

**Our Ref:** MM:WGS

**Please reply to:** Brisbane office

5 February 2021

Office of the Children's Guardian  
Locked Bag 5100  
Strawberry Hills  
NSW 2012

**By email:** [policyteam@kidsguardian.nsw.gov.au](mailto:policyteam@kidsguardian.nsw.gov.au)

Dear Office of the Children's Guardian

## **Exposure Draft of the Children's Guardian Amendment (Child Safe Scheme) Bill 2021**

knowmore commends the New South Wales Government for its decision to implement and legislate the Child Safe Standards identified by the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).

We welcome the opportunity to make a submission on the Exposure Draft of the Children's Guardian Amendment (Child Safe Scheme) Bill 2021 (the Draft Bill). We have no concerns about our submission being published.

### **About knowmore**

knowmore is a national, free and independent community legal centre dedicated to providing legal information, advice, representation and referrals, education and systemic advocacy for victims and survivors of child abuse, including institutional child sexual abuse.

Our service was established in 2013 as to assist people who were engaging with or considering engaging with the Royal Commission. Since 1 July 2018, knowmore has been

funded by the Australian Government<sup>1</sup> to deliver legal support services to assist survivors of institutional child sexual abuse to access their redress options, including under the National Redress Scheme.

### ***Our clients in New South Wales***

knowmore has a significant client base in New South Wales — 19 per cent of our current clients reside in the state.<sup>2</sup> We therefore have a strong interest in New South Wales law reform that seeks to ensure that institutions are safer for children.

### **Overall position on the Child Safe Standards**

The Royal Commission shed light on the nature and extent of child sexual abuse in Australian institutions, including in schools, out-of-home care, youth detention environments, health and allied services, services that support people with disabilities, child care centres and youth groups, and recreational clubs and associations. The Royal Commission concluded that institutional child sexual abuse is not a problem of the past, and that “institutional cultures and practices that allow abuse to occur and inhibit detection and response continue to exist in contemporary institutions.”<sup>3</sup>

The Royal Commission developed the Child Safe Standards as a benchmark against which all institutions can assess their child safe capacity.<sup>4</sup> The Child Safe Standards are designed to ensure that an institution that engages in child-related work upholds the rights of all children under their care and supervision and

*consciously and systematically creates conditions that reduce the likelihood of harm to children, creates conditions that increase the likelihood of identifying and reporting harm, and responds appropriately to disclosures, allegations or suspicions of harm.*<sup>5</sup>

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<sup>1</sup> Represented by the Attorney-General’s Department and the Department of Social Services. knowmore also receives funding from the Financial Counselling Foundation.

<sup>2</sup> As at 31 December 2020. See knowmore, National infographic, December 2020, <<https://knowmore.org.au/wp-content/uploads/2021/01/Infographic-December-2020.pdf>>.

<sup>3</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 6, Making institutions child safe*, 2017, p. 14, <[https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_volume\\_6\\_making\\_institutions\\_child\\_safe.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_6_making_institutions_child_safe.pdf)>.

<sup>4</sup> Ibid, p. 13.

<sup>5</sup> Ibid, p. 12.

knowmore strongly supports the full implementation of the Royal Commission’s Child Safe Standards and related recommendations in all Australian jurisdictions. In our view, this is essential to reducing the risk and incidence of child sexual abuse in Australian institutions and ensuring that institutions respond appropriately to allegations of child sexual abuse.

knowmore notes that the Child Safe Standards have been incorporated into the National Principles for Child Safe Organisations (the National Principles) which were endorsed by all Australian governments in February 2019.<sup>6</sup>

### **knowmore's position on the Exposure Draft of the Children’s Guardian Amendment (Child Safe Scheme) Bill 2021**

knowmore supports the Exposure Draft of the Children’s Guardian Amendment (Child Safe Scheme) Bill 2021, which implements key elements of Recommendations 6.4 to 6.11 from the Royal Commission’s Final Report.<sup>7</sup> In particular, we support:

- The Child Safe Standards outlined in the Draft Bill, which are consistent with the standards recommended by the Royal Commission.
- The Child Safe Standards being the primary framework that guides child safe practice.
- That organisations deemed to be child safe organisations will be required to implement the Child Safe Standards, although see our comments on page 4 of this letter, regarding possible limitations with the definition of child safe organisation in the Draft Bill.
- The Office of the Children’s Guardian being given responsibility for monitoring and enforcing the Child Safe Standards, noting that the Royal Commission recommended that this role should be performed by an independent oversight body.<sup>8</sup>
- The broad range of functions given to the Office of the Children’s Guardian, including the ability to
  - raise awareness and support capability building within organisations
  - monitor and report on an organisation’s compliance with the standards
  - investigate complaints or concerns
  - enforce compliance with the standards and
  - share information about risks to child safety with other government agencies, including oversight bodies in other states and territories.<sup>9</sup>

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<sup>6</sup> Australian Human Rights Commission, *National Principles for Child Safe Organisations*, AHRC, Canberra, 2019 < [https://childsafe.humanrights.gov.au/sites/default/files/2019-02/National\\_Principles\\_for\\_Child\\_Safe\\_Organisations2019.pdf](https://childsafe.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf)>.

<sup>7</sup> Above note 3.

<sup>8</sup> Ibid, Recommendation 6.10.

<sup>9</sup> Consistent with Recommendation 6.11.

### ***Issues for further consideration***

While overall knowmore considers that the Draft Bill establishes a comprehensive Child Safe Scheme consistent with the findings and recommendations of the Royal Commission, we recommend that the Office of the Children’s Guardian give further consideration to the definition of child safe organisation in proposed section 8AA.

The Royal Commission recommended that state and territory governments should require all institutions in their jurisdictions that engage in child-related work to comply with the Child Safe Standards.<sup>10</sup> At Recommendation 6.9, the Royal Commission set out a list of the types of institutions that should be subject to legislative requirements to comply with the Child Safe Standards.

knowmore is concerned that the proposed definition of child safe organisation is overly limited and may not sufficiently cover the types of institutions identified by the Royal Commission. For example, it is not clear whether the Child Safe Scheme will apply to:

- all organisations providing justice and detention services for children
- all clubs and associations providing activities or services for children
- all coaching or tuition services for children
- all commercial services for children or
- all transport services for children.

knowmore strongly recommends that the Office of the Children’s Guardian review Recommendations 6.8 and 6.9 from the Royal Commission’s Final Report and consider amending the definition of child safe organisation to ensure that the Child Safe Scheme covers all organisations engaging in child-related work in New South Wales and that children under their care and supervision are adequately protected from the risk of child abuse.

Should you wish to discuss this submission further, please contacted me on 07 3218 4500 or at [Warren.Strange@knowmore.org.au](mailto:Warren.Strange@knowmore.org.au).

Yours faithfully,



**WARREN STRANGE**

Chief Executive Officer

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<sup>10</sup> Ibid, Recommendation 6.8.