



## CHILD PROTECTION LAW & REGULATION WA- an overview

### Child Protection WA

The legal and regulatory framework for child protection in WA is made up of a complex web of laws, regulations and guidance notes.

### Western Australian Registration Standards for Non-Government Schools

There are several registration requirements that are relevant to child safe organisations and child protection, and with which PVS is required to comply for the purposes of the school's registration. These are set out in the Registration Standards for Non-Government Schools (determined by the Minister for Education under section 159(1) of the School Education Act 1999 (WA)) (the Registration Standards). The relevant Registration Standards are:

Registration Standard 10 – Child Abuse Prevention

Registration Standard 9 – Complaints

Registration Standard 7 – Critical and Emergency Incidents

To provide more detailed guidance for schools, the Department of Education in Western Australia (Department of Education) has released a [Guide to Registration Standards and Other Requirements for Non-Government Schools](#) (the Registration Standards Guide). The Registration Standards Guide includes further guidance for schools on how to meet the Registration Standards. For clarity, note that the Registration Standards Guide has given Standard 10 the title "Child Abuse Prevention" which is different to the title in the Registration Standards.

**The rest of this section details how the school meets each of the relevant Registration Standards.**

### The National Principles for Child Safe Organisations

Registration Standard 10 requires PVS to comply with the National Principles for Child Safe Organisations (National Principles). For clarity, note that Registration Standard 10 refers to the "National Child Safe Organisation Principles" which is different to the title of the Australian Human Rights Commission's document setting out the National Principles.

The National Principles are comprised of 10 Principles that were informed by, but go further than, the 10 Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse.

The National Principles are:

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture

2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously
3. Families and communities are informed and involved in promoting child safety and wellbeing
4. Equity is upheld and diverse needs respected in policy and practice
5. People working with children and young people suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes for complaints and concerns are child focused.
7. Staff and volunteers are equipped with knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

### **Prescriptive Legal & Regulatory Requirements**

There are six separate pieces of legislation that work together to make up the legal and regulatory framework for child safe organisations and child protection in WA. They are summarised below.

#### The School Education Act 1999 (WA)

The key function of section 159 of the School Education Act is to give the Minister for Education the power to determine standards about a number of matters. Section 159(1)(l) allows the Minister to determine standards about ‘preventing and responding to child abuse.’

#### Children and Community Services Act 2004 (WA)

The Children and Community Services Act has a number of functions, including to make provisions about the protection and care of children and to provide for the sharing of information relating to the safety and welfare of children.

From a child protection and child safe organisation perspective, the Act defines “harm” and when a child is “in need of protection”.

The Act sets out mandatory reporting obligations requiring all teachers, boarding supervisors, doctors, nurses, midwives, ministers of religion and police officers in WA to report reasonable suspicions of child sexual abuse (note that grooming behaviour may also be ‘sexual abuse’ which must be reported under the Children and Community Services Act).

The Act also enables anyone who has a child protection concern, for any reason, to make a report. The Act makes it an offence for a person with care or control of a child to fail to protect the child from known child abuse or neglect (section 101).

#### Working with Children (Criminal Record Checking) Act 2004 (WA) and Regulations 2005 (WA)

The Working with Children (Criminal Record Checking) Act establishes the Working With Children Check (WWC Check): a framework to screen the criminal records and the professional conduct of people who intend to work with or care for children.

People who are assessed as posing an unjustifiable risk to the safety of children will fail the WWC Check and the Act prohibits these people from working with children.

The Act imposes penalties for schools and individuals that do not comply with the Act. The Regulations set out who is exempt from needing a WWC Check, what is not “child-related work” and criminal offences that will result in a person failing the WWC Check.

#### Teacher Registration Act 2012 (WA)

The Teacher Registration Act establishes the Teacher Registration Board of WA (TRBWA). The TRBWA is the body responsible for the registration of teachers in WA.

Under the Act, teachers must notify the TRBWA if they are subject to certain circumstances that may impact on their fitness to be a registered teacher, including if they are convicted of certain offences, are involved in certain conduct that resulted in an order to pay civil damages, or fail a WWC Check.

In addition, the school must notify the TRBWA once the school has taken disciplinary action (suspension or dismissal) against a registered teacher, or the teacher has resigned, for serious misconduct or incompetence. The TRBWA then has powers to investigate and take further action.

#### Restraining Orders Act 1997 (WA)

The Restraining Orders Act provides a legal definition of family violence.

#### Criminal Code Act Compilation Act 1913 (WA)

The Criminal Code Act Compilation Act sets out a number of criminal offences that are relevant to child protection and child safe organisations. These include the following, which are particularly relevant to the school:

Duty to provide the necessities of life (section 262)

Sexual offences against a child under 13 (section 320)

Sexual offences against a child of or over 13 and under 16 (section 321) and

Sexual offences against a child of or over 16 by a person in authority (section 322).

These sexual offences also criminalise grooming behaviour.

#### **Our Child Safe Program**

In order to comply with the requirements of the National Principles for Child Safe Organisations, the Registration Standards and Registration Standards Guide, as well as each of the six separate pieces of legislation noted above, **Pioneer Village School** has established this Child Safe Program which sets out our work systems, practices, policies and procedures designed to not only ensure compliance, but also to develop a safe and supportive school environment with a child safe culture.

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