstrating compliance as we had a documented plan.

We set about bringing together the policy and related documents using our existing policies and procedures as well as the resources provided by the VRQA¹¹ and the CECV¹². The Deputy Principal was designated the key driver of policy development and implementation and the Child Protection Team role was assumed by the existing Pastoral Care team, made up of the Director of Wellbeing, the Year Level Coordinators, the School Counsellors as well as the Director and the Wellbeing Coordinator of the Primary School.

3.2 Rolling it out to all staff

The Standards were formally launched with a whole school staff meeting ahead of the deadline set for compliance. The key policy documents were posted on the School website¹³. In preparation for the meeting staff were sent the key documents as well as the link to the freely available reporting obligations online training module provided by the Victorian Department of Education and Training¹⁴. Teachers, as mandatory reporters, are reminded to complete this module each year as part of their registration but it was decided that the School required all employees to do the module, not just teachers. At the meeting, staff were provided with the background of the Standards and briefly taken through the key policy documents that they had been sent. It was decided to focus in this first instance on the Code of Conduct (Standard 3) as this was the least complicated document: a non-exhaustive list of acceptable behaviours and unacceptable behaviours which were helpful examples of what to do and what not to do and also served as discussion starters. Staff were then asked to give written attestation that they had read and understood the Code and that they were familiar with the other key documents that they had been sent. Either at the meeting or within the week they were to submit the sign off sheet as well as the certificate from the online module.

The staff meeting captured about 80-85% of our regular employees given that we have part time staff, staff with other school commitments at that time or who work different times. We had not captured casual staff, sessional staff, onsite contractors as well as those not able to attend. Over the next two to three weeks, smaller repeat sessions (another twelve information sessions) were offered at a variety times of the day and on different days of the week until nearly all had attended a background meeting. Some further follow up was done on an individual basis to capture all that was humanly possible. Any of the

¹¹VRQA resources <http://www.vrqa.vic.gov.au/childsafepages/resources.html>

¹²CECV resources <http://www.cecv.catholic.edu.au/getmedia/5c2c1710-f784-424d-ba9a-6443e1993fbc/Child-Safe-Standards-intro.aspx>

¹³ Loreto Toorak key Child Safe Policies <http://www.loretotoorak.vic.edu.au/child-safety-policies>

¹⁴ Victorian Department Education & Training eLearning module <http://www.elearn.com.au/det/protectingchildren/external/>

handful not yet to attend an information session were still required to submit a sign off sheet.

3.3 Communicating to parents

The Principal then wrote a special letter, emailed out to all parents, about the introduction of the Standards. Usually parents get a regular newsletter; however, the issuing of a special letter is understood in our School to be reserved for major announcements only. Parents were also informed that students would receive information about the Standards in the course of their usual teaching and learning programs and year level assemblies in the ensuing weeks. The Director of the primary school also wrote separately to inform parents that a specially prepared age appropriate unit of work would be delivered, aimed at giving very young students the skills to recognise and to discuss inappropriate adult behaviour.

3.4 Communicating to students

The School already had a very well established Pastoral Care program, a Positive Education curriculum for Years 7 to 10 and a clear structure for communication involving the Homeroom teacher, the Year Level Coordinator, the Director of Wellbeing and the School Counsellor. The ongoing media interest in the Royal Commission meant that discussion of child abuse matters was not as confronting and controversial as it might have been once upon a time, particularly in Years 7 to 12. However, the Primary years had the potential to be more difficult to navigate and special training in a specifically developed unit of work for students in Years Preparatory to 6 was undertaken in preparation for delivery to those year levels, with the Director and senior primary teachers giving direct support to staff. The initial feedback was most encouraging.

3.5 Recruiting new staff

The implementation of Standard 4 provided the opportunity to review current recruiting and induction practices. While teacher registration and Working with Children Checks were the standard mandated preliminary requirements already in place, the review enabled the following procedures to be added:

- Our website and all job advertisements now contain a statement regarding our commitment to child protections and to the zero tolerance of abuse;
- Formal interview questions specifically enquiring about the applicant's understanding of a Child Safe environment;
- Formal referee check with specific questions around the applicant's ability to relate to children;
- Letters of appointment provide clauses outlining, with direct access to, the School's key Child Safe policies;
- Formal acceptance of a position at the School includes separate written declarations:
 - disclosing any offences committed;
 - disclosing any relationships with current students in a personal or social context;
 - attesting that the successful candidate has read and understood our key Child Safe documents and has specifically understood the Code of Conduct;

- Induction for each new staff member includes an opportunity to seek clarification about anything in the documents and to receive similar information already rolled out to existing staff.

3.6 Keeping child protection front of mind

Having progressed the initial implementation of the Standards, we still needed to address Standards 1 and 6 more comprehensively to keep child protection on the table and to work towards embedding the Standards in our practice. It was agreed to trial the following processes in the first year:

- The Child Protection/Pastoral Care Team to conduct a detailed risk assessment each semester to identify and rate the level of Child Safety risks in the School (Department resources for Standard 6¹⁵ have been most helpful in this regard). Included in this risk assessment is to identify the controls in place, the actions that have been taken to mitigate risk in the past three months and the proposed actions to be taken in the next three months;
- Child protection to be a standing item for the Pastoral Care Team at their meetings twice per term – the minutes and actions are reported up to Leadership;
- Child protection to be a standing item for the Occupation Health and Safety Committee – minutes and actions reported up to the Risk & Compliance Subcommittee of the School Board who also oversee the School's Risk Management systems;
- Child protection to be a standing item at staff meetings at least once per term;
- Each year the whole staff (including casuals, sessionals, contractors) are to re-visit the Standards and to attend a face to face meeting to receive updates in legislated requirements and to undertake the training: while we can do some work by email and online, we believe there is no substitute for the personal approach.

4. Towards full compliance: measuring effectiveness

While we believe we have pushed off from the bank, as it were, and have put in place the building blocks of a compliance framework in relation to Child Safe Standards and their implementation, we are yet to develop formal mechanisms for measuring the effectiveness of the strategies employed. It is still relatively early days and the refinement of the Risk Assessment process related to Standard 6 may assist in this regard.

A well designed non-onerous brief questionnaire to survey school community members about their understanding of our own School's policies and processes would be a welcome development to give some objective measure of the effectiveness of the strategies that have been implemented. For example, would one know what to do, where to start or whom to approach to raise an issue in relation to child protection? Does one feel empowered to raise an issue? We need more than a subjective "good" feeling about how we are travelling.

If we are truly attempting to embed a culture and to affect the collective mindset, then we need a proactive approach to quality assurance about our ownership of what we do rather than to wait for some external random audit to come around or, worse still, a preventable instance of child abuse actually occurs because the system was not as effective as we thought it was. It is one thing to have a broad knowledge of legal and regulatory

¹⁵Victorian Dept Education & Training Child Safe Resources
<http://www.education.vic.gov.au/about/programs/health/protect/Pages/childsafestandards.aspx>

obligations by completing an externally provided training module but quite another to create a culture of individual and collective ownership of risk.

5. Too much may not be enough

In doing a thorough job of implementing the standards there was one example of an unintended outcome – the Year 10 Work Experience program for 2017 was suspended, the rationale being that the once the student was in the workplace, the School had no guarantees about the suitability of all of the people in the workplace with whom the student might come into contact. Is it feasible, for example, for every single co-worker to have a Working with Children Check? Students could be in more than one worksite, the organisations where students do placements are of such varying sizes and possible locations. Consequently, it seemed there were no guarantees from the School's perspective about student safety.

The current documentation for Work Experience is exhaustive with forms completed and signed by employers, students and parents and the Principal with undertakings given by all parties. With the implementation of the Standards, we also sent out our Child Safety documents to the employers and required an acknowledgement that they had read and understood them. We even had a workplace lawyer speak to the Year 10 cohort prior to the 2016 program to alert students to their rights and responsibilities in the workplace and to explain that there are mechanisms to report inappropriate behaviour not just from a Child Safety perspective but also from a Workplace Law perspective.

It is not difficult to argue the benefits of a work experience program: an experience aimed at developing personal skills for the very purpose of empowering students to engage with life beyond the classroom as they begin to make subject and life choices. We are wanting students to take risks, within certain boundaries, and yet the School is hesitating in taking a risk, even with all these risk management procedures in place. We now have a situation where students will organise their own work experience and the School's capacity to regulate will not be available to the student. It is hoped that we can develop mechanisms to be able to re-instate Work Experience rather than the absolute solution of cancellation being the only option for the School to take.

The challenges in overseeing a work experience program in light of the Standards highlights a broader issue schools face in keeping children safe: the blurred boundaries of the modern classroom. Schools not only have to contend with external workplaces, but also the online world. Students can be exposed to a range of dangers in their social media activities, including while on school property, or in engaging with their peers outside of school hours. What can the responsibilities of the school under the Standards reasonably be in protecting students from the myriad of dangers that exist in the virtual world and outside the classroom? This is an area which requires further development.

6. Summary

Compliance with the Standards is a continuous work in progress, with constant re-visiting and evaluation and refinement over an extended period of time: it is a framework for building on rather than a list of tick box items. Resources have been provided to commence with getting the basics in place but the challenge is to take ownership of the Standards across the entirety of the organisation from the top down.

There is still work to do in developing robust mechanisms for evaluating the effectiveness of the strategies employed in implementing the Standards and we need to be vigilant in ensuring that in the process of protecting our children that we are not disempowering them – which then makes them more vulnerable to abuse.

The CECV statement *Commitment to Child Safety*¹⁶ provides three broad principles to guide our decision making in this regard where schools:

1. Uphold the primacy of the safety and wellbeing of children and young people;
2. Empower families, children, young people and staff to have a voice and raise concerns;
3. Implement rigorous risk-management and employment practices.

If the effect of over regulating prevents risk taking altogether or people are discouraged from speaking up then schools have failed to do their job.

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Resources

Betrayal of Trust, Victorian Parliamentary Inquiry,
<http://www.parliament.vic.gov.au/fcdc/inquiries/article/1788>

Catholic Education Commission of Victoria (CECV) resources
<http://www.cecv.catholic.edu.au/getmedia/5c2c1710-f784-424d-ba9a-6443e1993fbe/Child-Safe-Standards-intro.aspx> - includes links to other useful resources

Loreto Mandeville Hall Toorak Key Child Safe Policies
<http://www.loretotoorak.vic.edu.au/child-safety-policies>

Ministerial Order 870, Victorian Government, 22 December 2015
<http://www.gazette.vic.gov.au/gazette/Gazettes2016/GG2016S002.pdf>

Protect Child Safe Resources, Victorian Government, Department of Education & Training,
<http://www.education.vic.gov.au/about/programs/health/protect/Pages/default.aspx>

Protecting Children – Mandatory Reporting and other Obligations, eLearning module,
Victorian Department Education & Training
<http://www.elearn.com.au/det/protectingchildren/external/>

¹⁶ <http://www.cecv.catholic.edu.au/getmedia/b5d43278-51b9-4704-b45a-f14e50546a70/Commitment-Statement-A4.aspx>

Victorian Registration and Qualifications Authority (VRQA) resources
<http://www.vrqa.vic.gov.au/childsafepages/resources.html>