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To whom it may concern,

Thank you for the opportunity to make comment on the draft *Child and Youth Safe Organisations Bill 2022*.

We note this bill is substantially more detailed than the 13-page threadbare draft *Child Safe Organisations Bill 2020*. Many aspects of it – including appointing and empowering regulators, as well as the broader application of the principles, are welcome additions.

Funding Agreements

Section 8 of the draft *Child Safe Organisations Bill 2020* stipulated that Agencies must not enter into funding agreements for child-related services unless the recipient can demonstrate compliance with the principles and standards.

While the new draft bill has the addition of many assessment and compliance tools that the previous draft bill did not have, the stipulation on funding agreements does not appear in the draft *Child and Youth Safe Organisations Bill 2022*.

Recommendation 1: The bill should include provisions requiring that funding agreements for child-related services not be entered into unless the recipient can demonstrate compliance with the standards – similar to section 8 of the previous draft bill.

The Regulator

The supporting material does not indicate what structure the regulator will take. That is, whether it will involve the establishment of a new office, or if an existing officer will be appointed to be the regulator. We have some concerns that it may be intended to be the Ombudsman.

We observe that the Ombudsman has been allocated, in general, too many roles. While the Ombudsman may be allocated staffing resources for each function – the ever-increasing burden of statutory offices assigned to a single person reduces access for all staff, across various functions, to their principle officer.

We believe it to be appropriate for the Commissioner for Children and Young People to be appointed to this role – similar to the arrangement in Victoria.

The Commissioner is suitably independent, and already has access to a range of relevant expertise.

Recommendation 2: The Commissioner for Children and Young People is the most appropriate statutory officer to be appointed as the regulator.

Powers of the Regulator (sections 8 and 11)

8(2) confers on the regulator “the power to do all things reasonably necessary or convenient to be done in connection with the performance of his or her functions.”

Section 11 goes on to provide a list of powers the regulator has in respect of the standards, highlighting their powers under sections 12,13,14,15 and Part 5.

We are curious about whether section 11 will have the effect of limiting the generality of section 8(2), insofar as it relates to the standards, and whether this is by design.

Recommendation 3: Further detail be provided in the supporting material for the final bill, regarding whether section 11 will have the effect of limiting the generality of section 8(2) insofar as it relates to the standards.

Powers of the Regulator (sections 8 and 11)

Sections 13 and 18 sets out the power for the regulator to inspect a premises. Under subsections (2) and (3) of both sections, the regulator, even in exceptional

circumstances, can only inspect the entity with the consent of the head of the entity.

Recommendation 4: Consideration be given to extending the powers of the regulator to inspect premises without consent of the head of the entity – particularly where the regulator has compelling evidence that standards have been breached, encountered consistent obstruction, or is reasonably of the view that forewarning of an inspection could result in an investigation being compromised.

Entity regulators

The powers explicitly granted to entity regulators under this Act are limited. Section 31(1)(a)(iii) requires the head of an entity to allow an entity regulator to ‘investigate’, and section 34(3) allows information to be shared with an entity regulator.

Specific powers, however, are lacking. While the head of an entity is required to allow an entity regulator to investigate – there is no clear indication in the Act of what this must entail. It is also not clear whether this provisions actually confers powers on an entity regulator to, for example, enter premises, compel documents, interview employees, etc.

While an entity regulator may be intended to draw on their own statutory powers – there is likely to be a wide range of disparate powers, particularly for entity regulators that are entity regulators by virtue of their status as a funding provider, rather than being a ‘regulator’.

Recommendation 5: Provisions be drafted outlining a specific set of uniform powers for entity regulators.

Accessibility of Documents

On a final note, we observe that the supporting documentation provided is not very user friendly.

It appears that these PDFs are vector formatted. The header and footer images are particularly problematic as they are a series of independent lines that need to be rendered by PDF readers and web browsers.

The result is that these documents are slow to load in PDF readers, take a significant amount of time to ‘flatten’ before printing, and appear to be rendered page-by-page in web browsers which results in frustratingly janky scrolling.

We are not in the habit of making comments of this nature, however the experience of trying to read these documents was particularly frustrating and difficult. We urge the Department to use more user-friendly design and or formatting in the future, even if it is at the expense of image quality.

Yours sincerely,



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