National Child Safety Review: Consultation Regulation Impact Statement

11 June 2025

Laurel House
SEXUAL ASSAULT SUPPORT
COUNSELLING • EDUCATION • ADVOCACY • CHANGE

Acknowledgement of Country

Laurel House acknowledges and pay respect to the Palawa, who are the Traditional Custodians of the land and waters of Lutruwita. We pay respects to Elders past and present. We particularly acknowledge the resistance and resilience of those Aboriginal people who have experienced sexual violence.

Acknowledgement to Victim-Survivors

Laurel House also honour and acknowledge the victim-survivors of child sexual abuse and other forms of sexual violence. We recognise the immense strength it takes to confront and heal from these traumatic experiences. We commit to amplifying your voices, advocating for change, and standing side by side on the path to healing and recovery.

This document was written by Dr. Lucy Mercer-Mapstone (Policy, Advocacy, and Lived Experience Lead) and Elise Whitmore (Policy Officer) with input from Laurel House staff.

About Laurel House

Laurel House is a not-for-profit, community-based sexual assault support service based in North and North-West Tasmania. Laurel House provides a range of trauma-informed, evidence based, therapeutic services to victim-survivors of sexual assault, their families and supporters. We also develop and deliver a broad range of programs to adults, young people and children including the provision of therapeutic face-to-face counselling at our centres located at Launceston, Devonport and Burnie and through outreach locations across the North and North-West Tasmania, and 24/7 telephone support and assistance with accessing police and forensic medical processes.

Laurel House partners with the Tasmanian Government in the delivery of the Arch Centres (multidisciplinary centres for victim-survivors of sexual harm) with the Northern Arch Centre opened in 2023 and the North-West Arch Centre currently under development.

Laurel House delivers the PAST (Prevention, Assessment, Support and Treatment) Program for children and young people (aged 17 years and under) who have displayed harmful sexual behaviours in North and North-West Tasmania in partnership with the Sexual Assault Support Service and Mission Australia.

Laurel House currently delivers a schools program to 12 schools in North and North West Tasmania as part of the Latrobe University Partners in Prevention initiative, funded by the Australian Department of Social Services.

Our team also provides community education and other capacity building programs focused on the prevention of sexual harm and on supporting parents, carers and service providers to better respond to disclosures of sexual violence.

Laurel House plays a key role in policy and advocacy work to improve the lives and safety of victim-survivors and the Tasmanian community. This includes our Laurel House Expert Advisory Panel for Youth (LEAPY) which is a program that provides victim-survivors aged 12 to 18 years with an opportunity to advocate and drive change.

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To whom it may concern:

Thank you for the opportunity to provide feedback in relation to the National Child Safety Review Regulatory Impact Statement. Laurel House welcomes the commitment to strengthening protections for children in Early Childhood Education and Care (ECEC) services.

As a specialist sexual assault support service working with children, young people, and adults across northern Tasmania, Laurel House sees firsthand the long-term impacts of childhood sexual abuse – and the critical role that ECEC services, educators and other workers can play in prevention, early intervention, and response.

While we are generally supportive of a combination of regulatory and non-regulatory interventions proposed in the Impact Statement, our submission also suggests several amendments that we think strengthens the child safety response in these proposed reforms.

In addition to child safety, we have also considered the highly feminised nature of the ECEC workforce and specific attributes such as identity or lived experiences that may lead to marginalisation. Our submission aims to mitigate any unintended consequences from new regulations on marginalised groups in any recommendations we make. We also seek to highlight and protect the importance of ECEC services in fostering connection and community for vulnerable people.

Laurel House supports continued advocacy and regulation that centres children's rights and strengthens our collective responsibility to protect children from harm. While regulatory amendments go some way to increasing child safety, any reforms need to be reinforced with education, resources, financial subsidies for compliance, and support for cultural change.

We appreciate the opportunity to contribute and would welcome any further discussion on how the ECEC educators and other workers can support safe and protective care and learning environments for all children.

Kind regards,

Kathryn Fordyce

Chief Executive Officer

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Introduction and Overarching Topics

We appreciate the opportunity to contribute to this review and would like to emphasise that we found the provision of the "Summary by theme" documents particularly useful and well laid out in supporting us to do so.

In the below sections of the introduction, we highlight some key issues that span across our submission and the themes of the consultation. Following this introduction, we outline our responses according to each of the six themes laid out in the consultation documents.

The Importance of Cultural Change

Laurel House understands that to prevent child sexual abuse (CSA) we need more than regulatory change. We need to shift cultural understandings around the causes and drivers of CSA, the gendered nature of offending, the grooming process, and take collective responsibility for promoting children's rights and in ensuring their protection and safety.

The Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings (COI) highlighted the need to move away from a culture of obfuscation, coverups and secrecy, to one of openness, transparency, and accountability. While regulatory change is important, implementation needs to occur in conjunction with resourcing, training and education, and prioritising lived-experience voices and specialist support services.

We highlight that these issues are also of utmost importance relating to the topics laid out in the child safety review.

Early Childhood Education and Care (ECEC) Services and Family Violence

Women are both more likely to be primary caregivers for children and more likely to be victim-survivors of domestic, family and sexual violence (DFSV). Laurel House recognises the important role ECEC services play in creating safe, community-connected spaces for women and children in these circumstances. Women experiencing DFSV—particularly coercive control—are often prevented from accessing support services, attending appointments, or maintaining contact with family and friends. However, they often describe being "allowed" to attend schools, childcare centres, and other child-related appointments, making ECEC services a unique and critical point of access to safety and support.

ECEC services are not only community hubs but also serve as key sites for the early detection of child abuse and neglect. Laurel House hears from educators and other ECEC workers how frequently they report concerns on these issues to child safety services and police. ECEC educators and other workers are the eyes and ears outside of the home, often noticing early warning signs of harm and providing safe environments that can disrupt patterns of abuse. These settings also play a protective role for parents experiencing post-natal depression or situational adjustment disorders—conditions that are exacerbated by social

isolation, sleep deprivation, and the stresses of early parenting and increase risks of experiences DFSV and/or CSA in homes. When supported through ECEC services, parents gain access to professional help, peer mentoring, and community connection—factors that reduce susceptibility to DFSV and improve safety for children.

Given this multifaceted value, any regulatory changes that may threaten the ongoing operation or viability of ECEC services —such as the inability to obtain a waiver—must carefully weigh the broader community impacts. This is particularly critical in rural or remote locations, where alternative services may be limited or non-existent. In the below submissions, we have sought to balance the imperative of child safety with the reality that ECEC services are often vital sources of support, intervention, and care for children and families.

Feminised Workforce

Laurel House acknowledges that the ECEC workforce is highly feminised and low paid. This is the case across the board, whether working for a large for-profit provider, a small not-for profit service, or a Family Day Care (FDC). Although Laurel House's focus is on child protection and safety, specifically in relation to sexual abuse and harm, we recognise that the ECEC workforce is also at risk of exploitation and abuse in other ways. In our submission, we have tried to consider particular attributes that may make an ECEC worker marginalised or vulnerable. These attributes include being of CALD background, being a victim-survivor of violence or abuse, being a member of the LGBTIQA+ community, Aboriginal or Torres Strait Islander, sole-parent, short-term visa holders, and/or having a disability. Again, we try to balance the safety and well-being of these workers with prioritising safety for children – where possible suggesting solutions which suit both cohorts.

Gendered Nature of Offending

Our submission sets out recommendations for risk assessment, specifically in relation to the risk of systems abuse and discrimination. In undertaking any risk assessment in this area, it is imperative to consider gender, and the significantly higher rates of CSA offending from men as opposed to women. Available studies suggest that 93.9% of CSA perpetrators are men[1]. Experience of CSA are similarly gendered with 37% of Australian women and 19% of Australian men over the age of 16 having experienced sexual abuse as children, either by adults or by other children/adolescents[2].

[1] https://www.childsafety.gov.au/about-child-sexual-abuse/who-perpetrates-child-sexual-abuse#6

[2] https://www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/

1. Management of digital devices

Laurel House recommends a combination of Option 2 and Option 3.

We know that taking photos and videos of children while in ECEC services can have multiple benefits. These include to communicate with parents, caregivers, and family members of children, and to track or record learning and development. However, given the specific vulnerabilities of very young children while in ECEC services, these benefits need to be weighed against the risk of perpetrators having access to children for the purpose of creating child sexual abuse material (CSAM).

While Option 2 alone may address some risks around the inadvertent or unintentional creation and distribution of images of children, unless there is a prohibition on workers carrying their own personal devices the risk of images being deliberately taken to create CSAM is not sufficiently mitigated.

We suggest that in some limited circumstances exemptions should apply to grant workers access to their personal devices during work hours. Exemptions should apply only where there is no other reasonable alternative (not being able to use the ECEC service phoneline, for example). Exemptions may include:

- If the worker has a disability or health condition that requires them to carry their personal device; or
- If the worker is a primary carer to a child or children, or another dependent person, who has a health condition or disability that requires that person to have direct and immediate contact with them during their working hours, and there is no other form of contact available; or
- If the worker is experiencing another event or emergency, for which they may need to be contacted directly
- Lawful compliance with a requirement of the *Fair Work Act* (Cth) 2009
- Lawful compliance with a request for a reasonable adjustment under applicable State and/or Federal anti-discrimination legislation, including but not limited to the *Disability Discrimination Act* (Cth) 1992, the *Sex Discrimination Act* (Cth) 1984, and/or the *Racial Discrimination Act* (Cth) 1975.

If an exemption is granted, it should apply for the shortest possible period of time. If the exemption is ongoing (in relation to disability, for example), it should be reviewed regularly within reason.

We note that none of the options listed address the issues of:

- children accessing devices that they themselves may bring into an ECEC,

- the impact of being exposed to explicit material or pornographic content in that manner, or
- parents and caregivers bringing their own devices into an ECEC service.

The above issues pose similar risks to those being mitigated here in relation to workers' personal devices. We do not believe the review options sufficiently discuss, cover, or mitigate these related risks. We recommend furthering the scope of the review to explore these issues and provide options to similarly mitigate them.

The implementation of both Option 2 and Option 3 reinforce a culture that prioritises children's safety and privacy. Regulations should be backed up with education and clear policy and procedure recommendations and examples which are provided to ECEC services around informed consent, from both children and their caregivers, as to what, when, how, and why images are captured and shared for each child in care (e.g., do caregivers consent to have their child included in group photos which may be distributed to a large number of other families?). The same resources should be provided in relation to how ECEC services will monitor and enforce the use of service-issued devices only, acknowledging that smaller providers may not have the capability or resources to develop such procedures themselves.

We understand that teachers in schools will still be able to access their personal devices, therefore creating a potential inequality between teachers and ECEC educators as well as risk to children in schools, acknowledging that this issue is beyond the scope of this review.

If these regulations are implemented, we suggest financial support should be made available to smaller ECEC services, particularly FDCs, to offset the cost of compliance. This could be, for example, by having access to apply for subsidies to support implementation.

We know that there can be added complexity to the harm caused to victim-survivors if CSAM is known to have been distributed. Once an image has been distributed, it is often impossible to know who, or how many people, have access to it. It is therefore crucial that the systems, practices, and regulations operating in ECEC services adequately mitigates the risk of content which could feasibly be distributed or used as CSAM being produced in the first place.

2. Child Safety Training

Laurel House recommends the implementation of Option 2, Option 5, and Option 6 (with amendments proposed to Option 6).

For training in relation to child protection and child safety to contribute to cultural change, it needs to be regular, tailored, and contribute to embedding an understanding and practice of child safety for *all* workers and challenge deeply

entrenched attitudinal social conditioning. Child safety training, when required for all workers, reinforces a culture that it is everyone's responsibility to keep children safe.

Most Australian adults are not well prepared to identify or respond to CSA, indicating a need for prevention initiatives to enhance the capability and confidence of all adults who care for children to detect and respond to CSA risks. For example, the 2023 Australian Child Sexual Abuse Attitudes, Knowledge and Response Study found that only 20% of Australian adults had high confidence that they could recognise the signs or behaviours of when a child has been sexually abused and 52% said that they didn't know how to keep a child safe from sexual abuse.[3]

Child safety training should also aim to combat myths about CSA and sexual assault. Disturbingly, the same study also found that myths persist around CSA, including that 40% of respondents agreed that older children have a responsibility to actively resist sexual advances made by adults, 12% agreed that girls who wear revealing clothing can be blamed for sexual abuse, and 8% attributed CSA to disobedient children.

The study also found that, in relation to grooming, 75% of adults could recognise grooming as a form of CSA. They could also identify examples of grooming that included sharing pornography with a child (88%) and asking a child to keep secrets from other adults (82%). However, they were less able to identify other forms of grooming, such as giving gifts to a child (36%), giving preferential treatment to a child (42%), and encouraging a child to believe they are special (43%).

Given this context, we support the implementation of Option 2, Option 5, and Option 6. We propose amendments to Option 6, the uptake of which would be necessary for our full endorsement of this Option. We recommend that training, where possible, should be developed in consultation with and/or conducted by specialist sexual assault support services within each state or by services specialised in engaging with specific cohorts such as First Nations providers.

We propose the following amendments to Option 6 (Regulatory) from:

> ***Legislative change to require mandatory child safety training which is nationally consistent, of a high quality, and tailored for all people involved in the provision of education and care services (including people who do not directly work with children), with a requirement to complete refresher training every two years.***

To:

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[3] https://nationalcentre.org.au/research/australian-child-sexual-abuse-attitudes-knowledge-and-response-study/

Legislative change to require mandatory child safety training tailored for all people involved in the provision of education and care services (including people who do not directly work with children), with a requirement to complete refresher training every two years. States and Territories must develop child safety training in alignment with nationally prescribed core curricular content to ensure training is nationally consistent and of a high quality while allowing for tailoring to and alignment with jurisdictional context.

This amendment requires that there be a set of core curricular content in alignment with best practice in child safety training and evidence but that the development of such training is a jurisdictional responsibility (rather than having a prescribed set of developed training modules at the national level). We suggest that States (and Territories) should be able to design modules or content to the mandatory training that references or integrates existing training in this area. For example, in Tasmania, the Child and Youth Safe Organisations Framework (CYSOF) requires workers to be educated on CSA and workers' state-based obligations fall under the *Child and Youth Safe Organisations Act* 2023.

We propose that any regulatory change does not require workers to duplicate training, or spend more time or money than necessary, to achieve the same outcome. Therefore, training must be able to consider geographical context. While we agree that a nationally consistent approach may be able to ensure all workers are learning the same content, a rigid approach doesn't allow for flexibility or targeting specific issues with a place-based focus. We take the view that a balanced approach such as this sufficiently mitigates the risk these reforms are aiming to address.

The Tasmanian COI made recommendations in relation to the implementation of a training certificate program that is mandatory for all education workers and volunteers within the Department of Education, Children and Young People (Recommendation 6.5). The recommendation sets out that training should cover things like appropriate standards of behaviour between adults and students, what to do if CSA is witnessed or disclosed, and relevant legal obligations for reporting under State legislation. Further, it sets out that training should be refreshed periodically. Initial feedback on the implementation of this recommendation is that workers have found it tokenistic, meeting only minimum standards, and that there is insufficient emphasis on recognising signs of potential CSA perpetrators such as grooming among colleagues and other adults within the school system, which is crucial for early detection. Training needs to go beyond compliance to emphasise the profound impact of proactive safeguarding measures. Such feedback on existing training programs at the jurisdictional level should be meaningfully considered when developing a national core curriculum, and in turn, a national core curriculum may be seen as an opportunity to address such feedback.

Training materials should be able to be supplemented with additional or alternative materials tailored to specific cohorts. For example, training materials must be trauma informed, and this can look different for different cohorts such as First Nations people, who must be given the right to create, review, tailor, and self-

deliver content in ways which are culturally safe. This may happen in a supported, place-based way or alternatively tailored training packages developed with and by First Nations people may be developed at the national level. The same may go for people from CALD backgrounds where interpretation may be required as well as for other priority cohorts.

We emphasise that a core curriculum must consider the increased risk of CSA in particular marginalised populations. For example, the prevalence of CSA experienced by sexually diverse Australians and Australians of diverse genders is significantly higher than that experienced by heterosexual Australians, even girls (52.6% and 51.9% respectively, versus 20.1% for all heterosexual Australians and 37% for girls).[4] In relation to children with a disability, both physical and intellectual disabilities place children and young adults at greater risk of CSA.[5] For example, children with a learning disability are 2.5 times more likely to be the subject of a sexual abuse allegation than children without a learning disability, regardless of other factors.[6]

All content developed for training or resources across relevant options should be done in partnership with people with lived experience of CSA, including victim-survivors from diverse backgrounds. This should undergo extensive input and review from specialist services with specific expertise in CSA.

We acknowledge there will likely be increased costs and resourcing requirements for ECEC services in relation to implementing additional training regulations, which may have a disproportionate impact on FDCs and smaller centres. We suggest that the rollout of these requirements be supplemented with education and policy/procedural resources, with grants made available by application for (e.g., small, or ACCO etc.) providers to comply. Providing support in this way will hopefully allow providers to choose high quality training options rather than the cheapest option for compliance.

3. Responding to educator and staff conduct

a. Making inappropriate conduct an offence

Laurel House recommends the implementation of Option 2 and Option 3.

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[4] https://journals.sagepub.com/doi/10.1177/10775595231226331

[5] https://aifs.gov.au/sites/default/files/publication-documents/rr33_0.pdf

[6] Bravehearts (2025), Nature of child sexual abuse: risk factors & dynamics**:** https://bravehearts.org.au/research-lobbying/stats-facts/nature-of-child-sexual-abuse-risk-factors-dynamics/

We are supportive of introducing 'inappropriate conduct' as an offence under the National Law. Currently, as the only offence under the National Law relates to inappropriate discipline (r.166), other forms of conduct are not able to be adequately dealt with. While inappropriate discipline captures behaviours that relate to corporal punishment, or discipline that is *unreasonable* in the circumstances, it does not include CSA, other forms of sexual misconduct (committed to or in front of a child), restrictive practices or grooming.

We note that the examples of misconduct provided in the paper don't include an ECEC worker's failure to act to protect a child. The COI states, at 4.4, "*Too often, our Inquiry revealed failures to take action to address risks adults posed to children and young people*." This was a theme running throughout the COI report. We suggest that any definition of misconduct should explicitly includes a failure to act to protect a child, specifically from CSA.

While we concede that some inappropriate conduct would meet the standard for someone being considered an "*unacceptable risk of harm to a child*," and the Regulatory Organisation could issue a prohibition notice on that basis, not all inappropriate conduct reaches that threshold, or the criminal standard for prosecution of a criminal offence. This currently leaves the matter to the individual ECEC service to deal with as an employment related issue, and we have concerns that does not, and cannot, adequately address issues of inappropriate conduct on a systemic basis.

Dealing with inappropriate conduct under an employment contract or a Code of Conduct (up to and including termination of the employee's employment) does not prevent that employee from obtaining work at another ECEC service and does not allow for the employee to be tracked between centres, or across jurisdictions. We have seen time and time again across sectors the risk this poses to CSA perpetrators continuing to abuse children by moving between different workplaces and jurisdictions without sufficient action being taken to prevent their access to children and to stop perpetration.

It is not uncommon, if there is a legal dispute about an employee's termination, for the parties to enter into a legally binding deed of agreement. These agreements are often used in Fair Work Commission complaints (including Unfair Dismissal Disputes and General Protections Dismissal Disputes) as well as discrimination complaints at both the Office of the Anti-Discrimination Commissioner (Tas) and the Australian Human Rights Commission (Cth). They often include mutual confidentiality obligations to prevent disclosure of information to third parties about a previous worker's conduct. This prohibits the employer from disclosing information, or warning other centres, should they become aware that a person has obtained employment working with children again. This is highly problematic.

In addition to the issue of mutual confidentiality obligations, ECEC services (particularly for-profit organisations) have a vested interest in protecting their revenue and reputation, which may lead to a conflict between the interests of the centre, and the safety of a child or children. This is especially the case if the inappropriate conduct relates to behaviours associated with grooming, which are

often misunderstood by adults. An employer may be unwilling to discipline an employee, including terminating them, if the conduct appears, to the untrained eye, not to be serious (e.g. giving a gift to a child). While employers have a responsibility to keep children in their care safe, they should not be placed in a position where they carry that responsibility or any litigation risk alone, in absence of systemic support. This is especially the case for smaller ECEC services, who may have limited access to Human Resource departments or employment lawyers. A lack of resources and support can compromise their ability to act, or to comply with regulatory frameworks.

We do acknowledge that jurisdictions will have their own mechanisms in place to try and mitigate risks of CSA in organisational settings such as the aforementioned Child and Youth Safe Organisations Framework in Tasmania where failure to report such allegations to the Office of the Independent Regulator is considered reportable conduct under the framework and related Act.

In addition to the issue of mutual confidentiality requirements in a deed of agreement, there is also the issue that relying on individual organisations to appropriately address inappropriate conduct may result in the employee simply being moved to another centre, which commonly occurred in religious institutions in the past as mentioned above.

Any new offence of inappropriate conduct should clearly define what it is and provide a list of non-exhaustive examples. We recognise that the introduction of an offence should be coupled with a roll-out of resources and information about ECEC service obligations that supports wider cultural change around acceptable conduct when working with and around children. This support should also include financial resourcing for smaller centres, including in the not-for-profit space, and FDCs to comply.

b. Enhancing Regulatory Authorities' ability to share information with approved providers

Laurel House recommends the implementation of Option 2, Option 3, and Option 4, with amendments.

We are concerned that currently there is a significant risk of harm occurring to children if a prohibited individual, or suspended FDC educator, can obtain employment in another ECEC service due to information not being available when initial checks are completed. The possibility of prohibition or suspension occurring *after* searches are done should give rise not only to an ability for the Regulatory Authority to disclose this information to the new ECEC service without a request, but an *obligation* to do so (see below for example). In addition, we submit that the changes should include an amendment that clearly stipulates that this disclosure should occur without the need for the individual to provide their consent, as laid out in the example below.

Option 3 (Regulatory)

Amend section 272 of the National Law to ~~allow~~ require the Regulatory Authority to share information about a prohibited person or suspended FDC educator with that person's current approved provider, without a request from the approved provider and without the need for consent from the individual in question.

We are also concerned that currently information about an enforceable undertaking is not able to be disclosed without the individual's consent, or without disclosure being a term of the undertaking. If behaviour or conduct has occurred that warranted an enforceable undertaking, at the very least the terms of that undertaking should be known by the new employer, for them to support that worker in fulfilling their obligations under it. As above, we suggest an amendment that it is made clear that this can be done without the consent of the person to whom the undertaking applies, as laid out in the example below.

In addition to information sharing, we are supportive of a National WWCC framework, which we detail below.

Option 4 (Regulatory)

Amend the National Law to ~~allow~~ require a Regulatory Authority to share information about a person's current enforceable undertaking with that person's current approved provider, without a request and without the need for consent from the individual in question.

While we acknowledge that some people may choose not to enter into an enforceable undertaking if they know it can be disclosed to future employers, we submit that the safety of children should take priority over the right for an undertaking to stay confidential. CSA has historically been able to go undetected because of a culture of secrecy, lack of transparency, and an inability for institutions and individuals to be accountable.

We also understand that individuals may enter into enforceable undertakings for behaviour or conduct that doesn't relate to CSA. In those circumstances, where behaviour or conduct has arisen because of issues such as cultural differences or language barriers, we recognise that some individuals may be disadvantaged by these changes. This is especially the case, given we know that the ECEC workforce is highly feminised, and includes many women of CALD backgrounds. There may also be similar impacts for other minoritised workers, and this review should further explore those impacts where these amendments are adopted. Therefore, where inappropriate conduct is minor, and substantially caused by a cultural misunderstanding or language barriers (or other related issues), we recommend the Regulatory Authority have discretion to withhold the terms of the undertaking after conducting a risk assessment that considers the following:

- The nature of the conduct (excluding matters that relate to child abuse or maltreatment, CSA, and grooming behaviours)
- Whether the conduct was reasonably likely to have an ongoing impact on a child or children, including psychological and emotional harm

- Whether the conduct had a physical impact on a child or children, including illness or injury
- Whether the terms of the undertaking are likely to correct any future inappropriate conduct
- The nature to which the worker has honoured the terms of the undertaking to date
- Whether the worker has been subject to any previous disciplinary action, including a previous undertaking.

In addition to the implementation of Option 3 and Option 4, we recommend that Option 2 should be implemented with amendment, following implementation of legislative changes, to develop communications on the revised process for accessing the NQA ITS solution.

c. Expansion of regulatory responses to educator and staff member conduct

Laurel House recommends the implementation of Option 2 (conditional), Option 3, Option 4, and Option 5.

To better protect children from inappropriate conduct, we suggest that a suspension notice/order should be able to be issued at a lower threshold than for a prohibition order. Suspensions may be for a specified period of time, allowing for further information gathering and investigations to take place.

We maintain, as set out above, that relying on service providers to address inappropriate worker or volunteer conduct in accordance with contracts of employment or Codes of Conduct is inadequate when it comes to addressing CSA risks. However, we are cognisant that where conduct does not relate to CSA, there may be situations where it might be appropriate to address conduct at a lower threshold than suspension. For example, cases where cultural differences lead to conduct that requires professional learning, and where conduct is a result of a misunderstanding, as discussed above. Where workers or volunteers are from marginalised backgrounds, there must be space for nuance and contextual information to be taken into account in the show cause process.

We note that if workers or volunteers are required to pay for their own re-training, this may further disadvantage workers who are already on low wages. We suggest there should be a fund available by application to support people to comply with new regulatory requirements when they are experiencing financial hardship.

Where CSA is not in question, we suggest that **Option 2** may still be a useful implementation to support the other regulatory options.

In relation to what threshold a suspension notice should be able to be issued, we suggest a burden of proof that is like other protective legislation, which includes

the decision maker having a "reasonable belief" or a "reasonable suspicion." While we acknowledge that workers or volunteers may be suspended in circumstances where their conduct did not pose a risk of CSA, we are of the view that when it comes to CSA, standards of proof need to shift. We need to accept that to adequately protect children, we need to err of the side of the child and child rights, not the side of the alleged perpetrator.

While we support a lower threshold for suspension, we reiterate points we have made above about the vulnerable nature of the ECEC workforce, and the risk of systems abuse (the misuse of legal, bureaucratic, or institutional processes by perpetrators to further control, intimidate, or harm victim-survivors—such as through vexatious litigation, manipulation of child protection systems, or delays and barriers to accessing support services) especially in the context of a highly feminised workforce. We therefore recommend that a risk assessment framework be developed to allow the Regulatory Authority to consider factors that may be relevant to a suspension notice/order, including:

- The gender of the worker (noting the risk a woman is a perpetrator of CSA is significantly lower than a man but that their risk of experiencing systems abuse as a form of DFSV is significantly higher than a man).
- Consideration of who made the notification, and whether there is any evidence of malicious intent, including systems abuse in the DFSV context.
- The possibility of bias from the person who made a report, including evidence of sexism, racism, ableism, homophobia or transphobia, or ageism.
- Whether the worker has had other notifications made against them in the past, and the findings of any previous investigations.

We suggest that safeguarding in this area may include providing access to support services, such as specialised DFSV and gender-based legal services, and other specialised sexual assault services. Adequate time should be provided for a right of reply to any allegations, which also includes access to translating and interpreting services if English is not a worker's primary language.

We suggest that if there are several suspensions over a defined period of time, this should lead to a prohibition order.

4. Working with Children Checks

a. Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service

Laurel House supports the implementation of Option 2 and Option 3.

Any person who is going to be working with or around children should have their WWCC registration completed *before* commencing such work. This is already an obligation under Tasmanian law. In our view, any period where people have access to children prior to their registration being completed presents an unacceptable risk. It is critical that the registrars that managed the WWCC process are adequately resourced to avoid delays in the WWCC registration process, and to allow fast-tracking of requests, with appropriate scrutiny, where delays will have adverse impacts on services (e.g. acute staffing shortages in ECEC services in remote areas).

In addition, we support the rolling out of education and resources set out in **Option 2**, noting that the issuing of a WWCC is a minimum requirement, and should not be solely relied upon to determine if someone is safe to work with or around children. Information should be provided to employers about other checks that can be carried out, including reference checks, background checks, criminal history checks, review of the Child Protection register, inquiring with the employee and others about any investigations and/or allegations of abuse (whether or not they led to charges), and assessments to identify risk factors.

b. Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status

Laurel House supports implementation of Option 3 (with amendments).

Anyone holding a WWCC should have an obligation to inform their approved provider of a change in status of their card, coupled with a requirement for the provider to then notify the Regulatory Authority. WWCC are a minimum requirement for working with children, and anything that impacts the right for someone to hold a card should be able to be investigated by both the employer and the Regulatory Authority. However, we also note that a WWCC is a minimum requirement and should not be relied upon to wholly determine someone's safety to work with children (see above).

In addition to the recommendation set out in Option 3, we suggest that further amendments should be implemented to ensure that someone whose WWCC card has been suspended or cancelled (or otherwise impacted) in one jurisdiction, should have a legislative obligation to inform the Regulatory Authority if they move States, so information can be shared across jurisdictions, and the new jurisdiction can make adequate enquires.

We also note that there is a gap in requirements for WWCC agencies to notify approved providers of changes to a person's WWCC status in WA that should be amended such that WWCC agencies all have regulatory requirements to update providers on any such change.

We note the possibility of systems abuse, set out in our response to 3(c), is also applicable to WWCC holders and cases of misidentification of the predominant aggressor (when a victim-survivor of DFSV is incorrectly identified by police or service systems as the primary perpetrator, often due to self-defensive actions, trauma responses, or systemic biases) in a highly feminised workforce may also impact negatively and unjustly in this area.

The Tasmanian COI (at recommendation 6.3.10) found that a range of bodies, including the Registrar of the Registration to Work with Vulnerable People Scheme (Tas), historically failed to share information received about potential child abusers within institutions. The consequence of holding information that is not shared is that the full picture of a person's conduct cannot be seen. Patterns of behaviour are missed, and things that may seem minor, within a larger context, are signs of high or immediate risk. Further, it was found that the primary barrier to cross-government coordination and information sharing in response to CSA is cultural – a deeply held belief that (perpetrator) privacy was more important than child safety and child rights. Recommendations of the COI included:

- developing child safety information sharing, coordination and response guidelines to use across government and government funded agencies, supported by investment in cultural change work that promotes good information-sharing practices and reinforces the need to respond appropriately to any information received (Recommendation 19.8)
- reviewing confidentiality or secrecy provisions across Tasmanian legislation to identify and remove any legislative barriers to sharing information in the interests of protecting the safety and wellbeing of children and young people (Recommendation 19.7).

We suggest that these recommendations are also applicable at the national level.

We note that the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021 – 2030* already includes recommendations in relation to this issue, specifically measure 3, which seeks to enhance national arrangements for sharing child safety and wellbeing information.

We also support previous advocacy efforts around the need for a national approach to WWCCs beyond the ECEC context. Where someone has been deemed unsafe or ineligible to work in an ECEC service, we hold concerns that they could then potentially move into another service that works with vulnerable or marginalised people (e.g. disability or aged care). There is work currently being done by the National Strategy to Prevent and Respond to Child Sexual Abuse Advisory Group in relation to this issue, which needs to be expediated and prioritised.

5. Improving the safety of the physical service environment

a. Service and temporary waivers for the design of premises (to facilitate supervision of children)

Laurel House supports implementation of Option 2 and Option 3.

We appreciate the requirements of regulation 115 which indicate that services are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, particularly including having regard to maintaining the rights and dignity of the children.

We appreciate the point that the approval of waivers for regulation 115 may lead to increased occurrences of inadequate supervision, which may increase instances in which children could experience harm. Where waivers are granted, we support the recommendation that (potentially mandatory) additional supervisory measures are put in place which include appropriately secured CCTV, changes to policies and procedures, and a requirement for additional staffing or supervision

As set out in the introduction, Laurel House recognises the important role ECECs play in fostering community and connection for parents, caregivers, and families—particularly in rural and remote communities where access to other support services may be limited and for (at risk) women, as laid out in the introduction. We are therefore concerned about the impacts of any regulatory amendment that may disproportionately negatively impact or result in the closure of ECEC services in these areas. For example, implementation of Option 3 or 4 is likely to present challenges in regional or remote areas where alternative premises are limited, potentially resulting in the closure of services due to a lack of viable alternatives. We do recognise, however, if appropriate supervision and safeguarding measures cannot be ensured, such premises may indeed need to be deemed unfit for purpose, though this would be far from an ideal outcome given the disproportionate impact this is likely to have on women as both caregivers of children needing those services and those providing such services.

A combined approach incorporating Option 2 and Option 3 is recommended to provide short-term flexibility while maintaining a clear expectation that services must ultimately prioritise child safety. We would like to see, however, explicit integration of mechanisms which aim to prevent service closures as a result of the removal of service waivers. This could be, for example, a grants program being established to provide financial assistance upon application to assist smaller or under-resourced centres in making the necessary modifications to ensure compliance. We note that there is national shortage of childcare spaces with already lengthy waitlists in many jurisdictions – any closure of services would create additional access issues for caregivers, and impact on workforce participation for caregivers.

b. Requiring approved providers to assess not just the FDC residence, but areas near the residence

Laurel House supports implementation of Option 2 and Option 3.

We support the intent of regulation 116 which requires approved providers of family day care (FDC) services to assess each proposed FDC residence initially and annually to ensure that the health, safety and wellbeing of children who are educated and cared for by the service are protected.

We share concerns raised in the review which highlight problematic variations in expectations and practices meaning that in some scenarios, children may be accessing areas that have not been risk assessed and are not suitable for use for the provision of education and care to children. We expand the scope of those concerns to include the potential for children to be unsupervised in such areas if they are not considered part of the FDC and the risk that poses to children around the increased potential for abuse.

We also see the need to balance these concerns with the right to privacy for service providers regarding access to and assessment of their personal residences which are not formally part of the FDC premises. Balancing this concern is necessary, though ultimately the safety of children on the premises should take precedence.

With this balance in mind, we recommend the uptake of options 2 and 3 which we feel sufficiently meet the intent of the regulation, put in place processes for mitigating risks against children, while balancing service providers' right to privacy. We do, however, recommend that considerations around appropriate supervision of children in 'Other spaces' is considered as part of this assessment process given the concern outlined above, acknowledging that this will also be taking into account under regulation 115.

c. Enabling authorised officers to access a FDC residence or property, beyond the service premises, in specific instances or for specific purposes

Laurel House supports implementation of Option 3.

Laurel House agrees that the fact that authorised officers are not able to assess areas outside the FDC service premises without written consent from the property owner poses a risk to the health, safety, and wellbeing of children. We balance this concern with consideration of the service provider's right to privacy in their own residence. Balancing this concern is necessary, though ultimately the safety of children on the premises should take precedence.

Thus, we support option 3 to amend the National Law to enable authorised officers' access to areas of a FDC residence or property, beyond the service premises, in specific instances or for specific purposes. In the review, it is outlined that These instances or purposes may include:

- a serious incident has occurred, or the authorised officer reasonably suspects that a serious incident has occurred;
- to assess or monitor compliance with regulation 116;
- to assess or monitor compliance with regulation 97.

We propose that an additional instance in which this National Law may be purposely applied would also be to ensure compliance with regulation 115. For example, if it were reported that a child had unsupervised time with an adult on

the premises of an FDC where an allegation of abuse or maltreatment was made, it would be critical that authorised officers were able to access the area in question if it were beyond the service premises to appropriately investigate.

We recommend exploration into how this change to National Law would intersection with other legal existing rights of entry to residential premises including:

- **Landlords and Agents** – Under the *Residential Tenancy Act*, landlords and real estate agents may enter a rental property in accordance with prescribed notice requirements and conditions.
- **Police** – Police officers may enter residential premises under certain circumstances, including but not limited to:
    - Where permitted by provisions of the *Family Violence Act* (Tas).
    - When they have reasonable grounds to suspect that a person named in a warrant is present (*Tasmanian Criminal Code)*
    - Where there is a reasonable belief that a breach of the peace or other offence is imminent.
    - To effect an arrest, including entering premises without a warrant to search the person arrested and their possessions.
- **Child Safety Services (CSS)** – CSS may seek an urgent warrant by phone to authorise Police entry to a premises where child protection concerns are present. It is noted that the threshold for such intervention is generally high.
- **Union Officials** – Union representatives may exercise a right of entry to workplaces where members of their union are employed, subject to relevant industrial laws and procedures.
- **Work Health and Safety Act 2012 (Tas)** – Inspectors may enter a workplace to investigate reports of unsafe or unhealthy conditions or dangerous work practices. Where the workplace is also a residence (e.g., Family Day Care), additional legal restrictions may apply to protect the privacy of residents.

These existing powers must be balanced with the rights to privacy of individuals residing in the home, including Family Day Care (FDC) providers and other household members, such as children. Where concerns relate to child protection, existing powers of entry by Child Safety Services or Police may be relied upon, noting the threshold for such intervention is comparatively higher. Given this high

threshold, we support the proposed changes to National Law in option 3 to provide an additional mechanism through which to keep children safe.

6. Additional Recommendations

a. Effective identification, monitoring and regulation of 'related providers'

Laurel House does not have expertise to address this recommendation.

b. Extending the limitation period for commencing proceedings under the National Law

Laurel House supports the implementation of Option 2.

Australian victims of CSA often do not disclose their abuse immediately, and many take years to disclose. Among survivors participating in private sessions of the Royal Commission into Institutional Responses to Child Sexual Abuse, 57% said that they did not disclose sexual abuse until they were an adult. Survivors took, on average, 23.9 years to disclose abuse, with men taking longer to disclose than women (25.7 years for men, 20.6 years for women).

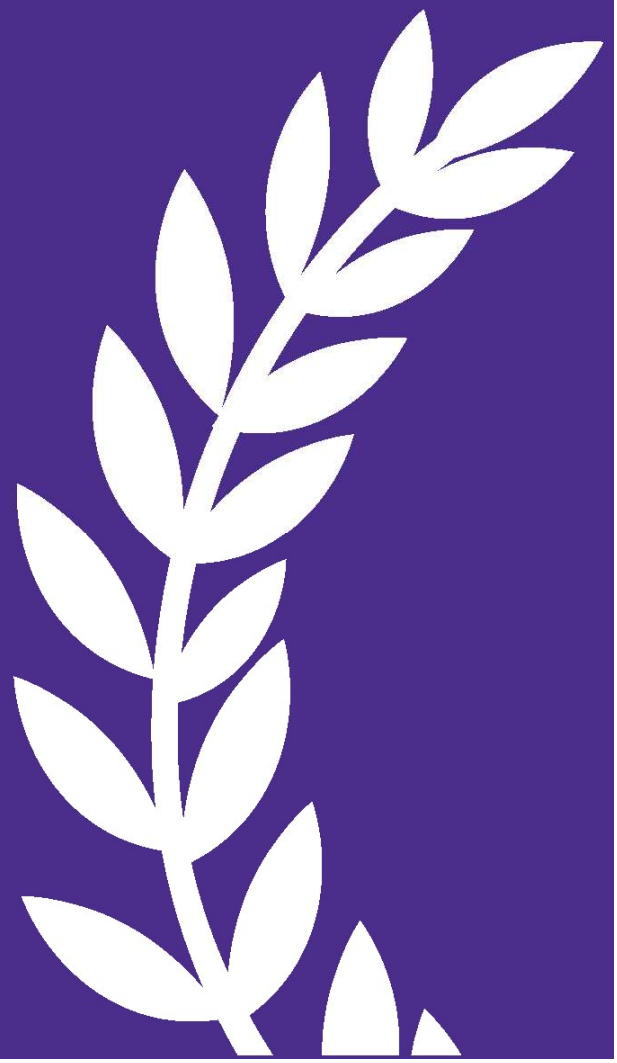
Given what we know about when a child may disclose conduct relating to CSA, we are supportive of changing the time limit to two years from the date the alleged offence comes to the notice of the Regulatory Authority (RA), rather than two years from the date of the offence. This means that where CSA is disclosed at a much later date, the Regulatory Authority can still take action against the ECEC worker or volunteer, regardless of how much time has passed.

In addition to this, we suggest that in *special circumstances*, the RA should be able to commence action outside this limitation period. This is especially the case if the victim-survivor has experienced CSA, if there are criminal proceedings on foot that would be jeopardised by an RA investigation, if there is a language or cultural barrier, if the victim-survivor has a disability, or where there are other factors that prevent the RA from taking action during the two year limitation period.

We submit that this position is consistent with other legislation that impacts victim-survivors of CSA, including the *Victims of Crime Assistance Act* (Tas) 1976. This Act sets out that an extension of time can be granted in special circumstances. In addition to this, it also explicitly sets out that where the offence relates to CSA, there is no time limit at all.

c. Information sharing provisions for recruitment agencies

Laurel House supports the regulation that increases transparency and information sharing in relation to worker conduct, prohibition notices, and any suspensions (which may be regulated as a consequence of these amendments). See comments set out above in relation to WWCCs, specifically in relation to cultivating a culture that prioritises safety over privacy.



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