

VAGO

Victorian Auditor-General's Office



School Compliance with Victoria's Child Safe Standards

June 2019

Independent assurance report to Parliament
2018–19: 31



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The Hon Shaun Leane MLC
President
Legislative Council
Parliament House
Melbourne

The Hon Colin Brooks MP
Speaker
Legislative Assembly
Parliament House
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my report
School Compliance with Victoria's Child Safe Standards.

Yours faithfully

Dave Barry
Acting Auditor-General

20 June 2019

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Acronyms

CECV	Catholic Education Commission of Victoria
CEO	Chief Executive Officer
DHHS	Department of Health and Human Services
ETR Act	<i>Education and Training Reform Act 2006</i>
MOU	Memorandum of Understanding
VAGO	Victorian Auditor-General's Office

Abbreviations

Child safe standards	Victorian child safe standards
Commission	Commission for Children and Young People
Department	Department of Education and Training
Minimum standards	Prescribed minimum standards for school registration
Ministerial order	Ministerial Order 870— <i>Child Safe Standards—Managing the risk of child abuse in schools</i>
Ministerial order requirements	57 requirements set out in Ministerial Order 870— <i>Child safe standards—Managing the risk of child abuse in schools</i>
Regulator	Victorian Registration and Qualifications Authority

Audit overview

In 2015, the Victorian Government introduced seven mandatory child safe standards (the child safe standards) for more than 50 000 Victorian organisations that supply services or facilities to children, such as schools, kindergartens, hospitals, churches, and sporting, recreation and youth clubs.

The government introduced the child safe standards in response to the 2013 *Betrayal of Trust* report from the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations, which found that while most children were safe, there were inadequate and inconsistent approaches to child safety across Victoria.

The standards aim to encourage child safe cultures, impose minimum requirements for organisations to prevent child abuse, and highlight that keeping children safe is the shared responsibility of an organisation's decision-makers.

Like other organisations providing services or facilities to children, schools must comply with the child safe standards, which came into effect on 1 January 2016.

Schools must also comply with further child safe standard-related requirements for school registration.

These are 57 requirements detailed in the *Ministerial Order No 870—Child Safe Standards—Managing the risk of child abuse in schools* (the ministerial order). The requirement for school compliance with the ministerial order commenced on 1 August 2016.

The ministerial order's objectives are for schools to:

- embed a school culture of 'no tolerance' for child abuse
- comply with the child safe standards.

Although the ministerial order requirements are mandatory, they are not prescriptive. The government designed them to be flexible to enable schools to apply them in their own setting.

In this audit, we examined:

- whether the systems and supports that oversee the child safe standards assure school compliance
- the Department of Education and Training's (the department) role in providing advice to its ministers on the Victorian Registration and Qualifications Authority's (the regulator) performance.

Conclusion

While the child safe standards have been mandatory for three years, not all schools are meeting them. Victorian schools have been working to implement the standards, but the regulator cannot assure itself or its ministers of school compliance, or whether schools have effectively embedded child safe cultures.

Conflicts of interest arise from the department's multiple roles as:

- a school operator that seeks to gain and maintain registration
- a reviewer of school compliance with the child safe standards requirements
- the regulator's staff employer
- having a representative on the regulator's board
- the regulator's evaluator.

These conflicts pose a risk to the effectiveness of the governance model for ensuring government schools' compliance with the child safe standards requirements for school registration.

The regulator did not update its approach when it became responsible for regulating the child safe standards requirements in schools in 2016. This has resulted in limited oversight of school compliance, and a lack of transparency and consistency in compliance assessments across the independent, government and Catholic school sectors.

While the child safe standards are challenging to regulate, the issues we identify reinforce the need for an updated approach. Given the fundamental importance of child safety, and Victoria's commitment to the national approach to managing the risk of child sexual abuse, Victoria should now reassess its approach to regulating the standards in schools so they are more completely and consistently applied.

Findings **The regulator's support and guidance to schools on how to comply with the child safe standards**

The seven child safe standards and the 57 ministerial order requirements are mandatory for schools, but are also purposefully non-specific to enable them to meet the requirements in a way that fits their own context.

However, despite ministerial expectations that the regulator's assessment process and methodology would be transparent, the regulator purposefully does not inform schools about what constitutes compliance. It instead prioritises the first objective of the ministerial order—to embed a culture of 'no tolerance' for child abuse. The regulator's view is that a codified approach would lead to a focus on compliance checklists rather than schools considering what is needed to improve their culture.

The regulator maintains guidance materials and links to publicly available information for school leaders and governing authorities that aim to help them consider how they can embed the child safe standards within their schools. However, although the majority of the regulator's guidance is intended for schools, it does not directly relate to the 57 ministerial order requirements that schools must comply with to meet registration requirements. Further, while the regulator provided high-level overviews of the child safe standards to schools in 2016 and continues to raise awareness of them, it does not provide training to schools on how to comply with the 57 ministerial order requirements.

The ministerial expectations of the regulator are for it to:

- provide 'clear guidance and support for educational organisations to successfully implement the child safe standards, and to meet the required standards for registration' (outlined in the 2018 statement of expectations)
- 'play an important leadership role in informing and educating school system owners and school leaders to understand and implement what is required' (outlined in the letter accompanying the ministerial order).

However, the regulator advises that its responsibilities for providing guidance to schools are shared with the department and also with the Commission for Children and Young People (the commission), as the lead child safety regulator.

As a result, the regulator has not provided criteria to schools showing how it determines compliance or measures their child safe culture, and has not explained to schools the role of the child safe standards-related guidance available on various websites. The regulator also has not provided adequate guidance on all four areas that the Minister for Education identified that schools would benefit from, comprising:

- the scope and effect of key definitions (referred to as 'terms' in this report)
- the role and expectations of governing authorities
- the essential elements of an 'appropriate' school response to the standards
- ways in which strategies, policies, procedures and practices can be inclusive of the needs of all children, particularly students who are vulnerable due to age, family circumstances, abilities, or Indigenous, cultural or linguistic background.

This lack of specific and comprehensive information for schools increases the risk that they are applying the standards inconsistently.

The regulator's assurance of school compliance

Lack of authority over review bodies

The regulator's current approach to regulating school registration reflects the ministerial expectation in 2006, when it was first established.

In the 2006 ministerial statement of expectations, the Minister for Education stated that the regulator would conduct initial school registration assessments. The statement highlighted that the department, and organisations such as the Catholic Education Commission of Victoria (CECV) and the Association of Independent Schools Victoria (now Independent Schools Victoria), would apply to the regulator for licenses to manage ongoing quality assurance of school compliance. The expectation was that the regulator would delegate its functions for managing ongoing quality assurance. The regulator retains the overall responsibility for ensuring schools comply with the prescribed minimum standards for school registration (the minimum standards).

The regulator conducts assessments for initial school registration. However, the regulator did not fully meet the ministerial expectation on licensing third parties to manage ongoing quality assurance of school compliance. Instead of issuing licenses and delegating its functions for independent schools, the regulator advised that after considering a number of options, it contracted a panel of providers to monitor compliance on its behalf, which it considered to be the more appropriate model. These providers then contract individual compliance assessors.

Instead of licensing CECV and the department, it also chose to appoint them in 2008 and 2009 respectively as review bodies to monitor ongoing compliance of their schools on its behalf. The department and CECV then engaged external companies that contracted compliance assessors to undertake the compliance monitoring work.

Even though the regulator retains responsibility for assuring school compliance, it has relied on arrangements set out in non-binding Memorandums of Understanding (MOU) with its review bodies to do so. The regulator does not require its review bodies to meet requirements that would lead to a consistent compliance assessment approach.

The regulator advises that at the time, the department told it to establish arrangements for assessing compliance with the minimum standards that worked within the existing school assurance models. However, CECV's and the department's assurance models were designed for a different function—to meet their responsibilities for driving school improvement. Under this arrangement, the regulator did not specify its expectations of its review bodies in relation to:

- compliance assessment models, including evidence requirements to inform judgements on compliance
- reporting arrangements to the regulator, including data and evidence
- evaluation of its review bodies.

The regulator's appointment letters for its review bodies also do not specify the conditions of appointment or their duration, or at which point it will review the appointment decision.

Addressing these gaps would help manage the conflict of interest created by the department being accountable to the regulator as a review body and an operator of schools seeking to gain registration, while also being responsible for assessing the regulator's performance and employing its staff.

Inconsistent compliance assessment

The regulator does not have a documented compliance framework outlining expectations for how it and the various review bodies and contractors should consistently assess schools' compliance with the child safe standards. For example, the regulator has not documented:

- criteria to be used and evidence to be identified by all assessors to determine whether a school complies with each of the 57 ministerial order requirements
- consistent assessment checklists
- expected processes for quality assuring school assessments
- expected processes for responding to potential breaches of the 57 requirements.

As a result, we found that the regulator, CECV and the department:

- use different checklists to assess compliance—some of which change the meaning of ministerial order requirements
- assess school compliance with varying frequency
- rely inconsistently on schools' self-attestations of compliance
- vary in the extent to which they consider ministerial order requirements
- use inconsistent compliance assessment methods.

The regulator's current approach of not specifying its compliance assessment requirements undermines its ability to satisfy itself that schools comply with the ministerial order requirements.

It also provides limited transparency to schools about the regulatory assessment process and assessment methodology used. In the 2018 statement of expectations for the regulator, the Minister for Education and the Minister for Training and Skills detailed their expectation that the regulator would 'provide information to regulated entities to improve the transparency of regulatory assessment processes and methodology to reduce non-compliance', but this has not happened.

The regulator acknowledges that the lack of a documented process presents a risk of losing corporate knowledge in the event of significant staff turnover.

During our audit, the regulator developed a draft school compliance framework. While it outlines the regulator's policy to ensure that its regulatory decisions taken after school reviews are fair, consistent, proportionate and transparent, it does not explain the compliance assessment process and methodology the regulator uses to determine school compliance.

Lack of an evidence-based approach to regulation

In the 2018 statement of expectations for the regulator, the Minister for Education and the Minister for Training and Skills detailed their expectation that the regulator would:

- continue to strengthen its evidence-based approach to regulation
- collect relevant data to inform a risk-based approach to allocate resources and effort where the risks are greatest, and to evaluate the outcomes of these approaches.

Based on its own data from independent schools and summary data it receives from CECV and the department, the regulator reports that one third of schools did not comply with all of the 57 ministerial order requirements at the time they were assessed.

Non-compliance does not necessarily mean that children are at immediate risk. It could simply be due to a school governing authority being a day late in providing the required 12-monthly guidance and training to its staff about their child safety obligations (requirement 12.5 a). Alternatively, non-compliance could be as significant as a school not verifying that a new staff member has a Working with Children Check (requirement 10.4 a). The regulator advises that when non-compliance is detected, it is rectified.

Despite the ministers' expectations, the regulator cannot ensure it has implemented an evidence-based regulatory approach or makes risk-based decisions when allocating resources and effort. It is also not able to evaluate outcomes. This is because it lacks complete and consistent data on school compliance to inform its responses.

The regulator has specified for its review bodies that it requires an annual report on compliance and summary compliance statistics for its annual reporting purposes. However, the regulator has not specified its data needs relating to the ministerial order requirements. Therefore, it receives summary statistics from CECV and the department, which do not enable it to identify trends in Catholic and government schools.

Summary school compliance statistics are also of limited value because the data is not comparable. This data is based on the inconsistent assessments carried out by the various review bodies and contracted assessors using different compliance criteria and not necessarily considering all 57 ministerial order requirements. The regulator also has not required its review bodies to quality-assure their contractors' assessments and does not conduct quality assurance of these assessments itself.

The department's assessment of the regulator's performance against its ministerial statement of expectations

In addition to the department's role as the regulator's review body, it is responsible for advising the Minister for Education and the Minister for Training and Skills on the regulator's performance against its ministerial statement of expectations. This responsibility and its role as a review body that is accountable to the regulator for monitoring compliance of government schools represents a conflict of interest.

The department's first evaluation of the regulator against its statement of expectations is limited, as it only assesses the assistance and advice the regulator provides schools regarding the child safe standards. The department advises that without powers to compel the regulator to provide information, its evaluation only considered publicly available information and advice from the regulator's staff and board. The evaluation identified that the regulator has continued to provide advice and assistance to schools and undertaken a range of stakeholder engagement activities.

The department did not consider the regulator's regulatory approach to assure that schools comply with the child safe standards requirements. It therefore did not consider the ministerial expectations relating to evidence-based decision making, the transparency of the regulator's regulatory assessment processes or the adequacy of its compliance framework.

Despite this, the department highlights that the regulator's recent activities have identified incidences of non-compliance with the child safe standards requirements in all sectors.

We agree with the department's evaluation finding that more needs to be done to ensure greater compliance with the child safe standards, and that the regulator should remain a focus of future statements of expectations. However, we have identified that future statements should clarify the ministerial expectations of the regulator's regulatory approach.

Recommendations

We recommend that the Victorian Registration and Qualifications Authority:

1. update its website to provide an information portal for schools to access guidance on the child safe standards requirements for school registration, and link to other relevant websites as required (see Part 2)
2. improve the transparency of its regulatory assessment processes and methodology to reduce non-compliance and drive consistency in assessment approaches, by:
 - documenting its compliance framework
 - documenting its criteria for determining compliance
 - establishing a quality assurance framework covering all three school sectors, to ensure compliance assessments meet required standards (see Part 3)

3. update its review body appointment processes to ensure it is able to satisfy itself of school compliance, and equivalence and consistency in assessments, by:
 - incorporating a regular review process into all review body appointments
 - updating its *Guide for School Review Bodies* and its appointment documentation to specify its expectations of its appointed review bodies, including:
 - the nature of assessment models, including reliance on attestations, frequency of assessments, extent of coverage of the requirements and quality assurance
 - data and evidence requirements
 - reporting arrangements to the Victorian Registration and Qualifications Authority, including in relation to data availability (see Part 3)
4. specify information requirements for school review bodies and system administrators for all school sectors, to improve its evidence base, inform its risk-based approaches, and to evaluate outcomes in relation to:
 - school compliance data
 - reporting alleged and actual breaches of the child safe standards, to strengthen its ability to make evidence and risk-based decisions on regulation of the child safe standards (see Part 3).

We recommend that the Department of Education and Training:

5. clarify the ministerial expectations of the Victorian Registration and Qualifications Authority in relation to:
 - its responsibilities for providing guidance to schools on how to implement the child safe standards and what they must do to comply with related requirements for school registration
 - its regulatory approach to assuring compliance with the child safe standards requirements as a minimum standard for registration and its oversight of its appointed review bodies (see Part 4)
6. consider the findings from this audit and its identified areas for improvement in developing future statements of expectations for the Victorian Registration and Qualifications Authority, including performance targets for the regulator to be considered in future evaluations (see Part 4)
7. in light of the Department of Health and Human Services' review of the child safe standards for Victoria, advise the Minister for Education on any amendments required to Ministerial Order 870 and the compliance arrangements for assuring school compliance (see Parts 3 and 4).

Responses to recommendations

We have consulted with the department and the regulator and we considered their views when reaching our audit conclusions. As required by section 16(3) of the *Audit Act 1994*, we gave a draft copy of this report to those agencies and asked for their submissions or comments. We also provided a copy of the report to the Department of Premier and Cabinet.

The following is a summary of those responses. The full responses are included in Appendix A.

The department accepted all recommendations and the regulator accepted one and partially accepted three recommendations.

1

Audit context

1.1 Victoria's child safe standards

Child abuse includes sexual and physical abuse, serious emotional or psychological harm, serious neglect, and grooming. It includes both abusive actions carried out by an adult to a child, and also those between children.

In 2015, the Victorian Government introduced the child safe standards as a mandatory requirement for Victorian organisations that provide services or facilities to children. The child safe standards apply to more than 50 000 organisations, such as schools, kindergartens, hospitals, churches, and sporting, recreation and youth clubs.

There are seven child safe standards, as shown in Figure 1A. They aim to encourage child safe cultures, impose minimum requirements for organisations to prevent child abuse, and highlight the shared responsibility among an organisation's decision-makers for keeping children safe. They aim to ensure that organisations promote child safety, prevent child abuse, and properly respond to allegations of child abuse.

Figure 1A
Victorian child safe standards

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

Source: VAGO, based on the commission.

Organisations must also apply three principles when addressing the seven standards, as shown in Figure 1B. These principles recognise that while all children are vulnerable, some groups of children face additional risks.

Figure 1B
Victoria's child safe standards principles

Principle 1—promoting the cultural safety of Aboriginal children
Principle 2—promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds
Principle 3—promoting the safety of children with a disability.

Source: *Child Wellbeing and Safety Act 2005*.

Complementary reforms responding to child abuse

The government introduced the child safe standards as part of a suite of reforms responding to the 2013 report *Betrayal of Trust—Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations*. This inquiry found that while most children were safe, there were inadequate and inconsistent approaches to child safety across Victoria.

The Victorian Government also amended legislation to:

- require organisations to have a clear 'duty of care' to protect children under their watch
- update laws relating to 50 sexual offences, and introduce new laws relating to abuse committed through internet or digital technologies
- strengthen the Working with Children Check application process to enable the assessor to consider any criminal charges laid against an applicant even if they did not result in conviction
- require heads of organisations to report allegations of reportable conduct within three business days.

Regulation of the child safe standards for Victorian organisations

The child safe standards were introduced through an amendment to the *Child Wellbeing and Safety Act 2005*. Subsequent amendments passed in 2016 established the commission as the overarching regulator of all organisations that are required to comply with the child safe standards.

This Act also required organisations to comply with the standards in two groups with different timeframes. This reflected the expectation that some organisations were more likely to already meet, or partly meet, the standards due to existing service agreements, regulations, or professional codes of conduct. The government included schools in the first group, and required them to comply with the standards by 1 January 2016.

Although they are mandatory, the child safe standards aim to provide organisations that work with children scope to embed the standards into their organisation in a way that suits their setting, such as considering their size, function, and the nature of their interactions with children.

While the commission has powers to enforce the child safe standards, it can request relevant authorities responsible for regulating or funding a group of organisations to take action available to them under their own legislative powers to promote the standards, and require organisations to comply with them. Each relevant authority has different regulatory powers and functions available to it depending on the funding or regulatory relationship between the authority and the organisation.

Under the *Child Wellbeing and Safety Act 2005*, the regulator is the relevant authority for schools.

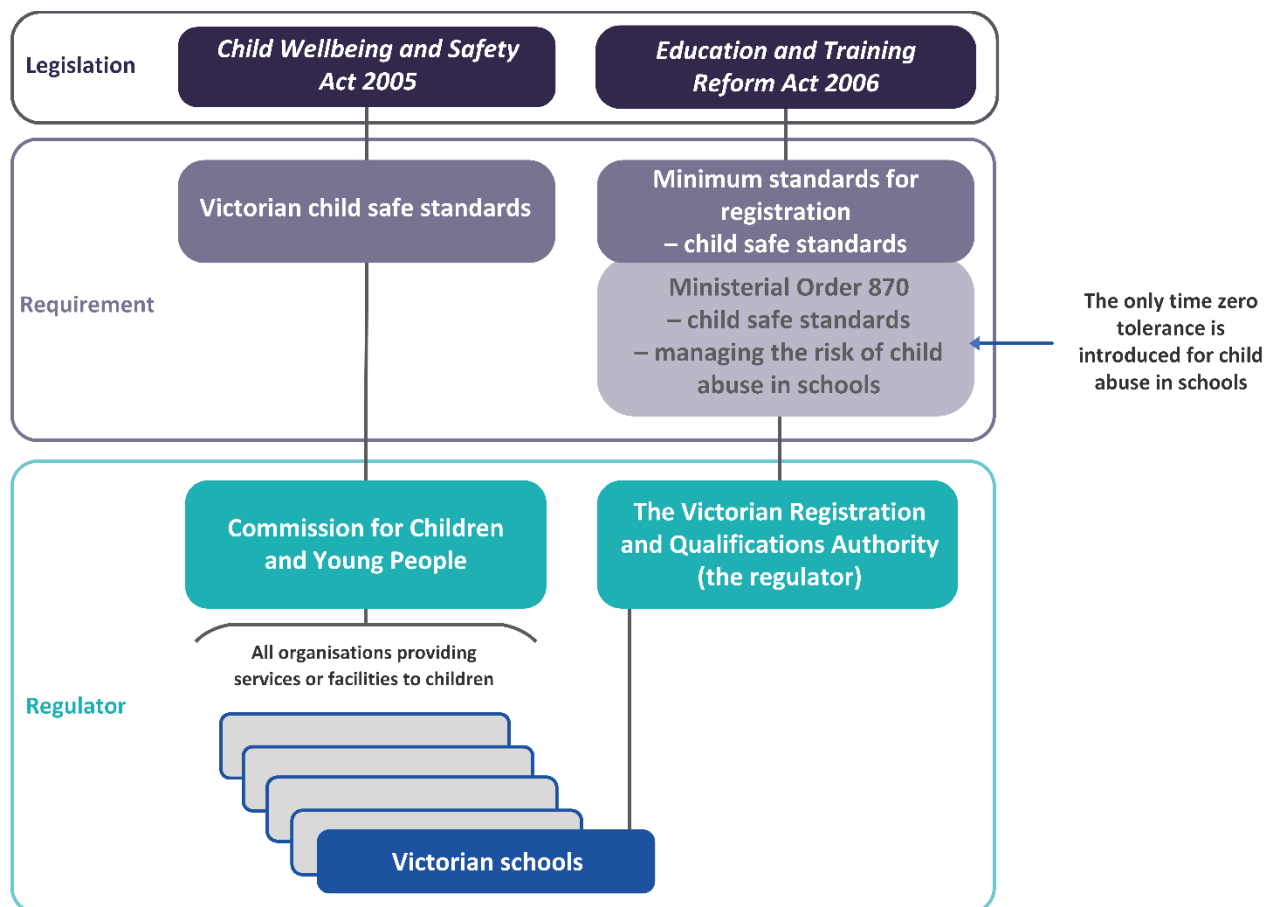
Regulation of the child safe standards in Victoria's schools

Under the *Education and Training Reform Act 2006* (ETR Act), the regulator was already responsible for assuring school compliance with the prescribed minimum standards that schools must comply with to be registered in Victoria. The minimum standards relate to school governance, enrolment, curriculum and student learning, student welfare, staff employment, and school infrastructure. The regulator is responsible for monitoring these standards and has powers to investigate potential breaches and enforce school compliance. It can directly compel a school to act and can also suspend or cancel a school's registration if it does not address identified non-compliance.

The government amended the ETR Act in 2015 to add the child safe standards requirements to the list of prescribed minimum standards the regulator is responsible for enforcing. To meet the child safe standards requirements, the ETR Act explicitly requires the regulator to ensure schools comply with 57 ministerial order requirements.

As shown in Figure 1C, schools are the only Victorian organisations where their regulator's legislation was amended to require it to enforce the child safe standards requirements under its own legislative powers.

Figure 1C
Application of the child safe standards in schools



Source: VAGO.

The amendments require that the regulator must not register a school unless it is satisfied that the school has developed policies, procedures, measures, and practices in accordance with a ministerial order for managing the risk of child abuse.

The Minister for Education issued the ministerial order on 18 December 2015. All schools were required to comply with the ministerial order requirements from 1 August 2016.

Through these amendments, the government required the regulator to use its existing legislative powers to enforce school compliance with the child safe standards requirements through the ministerial order. The regulator is required to ensure schools comply with all 57 ministerial order requirements (outlined in Appendix B) as a prescribed minimum standard for school registration.

The amendments strengthened the regulator's powers, enabling it to review a specific school in exceptional circumstances, and also allowed the regulator to accept enforceable undertakings from schools relating to non-compliance.

Schools are the only Victorian organisations that have additional mandatory requirements outlined in a ministerial order, as a prerequisite for complying with the child safe standards requirements.

The ministerial order's objectives are for schools to:

- embed a school culture of 'no tolerance' for child abuse
- comply with the ministerial order requirements for school registration.

While the child safe standards under the *Child Wellbeing and Safety Act 2005* require organisations to manage the risk of child abuse, the government introduced zero tolerance for child abuse in Victorian schools through the ministerial order. It spells out what the standards mean in a school environment. In several places, the ministerial order requires schools to take 'appropriate' actions regarding certain matters, which aims to provide schools flexibility in the manner in which they respond to meet the requirements.

Victorian commitment to review the child safe standards

At the same time as the Victorian Parliamentary Inquiry was underway, the Australian Government established a Royal Commission in response to multiple allegations of sexual abuse of children in institutional contexts.

The Royal Commission began in November 2012 and submitted its final report—*Royal Commission into Institutional Responses to Child Sexual Abuse*—in December 2017. The Royal Commission found serious failures across Australia's major institutions, as sexual abuse of children had occurred in almost every type of institution in which children reside or attend for educational, recreational, sporting, religious, or cultural activities.

The Royal Commission made a suite of recommendations, including establishing and mandating 10 child safe standards for institutions, as detailed in Appendix C. The Royal Commission designed these to be principle-based and focused on outcomes and changing institutional culture, rather than a set of prescriptive standards or initiatives. This was to enable institutions to apply the standards in a flexible way, informed by the institution's nature and characteristics. The Royal Commission noted that as the risk of child sexual abuse varies between institutions, they need to consider each standard and take time to identify risks that may arise in their context and find ways to mitigate or manage risks.

The Victorian Government accepted in principle the Royal Commission's recommendations that all Victorian institutions engaging in the Royal Commission's definition of 'child-related work' should be required to comply with the Royal Commission's recommended 10 child safe standards.

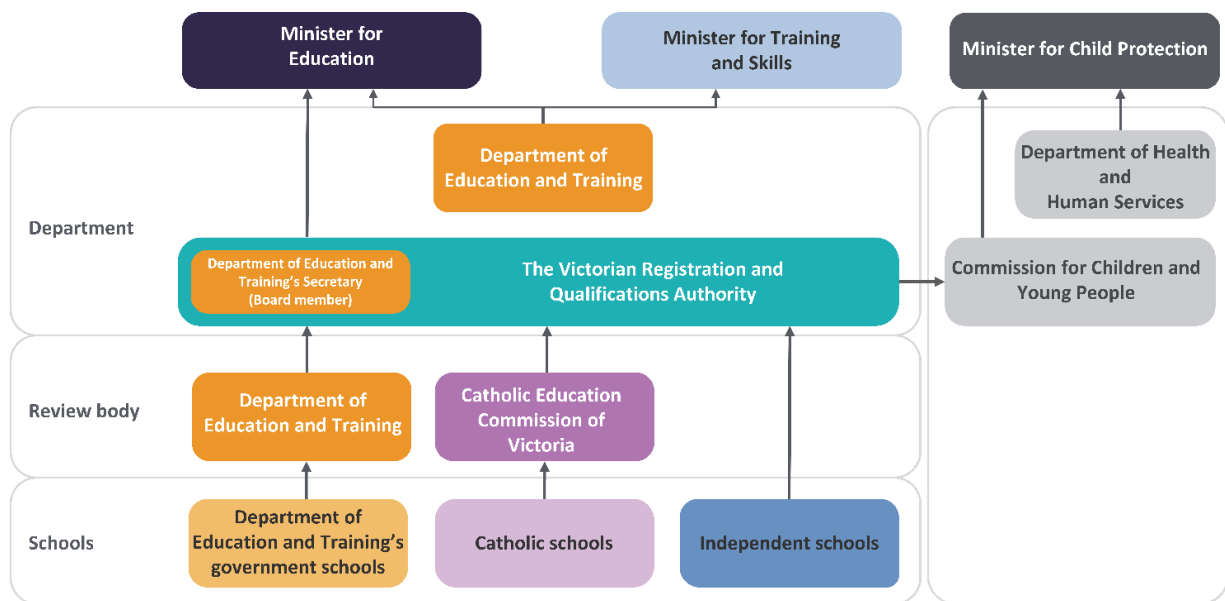
As Victoria had already mandated the implementation of the seven standards for all organisations delivering services or facilities to children, the government committed to conducting a review in 2018–19. This review will determine whether the government needs to adjust the seven Victorian standards to better align with the Royal Commission's 10 standards.

The Department of Health and Human Services (DHHS) is leading this review on behalf of the Victorian Government and is due to submit its report in June 2019.

1.2 Agency roles and responsibilities

The various agency roles and responsibilities are shown in Figure 1D and explained below.

Figure 1D
Roles and responsibilities in relation to schools



Source: VAGO.

Victorian Registration and Qualifications Authority

The regulator as an entity

The regulator is a statutory authority, governed by a board. The board is responsible to the Minister for Education for exercising its functions relating to school education.

The regulator regulates schools and several other education providers that must also comply with the child safe standards requirements, including:

- vocational education and training providers that deliver accredited training to domestic students in Victoria only, or Victoria and Western Australia only
- school education providers
- senior secondary education providers
- school and non-school providers operating as overseas secondary student exchange organisations.

This audit focused on schools only. In relation to schools, the regulator's functions include to:

- register schools
- exercise its powers to ensure that the prescribed minimum standards are maintained
- conduct reviews of schools
- monitor compliance with, and enforce, the prescribed minimum standards.

The regulator's staff, including its Chief Executive Officer (CEO), are employed by the department. The CEO is directly responsible to the department's Secretary for their performance, and reports to the Secretary on the regulator's budget, personnel, and administration.

The regulator charges schools applying for new registrations to cover costs, but relies on the department for its annual funding allocation.

The regulator's role in registering schools

The regulator is Victoria's education and training regulator, responsible for registering schools. All schools must be registered to operate in Victoria. The regulator can only register a school if it is satisfied that it meets the prescribed minimum standards. The ETR Act does not limit how long a registration can be granted for.

In 2018, the regulator listed 2 262 registered schools that provide services to 971 669 students. This comprises:

- 1 549 government schools servicing 618 847 students
- 494 Catholic schools servicing 209 365 students
- 219 independent schools servicing 143 457 students.

The regulator is responsible for satisfying itself that a school meets the prescribed minimum standards for its registration to continue.

Ministerial expectation of the regulator

Statement of expectations

As part of the Victorian Government's *Statement of Expectations Framework*, relevant ministers issue a statement of expectations to their regulators.

The Minister for Education and the Minister for Training and Skills issued the current statement of expectations to the regulator on 8 January 2018, and it will expire on 30 June 2019. Through this statement, the two ministers expect the regulator to:

- undertake the full range of functions and powers provided to it in the legislation
- continue to strengthen its evidence-based approach to regulation and collect relevant data to inform a risk-based approach to allocate resources and effort to activities where the risks are greatest, and to evaluate the outcomes of these approaches

- provide information to regulated entities to improve the transparency of regulatory assessment processes and methodology to reduce non-compliance
- continue to improve the efficiency and effectiveness of its regulatory activities by considering ways to improve regulatory practice.

In continuing to improve its efficiency and effectiveness, the ministers expected the regulator to ‘reduce the regulatory burden on regulated entities, and in particular multi-sector providers by streamlining the regulatory processes. It also includes continuing to engage with stakeholders to inform the ongoing improvement of its regulatory activities’.

This statement of expectations differs considerably from the statement issued in 2006, when the regulator was established. At that time, the Minister for Education and Training expected that the regulator would exercise a ‘light touch’ approach to regulation, and would be responsible for ensuring providers *meet* minimum standards, but not for *how* they do so. The minister also expected that the regulator would not act as a complaints body, but instead that review bodies would deal with complaints that arose from their schools.

The government issued new statements in 2014, 2016, and 2018 under a whole-of-government framework coordinated by the Department of Treasury and Finance.

Letter accompanying the ministerial order

The ministerial expectations in relation to the child safe standards requirements are outlined in the Minister for Education’s 2015 letter accompanying the ministerial order in relation to the child safe standards. The minister expects the regulator to implement and enforce the standards—and the 57 ministerial order requirements—through its school registration framework. The minister expects that the regulator will:

- play a key role in monitoring and enforcing compliance with the standards
- play an important leadership role in informing and educating school system owners and school leaders to understand and implement what is required.

As part of the accompanying letter, the minister asked the regulator to assist schools preparing to achieve compliance with the ministerial order requirements when they came into force on 1 August 2016.

How the regulator can satisfy itself of school compliance

The ETR Act requires the regulator to satisfy itself of a school’s ongoing compliance with the prescribed minimum standards—including the child safe standards requirements set out in the ministerial order. The ETR Act provides that the regulator can conduct its own reviews or receive a report by a school representative or the department’s Secretary in relation to government schools. It can also receive a report by a review body approved to monitor compliance on its behalf.

The ETR Act provides that the regulator can conduct 'general reviews' of schools to determine whether they meet the prescribed minimum standards for registration, or if they have complied with any condition that the regulator imposes.

It also provides that the regulator can conduct 'specific reviews' to determine if a school has met a prescribed minimum standard for registration. The regulator can conduct specific reviews where it believes that:

- urgent action should be taken by a school to address a concern over the safety of students
- in the case of a non-government school, the school is financially unviable or may soon become financially unviable
- exceptional circumstances exist.

The regulator has the power to investigate complaints, and the ETR Act also requires that every registered school is reviewed for compliance with the minimum standards at least every five years.

The regulator conducts reviews for independent schools as part of a targeted compliance assessment on a cyclical basis once every five years. For government and Catholic schools, these 'cyclical reviews' are incorporated into the routine school improvement evaluations at least once every four years. The regulator and its review bodies can also assess schools through 'out-of-cycle reviews'.

The regulator has adopted a different approach to satisfying itself for each school sector. It conducts its own reviews of all independent schools.

The regulator appointed the department on 29 January 2008 to act as a review body and to monitor government schools' compliance on its behalf. The regulator and the department have a current, non-binding MOU that details the agreed arrangements for the department's reviews of government schools and reports to the regulator. The MOU's term is 23 August 2016 to 23 August 2021. The regulator advises that it is reviewing this MOU.

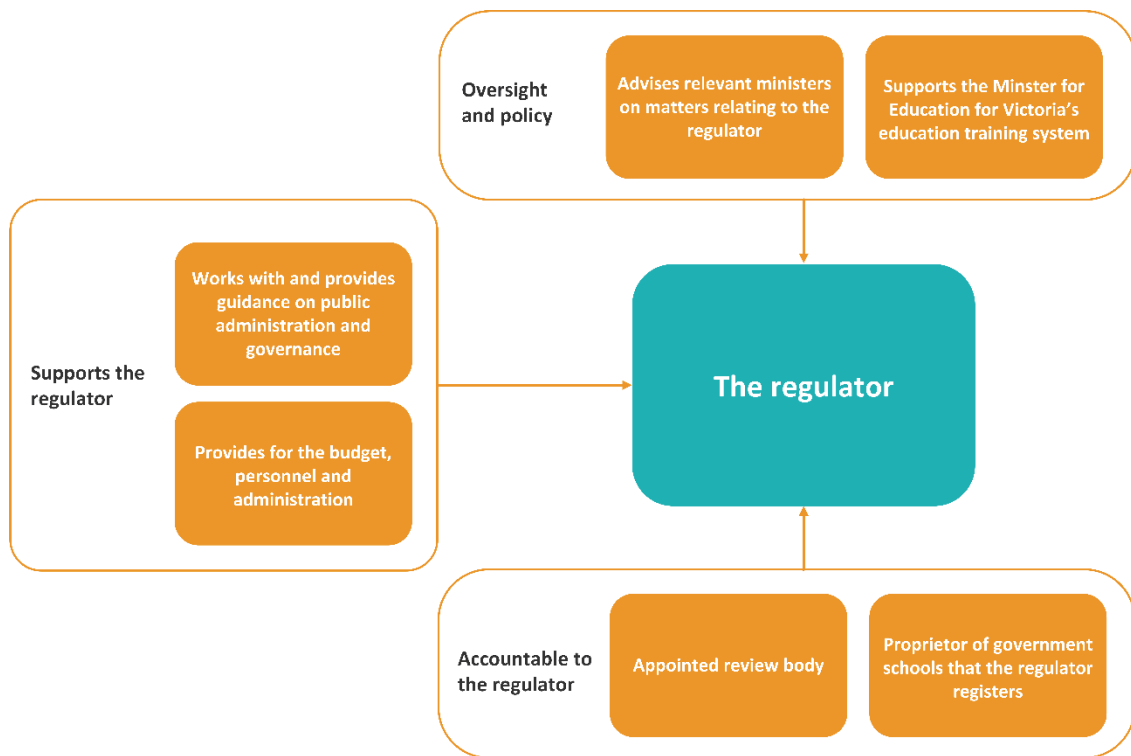
The regulator appointed CECV on 13 February 2009 to act as a review body and to monitor Catholic schools' compliance with the prescribed minimum standards on its behalf. The regulator provided CECV \$137 600 in 2009 to develop its review body processes, but it did not approve its review model or require particular assessment criteria to be adopted. The regulator and CECV most recently entered a non-binding MOU on 28 August 2013, the term of which ceased on 31 August 2018. By agreement with the regulator, CECV continues to function as a review body for Catholic schools under the terms of the expired MOU. The regulator and CECV are currently negotiating a new MOU.

The Department of Education and Training

The department and/or its Secretary or nominee have nine separate roles in relation to the child safe standards. These include the Secretary being a member of the regulator's board, roles defined under the *Child Wellbeing and Safety Act 2005* relating to the standards, and multiple roles relating to the regulator.

As shown in Figure 1E, the department's roles include responsibility for overseeing the regulator, responsibility for funding and employing the regulator's staff, and accountability to the regulator. These multiple roles create conflicts of interest.

Figure 1E
The department's multiple roles in relation to the regulator



Source: VAGO.

Role in governing the regulator

1. Board member

The ETR Act establishes that the department's Secretary, or a nominee, is a member of the regulator's board because of their position as Secretary. In this role, the Secretary or nominee is bound to standard board protocols, including a duty of loyalty and confidentiality to the board.

Roles defined under the *Child Wellbeing and Safety Act 2005*

2. Relevant authority under the *Child Wellbeing and Safety Act 2005*

The department is a 'relevant authority' under the *Child Wellbeing and Safety Act 2005* because of its responsibility for regulating or providing funding to government schools, approved providers that operate education and care services, post-secondary education institutions and providers, and other entities.

As the regulator is a 'relevant authority', the commission may request it to provide information or to take action to ensure schools comply with the child safe standards.

3. Relevant entity under the *Child Wellbeing and Safety Act 2005*

The department is a 'relevant entity' under the *Child Wellbeing and Safety Act 2005* in a number of capacities, including as a department responsible for its portfolio and as the operator of registered government schools. As a 'relevant entity', the department's schools are required to comply with the child safe standards.

Oversight and policy roles

4. Supports the Minister for Education for Victoria's education and training system

The department is responsible for supporting the Minister for Education in administering the ETR Act—which specifies the arrangements for education and training in Victoria. The department's responsibilities include setting the overall policy for education and training for all Victorian schools.

On behalf of the minister, the department also develops policies, guidelines and directions for all schools. The department supported the minister in developing the ministerial order.

The department is also responsible for advising the minister on the performance of government school councils.

5. Advises relevant ministers on the regulator, including the discharge of its responsibilities

The department is responsible for advising the Minister for Education and the Minister for Training and Skills on matters relating to the regulator, including how it discharges its responsibilities.

Under the Victorian Government's *Statement of Expectations Framework for Regulators*, the department is required to evaluate the regulator's performance against its ministerial statement of expectations and advise the relevant ministers.

The purpose of the evaluation is to identify opportunities for continuous improvement in the statement of expectations process, the quality of statements and the statement framework.

The department's evaluations should be conducted at least six months before the statement expires, to inform the next statement.

Roles that support and administer the regulator

6. Funds, provides administrative support and employs all the regulator's staff

While the regulator is an independent statutory authority, the department provides the regulator's budget and supports its administration. The department also employs the regulator's staff, including its CEO. The Secretary sets performance plans and conducts reviews of the CEO's performance. The regulator's board informs this process through a letter to the Secretary.

7. Assisting the regulator on governance and administration of its role

As the regulator is a public entity within the department's portfolio, the department is responsible for working with and providing guidance to it, to assist it on matters relating to public administration and governance.

Roles that are accountable to the regulator

8. Proprietor of all government schools

The department is the proprietor of all government schools. Unlike technical and further education institutes and universities, government schools are not separate legal entities from the department. The department is responsible to the Minister for Education for its general conduct and its effective, efficient, and economical management. This includes responsibility for the operation, performance and compliance activities of Victorian government schools. The department employs school principals and develops policies, processes, and procedures that schools must follow.

The department applies to the regulator to register its schools.

9. Approved review body for government schools

As an appointed review body for all government schools, the department monitors compliance of its schools with the prescribed minimum standards—including the ministerial order requirements—and reports on this to the regulator.

Catholic Education Commission of Victoria

CECV is an appointed review body for all Catholic schools, responsible for reviewing and monitoring Catholic schools' compliance with the prescribed minimum standards on the regulator's behalf.

Independent Schools Victoria

Independent Schools Victoria is a not-for-profit organisation dedicated to promoting and developing independent education. It does not manage member schools, but represents, supports and provides services to them. It provides guidance to independent schools in relation to the child safe standards.

Commission for Children and Young People

The commission was established in 2013 as an independent statutory body to promote improvement in policies and practices that affect the safety and wellbeing of Victorian children and young people.

Since 1 January 2017, the commission has been the responsible regulator for the child safe standards in Victoria. The commission is also responsible for reporting publicly on compliance with the child safe standards in its annual report. The commission provides guidance on the standards to Victorian organisations that provide services to children. Noting the standards apply to over 50 000 organisations that vary considerably in size, function and nature, the commission's guidance is non-prescriptive. It explains the importance of the standards, but that there is no 'one size fits all' approach to implementing them. Each organisation should consider how to best apply the standards, taking into account the size and nature of the organisation, the services and activities provided, and the nature of the organisation's interactions with children.

The commission is also responsible for overseeing compliance with the standards. To determine an organisation's compliance, the commission has the powers to:

- request information directly from an organisation
- request information from relevant authorities (such as the regulator) responsible for relevant organisations (such as schools)
- inspect premises with the organisation's consent and with seven days notice.

The regulator includes information on school compliance with the child safe standards requirements in its annual report, which is made available to the commission.

Despite the *Child Wellbeing and Safety Act 2005* giving the commission responsibility for enforcing compliance with the child safe standards, it has limited enforcement powers.

The commission can issue an organisation a notice to comply with the standards and can request authorities responsible for regulating them, such as the school regulator, to act to ensure they comply. However, unlike the regulator's powers to enforce the child safe standards requirements through the school registration framework, the commission can only enforce its notice to comply by applying to a court for a declaration of non-compliance, which is subject to 60 penalty units (currently equivalent to \$9 671.40), if, for example, a school's non-compliance continues.

The commission's powers and responsibilities overlap with those of the regulator. To address this, the *Child Wellbeing and Safety Act 2005* requires the commission to:

- avoid unnecessary duplication with the regulator
- coordinate and expedite monitoring and enforcement activities of school compliance with the child safe standards.

Currently, there is no formal agreement in place to explain how this will be achieved.

Department of Health and Human Services

DHHS supports the Minister for Child Protection, and advised the minister on the development of the child safe standards. It is responsible for the review of the child safe standards currently underway.

1.3 Why this audit is important

Schools have been required to comply with the Victorian child safe standards since 1 January 2016 and with the ministerial order requirements since 1 August 2016. Schools are now entering their fourth year of required compliance with the standards and the third year of required compliance with the ministerial order requirements.

The safety of children is paramount. Given the findings of Victoria's *Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* and the Commonwealth's *Royal Commission into Institutional Responses to Child Sexual Abuse*, it is timely to assess the effectiveness of the regulator's performance and the arrangements in place in Victoria for assuring that schools are complying with the child safe standards.

1.4 What this audit examined and how

This audit focused on the regulator's ability to ensure that all Victorian schools comply with the child safe standards and the department's role in providing advice to its ministers on the regulator's performance.

This audit considered:

- the adequacy of the regulator's school registration framework to ensure schools' compliance with the child safe standards
- the regulator's monitoring, review and assurance activities of all schools, including the effectiveness of its arrangements with approved review bodies
- how the regulator engages with the department to keep the minister informed on schools' compliance with the child safe standards
- how the department evaluates the regulator's performance against the actions taken to achieve the improvements related to the child safe standards outlined in the Minister for Education's and the Minister for Training and Skills' statement of expectation.

We conducted our audit in accordance with section 15 of the *Audit Act 1994* and ASAE 3500 *Performance Engagements*. We complied with the independence and other relevant ethical requirements related to assurance engagements. The cost of this audit was \$410 000.

1.5 Report structure

The remainder of this report is structured as follows:

- Part 2 examines the regulator's support and guidance to schools
- Part 3 examines the regulator's assurance of school compliance
- Part 4 examines the department's evaluation of the regulator's performance.

2

The regulator's support and guidance to schools

The child safe standards are mandatory, yet are written as broad, flexible statements that each organisation can apply within their operating environment.

To operate in Victoria, schools must also comply with the child safe standards requirements for registration. To register a school, the regulator must be satisfied that the school has developed policies, procedures, measures, and practices in accordance with the ministerial order for managing the risk of child abuse.

The ministerial order sets out what the child safe standards mean in a school environment, specifying 57 requirements that schools must meet. The order purposefully provides schools with scope to take actions that suit their context and operating environment. The requirements aim to capture the many ways in which schools have contact with children, and the range of conduct that constitutes child abuse. Given that the standards and ministerial order requirements are mandatory, it is important that schools understand what is required of them to comply.

The Minister for Education expected the regulator to 'play an important leadership role in informing and educating school system owners and school leaders to understand and implement what is required to meet the objectives of the ministerial order'.

The department also has a role in providing advice to schools on what they can do to improve their approach to child safety to exceed the minimum standards set by the ministerial order.

This Part focuses on how the regulator has educated school system owners and school leaders on understanding and implementing Victoria's child safe standards requirements.

2.1 Conclusion

Although school principals who responded to our survey were positive about the guidance available from the regulator, the department, CECV and other sources, the regulator's guidance has significant gaps.

The regulator has not explained the criteria it uses to assess compliance and therefore what schools must do to comply with each of the 57 ministerial order requirements.

In the absence of clear guidance and without transparency on how their compliance is assessed, schools must make assumptions about what they must do to comply.

Given the ministers' expectations that the regulator will provide leadership in informing and educating school system owners and school leaders to comply with their school registration requirements, the regulator needs to more clearly explain to schools what they need to do to comply with the 57 ministerial order requirements.

The regulator should provide further leadership in challenging areas, such as measuring the extent to which schools have embedded child safe cultures. The regulator also needs to provide, or coordinate with the department, guidance on the four key areas that the minister identified schools would benefit from having guidance on.

Now that the child safe standards are in their third year, it is timely to clarify the ministers' expectations of the regulator's leadership role in providing guidance, and for gaps in the existing guidance to be addressed.

2.2 The regulator's guidance

The regulator's guidance on the child safe standards

Through the regulator's 2018 statement of expectations, the Minister for Education and the Minister for Training and Skills expected the regulator to provide 'clear guidance and support for educational organisations to successfully implement the child safe standards, and to meet the required standards for registration'. The ministers also outlined their expectation that the regulator would 'provide information to regulated entities to improve the transparency of regulatory assessment processes and methodology to reduce non-compliance'.

The ETR Act empowers the regulator to issue guidelines on the prescribed minimum standards. The regulator has developed guidelines for schools, including those offering senior secondary courses, called *Guidelines to the Minimum Standards and Requirements for School Registration*. Through the guidelines, the regulator provides links to materials on its 'resources' webpage related to the child safe standards.

The regulator's approach is to encourage schools to consider how they meet the child safe standards when preparing for their school compliance assessment. To do this, the regulator has developed information checklists for five of the seven standards. The checklists pose 'questions to consider' and highlight that schools should consider their own circumstances and communities to determine if they meet the standards.

School self-assessment tools

The regulator provides a readiness tool for all schools to use to help them prepare for their school review. The tool details the types of evidence an assessor might consider when determining compliance with all minimum standards.

In relation to managing the risk of child abuse, the tool asks schools to determine whether they are compliant or not. It specifies that evidence requirements include a school's policies, procedures, measures and practices in accordance with the ministerial order. However, the tool does not specify what these policies, procedures or practices must include.

The regulator also makes available a *Child Safety Standards compliance self-assessment and action plan* on its webpage. This self-assessment tool is a checklist to help schools assess how well they meet the 57 ministerial order requirements and to identify gaps they need to address.

Other sources of guidance for schools on the child safe standards

While the regulator links to multiple sources of guidance, it has not explained to schools the status of the materials and to what extent schools should be guided by them. For example, the regulator's 'resources' webpage links to the department's 'protect' webpage, but the regulator does not explain the purpose of these linked materials to schools. However, the department's 'protect' webpage incorporates a mix of guidance for all Victorian schools, jointly developed by the department, CECV and Independent Schools Victoria, as well as guidance that is specific to government schools.

The department and CECV also provide specific guidance and advice tailored to their schools only. Through our survey, school principals advised that they sourced their guidance from a mix of the regulator, the department and their system administrators.

As the regulator continually reviews and updates its guidance, there is a risk that the materials accessed on CECV's, the department's or other websites will vary and may not incorporate the latest updates. Our survey identified the lack of a single portal to find up-to-date, relevant material as a key challenge faced by schools.

The regulator's guidance on the ministerial order requirements

The ministerial order identifies 57 requirements that schools must comply with for registration. However, the regulator's resources are not tailored to the requirements.

The ministerial order purposefully outlines terms broadly to allow schools flexibility in how they respond to meet the requirements.

In the 2015 letter attached to the ministerial order, the Minister for Education noted that the regulator is expected to 'play an important leadership role in informing and educating school system owners and school leaders to understand and implement what is required'. The minister also identified that schools may require particular support and guidance on:

- the scope and effect of key definitions
- the role and expectations of governing authorities
- the essential elements of an 'appropriate' school response to the child safe standards
- ways in which strategies, policies, procedures and practices can be inclusive of the needs of all children, particularly students who are vulnerable due to age, family circumstances, abilities, or Indigenous, cultural or linguistic background.

The ministerial expectations in the 2018 statement of expectations are clear that the regulator would 'continue to undertake its core responsibilities, including providing clear guidance and support for educational organisations to successfully implement the child safe standards, and to meet the required standards for registration'.

As discussed below, the regulator has not provided adequate guidance to help school system owners and leaders understand how to achieve the two objectives of the ministerial order—to improve culture or to comply with the requirements for registration. It provides schools with prompts, but does not explain what they must do or how it will determine whether they have complied. It also has not provided adequate guidance on each of the four areas of support that the minister identified.

1. Lack of guidance on objective one—how to embed a school's child safe culture

The test of success of the child safe standards requirements outlined in the ministerial order is whether child abuse has been eliminated in schools. However, as shown through the Victorian Parliament's Inquiry and the Royal Commission's findings, victims may take decades to report offences. It is therefore important that schools monitor and understand whether they have embedded a child safe culture to minimise the risk of child abuse occurring.

Ministerial order requirement 7(1e) requires schools to periodically review the effectiveness of the strategies put into practice, and, if appropriate, revise those strategies. As this requirement directly relates to the first objective of the ministerial order—embedding a child safe culture—there is a need for support and guidance in this area.

The regulator has acknowledged the ongoing challenge of embedding a child safe culture that reflects a zero-tolerance approach to child abuse in schools. It also recognises the challenges of measuring how cultures change over time and that this requires ongoing attention. The regulator advises it has recently commenced focus group research into this area.

The regulator currently provides schools with questions to consider in its information checklist on strategies to embed an organisational culture of child safety. It also links to the commission's guide for creating a child safe organisation and DHHS's information sheet on good leadership and governance in child safe organisations.

Measuring culture is challenging in many settings. However, there are methods available that could be applied to schools, which measure both a school's actions and community perceptions about its commitment. When compared, this information can assist schools to identify issues and prioritise actions to drive improvements.

Measurements of actions for child safety may include:

- the extent to which child safety is sponsored and communicated by schools' leaders
- the extent to which child safety values and behaviours are reflected in every meeting
- the extent to which school leaders and school staff measure their own performance on promoting child safety.

Perceptions of students, staff and parents may be measured through surveys of views on:

- a school's child safety
- the maturity of the school staff and its leaders on receiving feedback, suggestions and complaints, and responding to them in an open, constructive and transparent way.

The regulator's guidance does not explain to system owners and school leaders how to measure their culture and the effectiveness of their strategies to meet the ministerial order requirements.

Due to the short timeframe between the child safe standards being introduced and the regulator being allocated responsibility for the child safe standards requirements, the regulator was not able to ensure that schools established their own baseline measurement of their culture. Without a baseline, neither schools nor the regulator can determine the extent to which their efforts have improved their culture. The regulator is yet to address this.

2. Lack of guidance on objective two—what schools must do to comply with the ministerial order requirements

Although school principals who responded to our survey were positive about the available guidance, we found that the regulator has not explained to schools the criteria it uses to determine compliance. In the absence of clear guidance on what schools must do to comply, there is a risk that schools will interpret the available guidance in different ways and will vary in the way they respond—to the extent that they may not meet the requirements. Our survey told us that while some principals clearly understood what was required, others considered that the guidance is not clear. One principal highlighted that ‘there is a lot of confusion in schools as to what to do and to what extent to go to in some elements of the requirements’.

The ministerial order requires schools to take 57 actions. However, the requirements are written in a non-prescriptive way to allow schools to meet them within their operating environment. They require schools to take ‘appropriate’ actions, ‘reasonable efforts’ and ‘take into account’ certain factors when putting their actions in place.

Due to the way the ministerial order requirements are written, the regulator must judge whether a school has taken sufficient action to comply. As shown in the example in Figure 2A, the ministerial order requires a school’s governing authority to develop and endorse a code of conduct.

Figure 2A

Ministerial order requirement nine—requiring a code of conduct

Requirement nine of the ministerial order requires a school governing authority to develop, endorse, and make publicly available, a code of conduct that:

- has the objective of promoting child safety in the school environment
- sets standards about the ways in which school staff are expected to behave with children
- takes into account the interests of school staff (including other professional or occupational codes of conduct that regulate particular school staff), and the needs of all children
- is consistent with the school’s child safety strategies, policies and procedures as revised from time to time.

Source: Ministerial order.

The regulator needs to determine whether:

- the school's governing authority has developed and endorsed the code of conduct
- the code of conduct is publicly available.
- the code of conduct the school has developed has the objective of promoting child safety in the school environment
- standards for expected school staff behaviour are adequate
- the school's actions have adequately taken into account the interests of school staff and the needs of all children
- the code of conduct's consistency with the school's strategies, policies and procedures relating to child safety is sufficient.

The regulator provides schools with prompts, such as questions, to guide the development of their code of conduct. It also provides an example code of conduct, examples of acceptable and unacceptable behaviour, and links to the commission's resource guide on developing a code of conduct. However, the regulator has not established criteria to inform how it will make judgements about the adequacy or sufficiency of a school's code of conduct.

The regulator's guidance simply re-states the intent of 51 of the 57 ministerial order requirements and provides prompting questions. As a result, the regulator has not explained to schools what they must do to comply with the ministerial order requirements or how it will determine compliance.

The lack of clearly documented decision criteria limits the transparency of the regulator's decision-making process, even though the Minister for Education and the Minister for Training and Skills expect the regulator to provide information to schools to improve the transparency of its regulatory assessment processes and methodology. Despite this, the regulator advises that it purposefully omitted what constitutes 'compliance' in its guidance. It has instead prioritised embedding a culture of 'no tolerance' for child abuse, over the compliance requirements. The regulator's view is that if it specifies what a school must do to comply, this would lead to schools focusing on ticking off compliance checklists rather than thinking about what is required to improve their culture.

The consequence of this approach is that schools must make assumptions about what they are required to do to comply, which could lead to unreasonable variance between schools, and irregular performance in this area.

Through our survey, a principal highlighted that 'this is where the primary issue lies: the resources are no better or worse than other resources but the interpretation of what is required in order to comply is problematic'. Other principals explained that compliance assessments relied on the compliance assessor's interpretation, and that opinions differed on what is required to comply, meaning 'that the process has become onerous and is absolutely a tick the box process rather than a process true to the concepts and principles of the order'.

As discussed in Part 3, we found variations in the way the compliance assessors interpret compliance.

3. Four key areas in which schools may benefit from support and guidance

The Minister for Education expected that the regulator would play a leadership role in informing and educating school system owners and leaders to understand and implement what is required.

1. The scope and effect of key definitions

Neither the ministerial order nor the regulator have defined what is intended by the 'scope' and 'effect' of the key terms. We have interpreted these terms to mean the following:

- **Scope** is the extent to which the term applies at or in relation to a school.
- **Effect** refers to the implications for a school's policies, strategies or practices.

The minister noted that schools may benefit from support and guidance on the scope and effect of key definitions used in the ministerial order. While it did not specify the definitions, the ministerial order highlighted that they included 'child abuse' and 'child-connected work'. We identified nine terms in the definitions section of the ministerial order.

The minister purposefully provided a broad definition of 'child-connected work'—requiring it to be broader than the definition of 'child-related work' used in the *Working with Children Act 2005*. The minister also required the definition for 'child abuse' to go beyond child sexual abuse.

It is important that schools understand these terms and what they mean for a their responsibilities, and how they manage the risk of child abuse within their school grounds and during external activities relating to the school.

The regulator advises that based on their interpretation of the letter accompanying the ministerial order, providing guidance on these terms is not their sole responsibility and is instead shared with the department and the commission as the state's lead child safety regulator.

Despite the minister's expectations that the regulator would play a leadership role, the regulator has not acted to clarify the intent of the minister's letter, and in particular who is responsible for providing this guidance to schools.

As shown in Figure 2B, while the regulator's guidance does explain the scope of eight of the nine terms listed in the definitions section of the ministerial order, it has not explained the scope of the term 'minister of religion'. We found that the regulator has also not provided guidance to schools on the effect of all nine terms.

As a result, each school must interpret the ministerial order and consider the limits of their responsibilities and what the terms mean for their policies, strategies and practices. As discussed in Part 3, we found variation in the evidence schools provided to their compliance assessor for each of the ministerial order requirements, and variation in the way the assessors interpreted the requirements.

Figure 2B

The regulator's guidance on the scope of key terms

Ministerial order terms	The regulator's guidance on the scope
Child	A child enrolled as a student at the school.
Child-connected work	Work authorised by the school governing authority and performed by an adult in a school environment while children are present or reasonably expected to be present.
Child abuse	Includes any act committed against a child involving: <ul style="list-style-type: none"> • a sexual offence • a grooming offence; or • the infliction on a child of physical violence, serious emotional or psychological harm or serious neglect.
Child safety	Encompasses matters related to protecting all children from child abuse, managing the risk of child abuse, providing support to a child at risk of child abuse, and responding to incidents or allegations of child abuse.
Minister of religion	No definition.
Proprietor	Proprietor in relation to a school, means: <ul style="list-style-type: none"> a) a person, body, or institution who establishes, owns or controls one or more registered schools; or b) any person or body that is specified in the registration of the school as the proprietor of the school.
School environment	Any physical or virtual place made available or authorised by the school governing authority for use by a child during or outside school hours, including: <ul style="list-style-type: none"> • a campus of the school • online school environments (including email and intranet systems) • other locations provided by the school for a child's use (including, without limitation, locations used for school camps, sporting events, excursions, competitions, and other events).
School governing authority	Means: <ul style="list-style-type: none"> • the proprietor of a school, including a person authorised to act for or on behalf of the proprietor; or • the governing body for a school (however described), as authorised by the proprietor of a school or the ETR Act; or • the principal, as authorised by the proprietor of a school, the school governing body, or the ETR Act. <p><i>Explanatory note: There is a wide variety of school governance arrangements. Depending on the way a school is constituted and operated, the governing body for a school may be the school board, the school council, or some other person or entity. The school governing authorities may share or assign responsibility for discharging the requirements imposed by this Order, in accordance with the school's internal governance arrangements.</i></p>

Figure 2B

The regulator's guidance on key terms—*continued*

Ministerial order terms	The regulator's guidance on the scope
School staff	<p>In a government school, an individual working in a school environment who is:</p> <ul style="list-style-type: none"> • employed under Part 2.4 of the ETR Act in the government teaching service; or • employed under a contract of service by the council of the school under Part 2.3 of the ETR Act; or • volunteer or a contracted service provider (whether or not a body corporate or any other person is an intermediary). <p>In a non-government school, an individual working in a school environment who is:</p> <ul style="list-style-type: none"> • directly engaged or employed by a school governing authority • a volunteer or a contracted service provider (whether or not a body corporate or any other person is an intermediary); or • a minister of religion.

Source: VAGO, based on the regulator's guidance.

The need for clarity on the effect of the terms for child abuse and child safety is significant, as demonstrated in the case studies in Figure 2C.

Figure 2C

Case studies: The implication of key definitions for ‘child abuse’ and ‘child safety’

Child abuse

The need for clarity on the effect of the ‘child abuse’ term is significant, given the government’s 2015 statement that set ‘zero tolerance’ for child abuse in Victorian schools.

The *Child Wellbeing and Safety Act 2005* defines ‘child abuse’ to include sexual, physical, emotional, and psychological abuse caused by an adult to a child and between children. The regulator’s website refers to the department’s ‘protect’ webpage, which explains what the critical signs of child abuse are, and the various forms of abuse. It explains that physical child abuse can consist of any non-accidental infliction of physical violence on a child by any person. It also explains what schools must do to respond to suspected child abuse.

However, neither the regulator’s nor the linked departmental guidance provide clarity on the effect of the ‘child abuse’ term.

Schools that may need to physically intervene to manage unsafe student behaviours would particularly benefit from such guidance. These schools may need to prevent, restrict, or subdue a student’s movement and may use strategies that can involve seclusion and physical restraint.

While many forms of physical contact can be entirely appropriate, without clear guidance on how zero tolerance for child abuse applies to these cases, it is not clear how schools would know if their policies, strategies and actions meet the regulator’s ministerial order compliance requirements. This may result in inconsistent application of the requirements between schools and has the potential to create conflict between the parents and guardians and their children’s school.

The regulator has consulted with specialist schools from all sectors through its specialist schools project. It has also amended its *Guidelines to the Minimum Standards and Requirements for School Registration* to include a requirement that schools have evidence of policies and procedures relating to when it may be necessary to use restrictive interventions to protect the safety of a student and members of the school community. The requirement applied to all new applications for school registration from 1 January 2019 and existing schools from 1 July 2019. The regulator must ensure that individual government school policies and procedures are consistent with the department’s *Restraint of Students* policy.

Government schools, however, have more direction than Catholic and independent schools on managing unsafe student behaviours. Section 25 of the *Education and Training Reform Regulations 2017* allows a staff member of a government school authority to ‘take any reasonable action that is immediately required to restrain a student of the school from acts or behaviour that are dangerous to the member of staff, the student, or any other person’. The department also provides to government schools a policy on how to prevent the need for restraint or seclusion and how to intervene in an incident when the need arises. It is also working on developing guidance to government school staff on how to protect themselves by minimising the need for intervention.

Child safety

The need for clarity on the effect of the ‘child safe’ term is significant given the many situations in which a child could be at risk in a school or school-connected environment.

The Family and Community Development Committee highlighted in its *Betrayal of Trust Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations* report that managing the risk of child abuse involves managing situational risks of children being exposed to abuse by employees and others associated with organisations.

The report gave an example of where and how organisations could manage risks by minimising opportunities for staff to be alone with children. Such scenarios could include where teachers, specialists, nurses and counsellors are alone with a child.

In its information sheet to inform schools developing their codes of conduct, the regulator states that all staff, volunteers, and board/school council members are responsible for supporting the safety of children by ensuring as far as practicable that adults are not alone with a child.

However, the regulator has not provided guidance to schools on the effect of the ‘child safety’ term, including how schools can work towards ‘designing out’ their risks of child abuse in their schools such as through their design and use of infrastructure, school policies, strategies and practices.

For example, the department provides guidance for the building of its government schools through its 2018 *Building Quality Standards Handbook*. It explains that to comply with the ministerial order, project consultants must create environments that promote inclusiveness, participation and child empowerment, and that mitigate risks to safety, especially through poor lines of sight in design.

Source: VAGO.

2. Role and expectations of governing authorities

The ministerial order places accountability for managing the risk of child abuse with school governing authorities, which includes the proprietor, the governing body and the principal. The minister's aim was for schools, through their school governing authorities, to have appropriate arrangements—including clear and comprehensive policies, procedures and accountability mechanisms—to regulate the conduct and decisions of school staff for the benefit of its students. The ministerial order allows school governing authorities to share or assign responsibility for discharging the ministerial order requirements, in accordance with the school's internal governance arrangements.

The regulator supplies guidance to governing authorities in its *Guidelines to the Minimum Standards and Requirements for School Registration*, which explains that schools must have developed policies, procedures, measures and practices in accordance with the ministerial order. This document explains that meeting the requirements is the direct responsibility of the school governing body and the school principal.

The regulator also supplies guidance to school boards and councils in its *Child safe standards: an overview for new school board/council members*, which specifies that the school governing authority is responsible for developing and endorsing the school's child safety policies and practices. It also explains that the governing authority must ensure that the school is taking the necessary steps to embed an organisational culture of child safety.

However, the regulator has not provided clear guidance to educate governing authorities on implementing each of the ministerial order requirements. This includes the types of policies that the governing authorities should ensure their schools have, their contents, and the actions to be put into practice. It also includes the type of oversight arrangements and accountability mechanisms school governing authorities may use to assure themselves that their schools are managing the risk of child abuse.

Without clear guidance on what is required to comply with the ministerial order requirements, each school's governing authority must make their own interpretations. The effectiveness of risk management strategies in schools therefore may depend on how they interpret the requirements and the experience and capabilities of their governing authorities in managing risk.

3. Essential elements of an 'appropriate' school response

The minister noted that schools may benefit from particular support and guidance on the essential elements of an 'appropriate' school response to the standards. As shown in Figure 2D, the ministerial order requires an appropriate response for 13 requirements.

Figure 2D

Ministerial order requirements for schools to take 'appropriate' actions

Ministerial order requirement number		Ministerial order requirements
7	1(e)	Periodically review the effectiveness of the strategies put into practice and, if considered appropriate , revise those strategies
10	(6)(a)	The school must ensure that appropriate supervision or support arrangements are in place in relation to the induction of new school staff into the school's policies, codes, practices, and procedures governing child safety and child-connected work
	(6)(b)	The school must ensure that appropriate supervision or support arrangements are in place in relation to monitoring and assessing a job occupant's continuing suitability for child-connected work
	(7)	The school must implement practices that enable the school governing authority to be satisfied that people engaged in child-connected work perform appropriately in relation to child safety <i>Explanatory note: To be 'satisfied', it is not necessary that the school governing authority make each decision about the selection and supervision of school staff engaged in child-connected work. The school governing authority needs to be satisfied about the appropriateness of the school's arrangements that would regulate or guide other people who make such decisions for or on behalf of the school about child safety matters and child-connected work</i>
11	3(c)(ii)	The procedure must identify the positions of the person or people who are responsible for responding appropriately to a child who makes or is affected by an allegation of child abuse
	3(e)(i)	The procedure must clearly describe the actions the school will take to respond to an allegation of child abuse, including actions to inform appropriate authorities about the allegation (including but not limited to mandatory reporting)
12	(5)(a)	At least annually, the school governing authority must ensure that appropriate guidance and training is provided to the individual members of the school governing authority and school staff about individual and collective obligations and responsibilities for managing the risk of child abuse
	(5)(b)	At least annually, the school governing authority must ensure that appropriate guidance and training is provided to the individual members of the school governing authority and school staff about child abuse risks in the school environment
	(5)(c)	At least annually, the school governing authority must ensure that appropriate guidance and training is provided to the individual members of the school governing authority and school staff about the school's current child safety standards
13	1(a)	The school governing authority must develop strategies to deliver appropriate education about standards of behaviour for students attending the school
	1(b)	The school governing authority must develop strategies to deliver appropriate education about: healthy and respectful relationships (including sexuality)
	1(c)	The school governing authority must develop strategies to deliver appropriate education about: resilience
	1(d)	The school governing authority must develop strategies to deliver appropriate education about: child abuse awareness and prevention

Source: Ministerial order.

The regulator supplies guidance on what ‘appropriate’ means for only two of the 13 requirements that require an ‘appropriate’ response. Both requirements—3(c)(ii) and 3(e)(i)—relate to requirement 11, which outlines the school governing authority’s requirement to have a clear set of procedures for responding to and reporting allegations of suspected child abuse. For both requirements, the regulator provides a resource authored by the department, which details guidance explaining allegations and how to respond appropriately to a child who makes or is affected by an allegation of child abuse.

For the remaining 11 requirements that require an ‘appropriate’ response, the regulator asks schools to make their own judgement about their compliance when preparing for a school compliance assessment.

Without clear guidance on the essential elements of an ‘appropriate’ response for all the ministerial order requirements, schools are required to individually interpret the ministerial order and make assumptions about how the regulator will determine whether their actions are sufficient.

4. Inclusiveness of strategies, policies, procedures, and practices

The minister noted that schools may benefit from guidance about ways in which their strategies, policies, procedures, and practices can be inclusive of the needs of all children, particularly students who are vulnerable due to age, family circumstances, abilities, or Indigenous, cultural, or linguistic background.

The minister noted that while the department would provide guidance on these matters, they anticipated that the regulator would play an important role in helping schools consider their students’ circumstances.

Many of the department’s resources on its ‘protect’ webpage incorporate guidance on inclusivity. The department also has a range of strategies and initiatives focused on support and inclusion for vulnerable children and children from diverse backgrounds. Due to the ministerial expectation of the regulator’s leadership role in assisting schools to consider their circumstances, we have focused our assessment on the regulator’s guidance.

The regulator’s guidance for schools on the inclusion principles focuses on raising awareness rather than informing schools on how to apply the principles when addressing the seven child safe standards. The regulator provides such information on the principles of inclusion for children that are vulnerable due to ability, Indigenous, cultural and linguistic backgrounds. We found no evidence that the regulator provides similar information on how schools can apply the principles of inclusion for children vulnerable due to age and family circumstances.

2.3 The regulator’s information sessions for schools

In the letter attached to the ministerial order, the Minister for Education states that the regulator would play an important lead role in informing and educating school system owners and leaders to understand how to implement what is required. In 2016, the minister asked the regulator to assist and support schools to prepare to achieve compliance with the new child safe standards.

While the regulator has not provided training to schools on how to comply with the ministerial order, it has presented at information sessions to raise awareness of the child safe standards requirements. During 2016, the regulator organised and presented at 12 information sessions for all schools, along with the department, CECV, and Independent Schools Victoria. The sessions provided a high-level overview of the child safe standards. The sessions also provided participants an opportunity to discuss activities on 'building a child safe culture' and 'creating a child safe school'.

As shown in Figure 2E, 30 per cent of schools attended these sessions—666 of the total 2 243 Victorian schools. While about half of independent schools attended, only 23 per cent of government schools and 41 per cent of Catholic schools attended.

Figure 2E
Attendance rates for the regulator's information sessions per sector in 2016

Sector	No of schools represented at sessions	Number of registered schools	Per cent of schools attended per sector
Government	350	1 538	23%
Catholic	204	493	41%
Independent	112	212	53%
Total	666	2 243	30%

Source: The regulator.

The regulator continues to raise awareness of the child safe standards to schools through information sessions that Independent Schools Victoria, the department and CECV arrange.

The regulator invited 465 education providers (including schools and other registered training organisations) to respond to its 2018 client stakeholder feedback survey. It found that of the 158 schools that responded, 73 per cent fully or mostly agreed that the regulator's events (including seminars, information briefings, or workshops) kept them up to date. This was an increase from 69 per cent the previous year.

Through our survey of school principals (discussed in section 2.4), 22 per cent of principals that responded stated that they have been in the role for under two years. The regulator has identified the need to continually raise awareness of the child safe standards due to the high turnover of senior leaders and the routine turnover of individuals on governing authorities.

However, the lack of access to routine training on what schools need to do to achieve compliance for all 57 ministerial order requirements compounds the lack of adequate guidance to schools.

Those schools with more stable and experienced leadership and membership on their governing authorities will be better placed to understand their obligations and manage risks to their students.

During our audit, the regulator advised that it was preparing an information pack for all new principals of Victorian schools to help them understand the regulatory context for the minimum standards.

2.4 Schools’ understanding of their compliance obligations

As detailed in Appendix D, we conducted a survey of school principals to seek their views on the guidance available to them.

Principals who responded to our survey questions were positive about the clarity of the available guidance on the child safe standards and ministerial order requirements. However, of the principals who responded to our open-ended questions about how the guidelines could be improved, some highlighted challenges with the guidelines that they face.

As discussed in Part 3, the regulator has found that around 30 per cent of schools do not comply with all the requirements. This non-compliance rate raises uncertainty about principals’ understanding of the requirements.

Responses on available guidance

We asked school principals about where they source their guidance from. As shown in Figure 2F, respondents sourced their guidance from the regulator’s and department’s websites, and from their system administrators. For example, 97 per cent of Catholic school respondents sourced their guidance from CECV, 88 per cent from the regulator and 76 per cent from the department. For government school respondents, 95 per cent sourced their guidance from the department, while 85 per cent sourced it from the regulator. Almost all independent school respondents (99 per cent) sourced guidance from the regulator.

Respondents from all sectors also obtained their guidance from other sources that we were not able to identify.

Figure 2F
Percentage breakdown of where respondents sourced guidance per sector

School sector	Independent	Catholic	Government
Guidance source			
The regulator	99%	88%	85%
The department	51%	76%	95%
CECV	7%	97%	6%
Other	38%	21%	9%

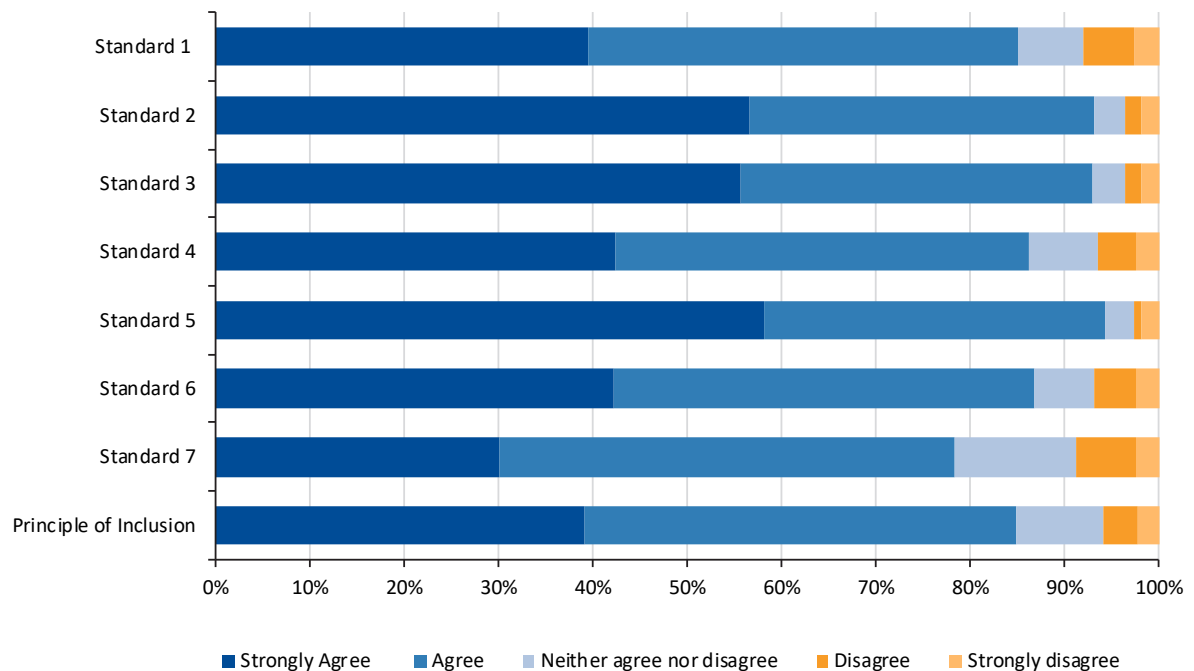
Source: VAGO survey of school principals regarding the child safe standards.

We asked school principals about the available guidance and whether it clearly explains what schools must do to comply with the seven standards.

As shown in Figure 2G, the large majority of respondents agreed or strongly agreed that the available guidance material clearly explains what schools must do to comply with the child safe standards and each of the ministerial order requirements. Respondents reported that the guidance provided greatest clarity in relation to standard 5—procedures for responding to and reporting suspected child abuse—with 94 per cent of respondents agreeing or strongly agreeing. The guidance that provided the least clarity was related to standard 7—strategies to promote child participation and empowerment—with 78 per cent of respondents agreeing or strongly agreeing that guidance clearly explained what schools must do to comply.

Figure 2G

Respondent views on whether guidance material clearly explains what schools must do to comply



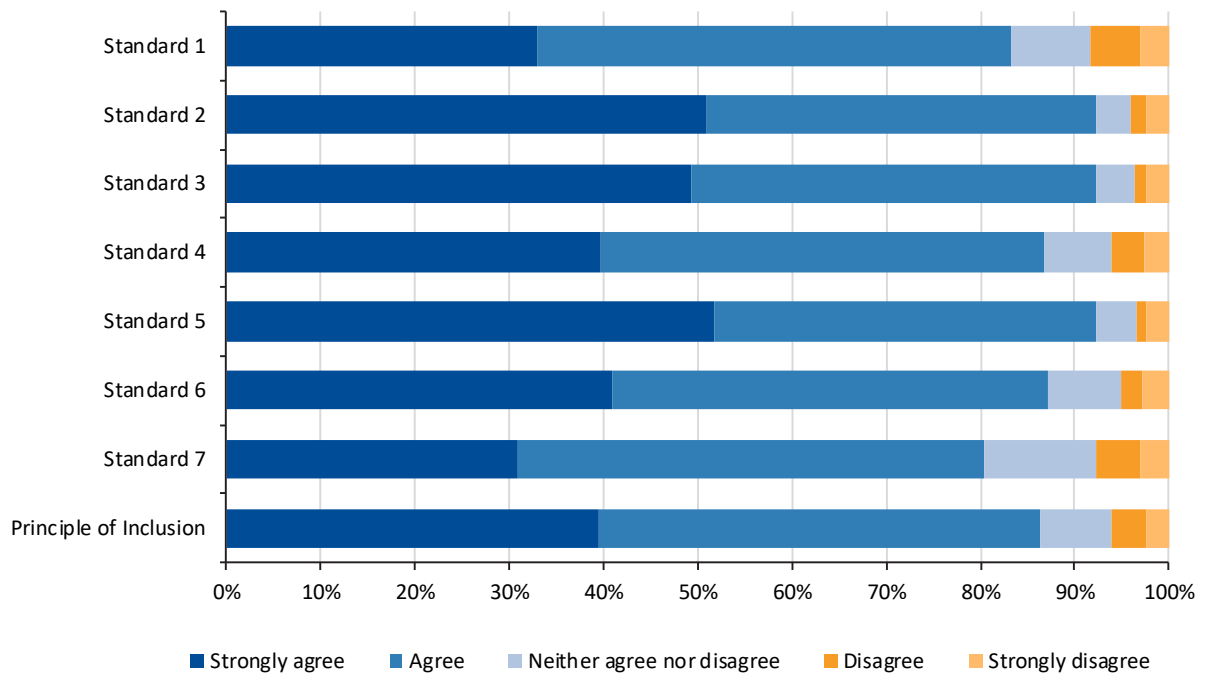
Source: VAGO survey of school principals regarding the child safe standards.

We also asked principals about their schools' clarity on what evidence is required to demonstrate compliance with the child safe standards and ministerial order requirements.

As shown in Figure 2H, the majority of survey respondents believed they had clarity on the evidence required for schools to demonstrate compliance with the standards and ministerial order requirements. As in the findings on guidance material, respondents had most clarity on standard 5—procedures for responding to and reporting suspected child abuse—with 92 per cent of respondents strongly agreeing or agreeing. Respondents had least clarity on standard 7—strategies to promote child empowerment and participation—with 80 per cent strongly agreeing or agreeing that they were clear on what evidence was required for their school to demonstrate compliance with this standard.

Figure 2H

Respondent views on clarity of what evidence is required to demonstrate compliance

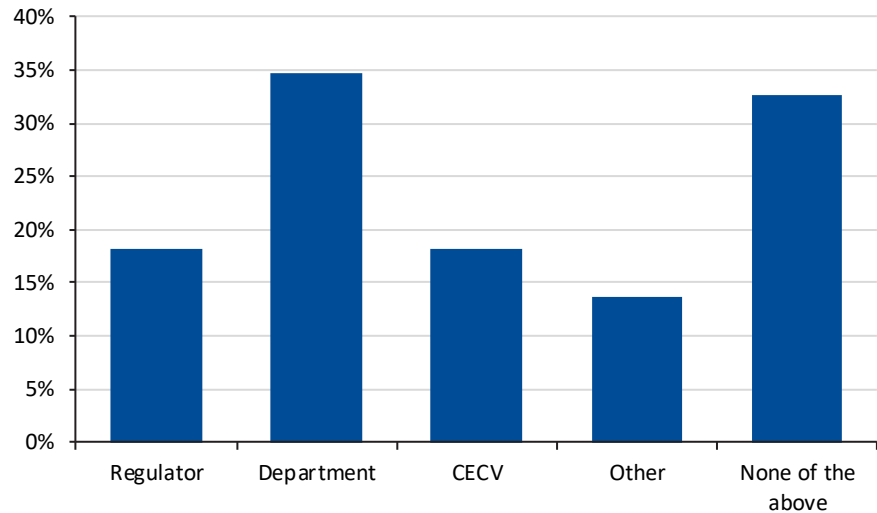


Source: VAGO survey of school principals regarding the child safe standards.

Responses on training

We asked school principals whether they received training on how to comply with the child safe standards and ministerial order requirements and to identify where from. Despite the regulator not establishing a training program, almost 35 per cent of respondents reported that they received training from the department, and 18 per cent from the regulator and CECV each, as shown in Figure 2I. Some 33 per cent of respondents reported they had received no training from either the regulator, department or CECV, and 14 per cent had sourced training elsewhere.

Figure 2I
Percentage breakdown of uptake of training

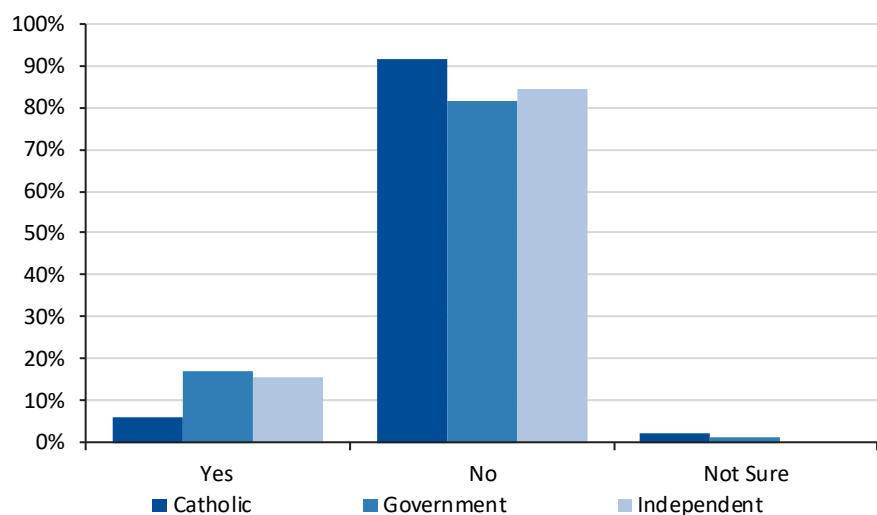


Source: VAGO survey of school principals regarding the child safe standards.

Responses on compliance regulation

We asked principals whether their school had been identified as non-compliant in any of the ministerial order requirements since they came into effect. Over 80 per cent of respondents in each sector reported they had been compliant, as shown in Figure 2J.

Figure 2J
Respondent views on whether their school had been identified as non-compliant since the ministerial order came into effect

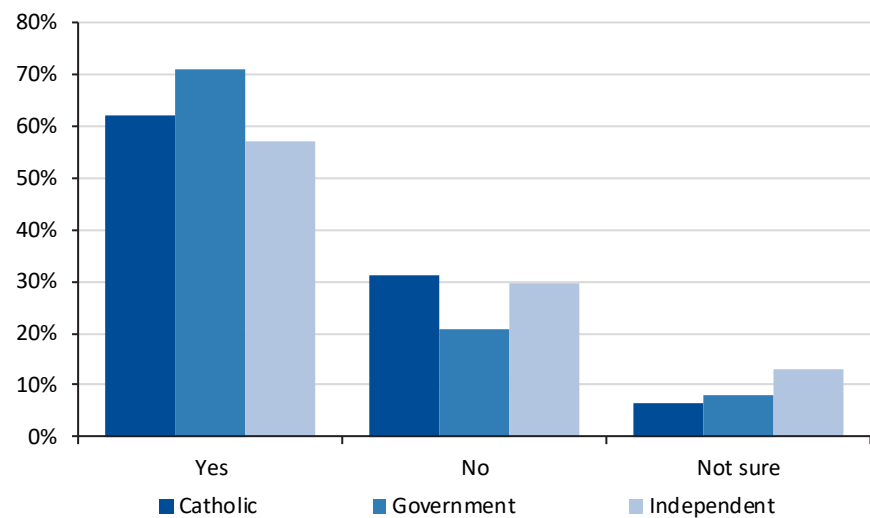


Source: VAGO survey of school principals regarding the child safe standards.

We also asked whether schools had been assessed since the standards were introduced, excluding any self-assessments. Not all school principals that responded believed that they had been assessed yet, and around 10 per cent were not sure, as shown in Figure 2K. We note that due to the frequency of reviews, it is likely some schools will not have been assessed yet.

Figure 2K

Respondent understanding of whether their school had been assessed for compliance with the child safe standards since they were introduced



Source: VAGO survey of school principals regarding the child safe standards.

Open-text responses

We invited respondents to provide open-text responses on how the documented guidance material could better help them understand how to comply with the child safe standards and ministerial order requirements. We received 673 responses, which highlighted challenges that principals faced, as outlined in Figure 2L.

Figure 2L

Challenges identified by school principals who responded to our open-text question

Challenge	Number of open-text responses
Need for templates to reduce administrative burden	76
Need for simplified guidance	45
Lack of a single portal for up-to-date, relevant material	27
Significant investment in time trying to understand what is required	16
Need for clarity on what schools must do to comply	11
Limited availability of guidance materials when the standards were first introduced	10
Lack of clarity on the role of government school councils	9
Need for guidance on measuring and embedding child safe cultures	7

Source: VAGO survey of school principals regarding the child safe standards.

3

The regulator's assurance of school compliance

To assure the minister that schools comply with the minimum standards for registration, the regulator must first satisfy itself that schools comply with the 57 ministerial order requirements. To do so, the regulator needs to specify how it determines whether a school complies. This is also important for assuring the commission that schools comply with the seven child safe standards.

Where it has engaged external review bodies or contractors to monitor compliance on its behalf, the regulator needs to establish clear governance arrangements that clarify the roles and responsibilities of the different organisations involved and specify the information it requires from them to demonstrate that a school complies.

This Part focuses on how the regulator assures itself and provides assurance to the Minister for Education and the commission that schools comply with the child safe standards.

3.1 Conclusion

The regulator's current approach to regulating school registration largely reflects the ministerial expectation of it in 2006 when it was first established. Its approach has not changed to reflect the introduction of the child safe standards requirements in 2015 or to respond to the 2018 ministerial expectation for it to monitor and enforce compliance.

The regulator reports that one third of schools did not comply with the 57 ministerial order requirements when assessed. However, its compliance statistics are not reliable because the data for each of the government, Catholic and independent sectors is not comparable. It is based on assessments that lack compliance criteria to guide them and that vary in the extent to which schools are assessed against all 57 requirements. The regulator has neither required its review bodies to quality assure their contractors' assessments, nor conducted quality assurance of these assessments itself.

Without access to CECV's and the department's school compliance data, the regulator cannot conduct its own analysis of all data across government, Catholic and independent schools to identify trends and risks. The regulator can only gain an insight into risks from schools it investigates for potential ministerial order breaches.

It is timely for the regulator to confirm the ministerial expectation of it to monitor and enforce the child safe standards requirements through the appointment of review bodies. Specifying its criteria for assessing compliance, establishing conditions for the review body appointments, and improving its oversight of their performance will strengthen the regulator's ability to satisfy itself of compliance with the child safe standards requirements and better target its regulatory activities.

3.2 Governance arrangements

The ETR Act and the ministerial order established the regulator's responsibility for monitoring and enforcing the child safe standards requirements through its school registration framework.

Governance arrangements consistent with the 2006 statement of expectations

The regulator's current monitoring and enforcement arrangements for the child safe standards reflect the Minister for Education's 2006 statement of expectations for the regulator when it was first established.

The statement specified that the regulator would have responsibility for the initial registration of education and training providers. However, the minister noted that the regulator has 'the power to delegate its ongoing quality assurance responsibilities'. Section 4.2.7 of the ETR Act enables the regulator to delegate any of its functions or powers (other than the power to delegate), including its function to assure school compliance and the powers to enforce compliance.

In the 2006 statement, the minister detailed that the department, and organisations such as CECV and Independent Schools Victoria, would seek the regulator's approval 'to be licensed to manage ongoing quality assurance' for their schools. The minister expected that under this approval, the regulator would delegate its ongoing quality assurance arrangements. In doing so, the minister expected that the regulator would be responsible for 'ensuring providers meet minimum standards, not for how they do so'. The minister also expected that the regulator would not act as a complaints body and that school system administrators, such as the department, would manage complaints from their schools.

Despite these expectations, the regulator retains the responsibility for satisfying itself that schools comply with the minimum standards for registration.

Consistent with the minister's 2006 expectations, the regulator conducts compliance assessments for initial school registration.

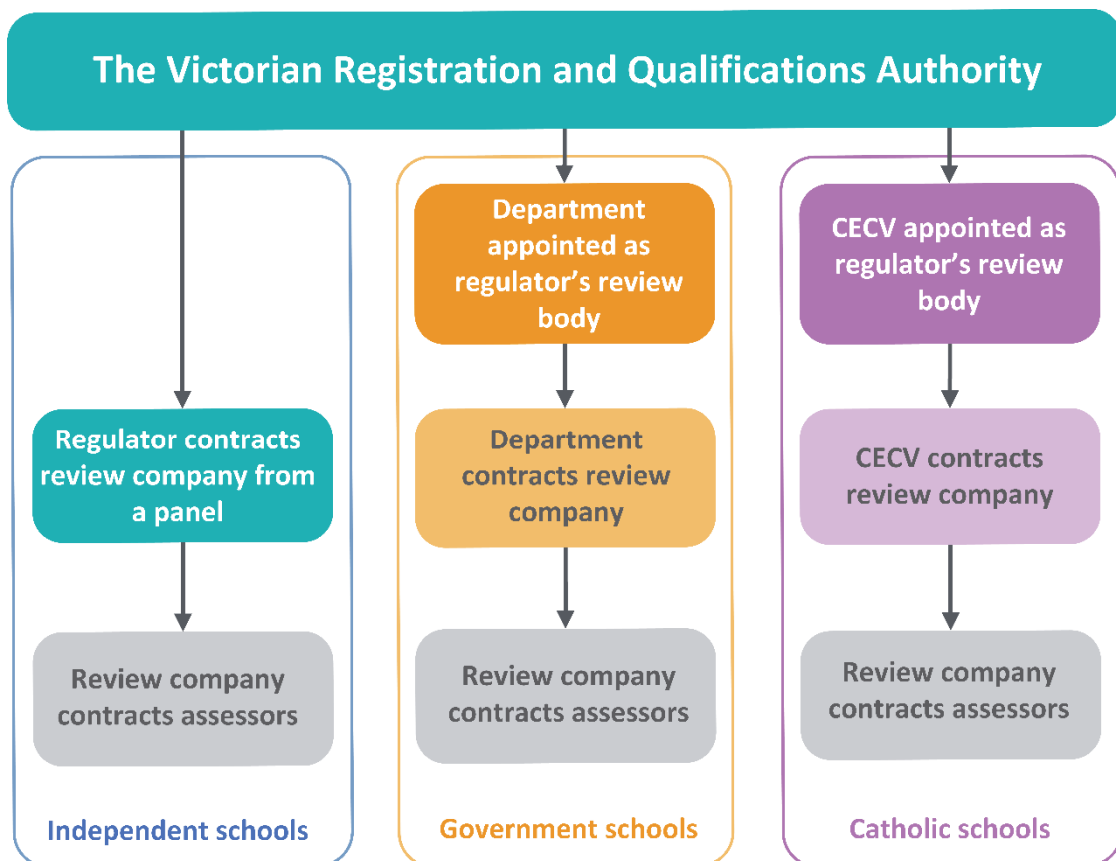
However, the regulator did not fully meet the 2006 ministerial expectation of it in relation to licensing third parties to manage ongoing quality assurance and by delegating its functions or powers to them.

The regulator advised that after considering a number of options, it contracted a panel of providers to monitor compliance of independent schools on its behalf, which it considered to be the more appropriate model. These providers then contract individual compliance assessors to undertake this work, as shown in Figure 3A. The regulator's staff review the assessor's assessment to make the final determination of whether a school complies.

Instead of issuing licenses and delegating its functions for government and Catholic schools, the regulator chose to appoint the department in 2008, and CECV in 2009, as review bodies to monitor ongoing compliance of their schools on its behalf. The department and CECV engage external providers that then contract compliance assessors to undertake the monitoring work. CECV advises that it trains and accredits individual assessors.

Figure 3A

The regulator's outsourcing arrangements for school compliance assessments



Source: VAGO.

The regulator also appointed an additional review body in 2014 for its schools, however, it revoked their appointment in September 2017.

The regulator has used two governance documents to establish its accountability arrangements. The first is a letter of appointment that informs the review body of the regulator's decision and defines the functions of the review body. The regulator's appointment letters do not specify the conditions and duration of appointments, or any point at which it will review appointment decisions.

The letters of appointment refer to the regulator's second governance document—an MOU that details the activity to be undertaken, the reporting requirements, and the separate roles and responsibilities. While the regulator's MOUs detail roles and responsibilities, they do not specify the regulator's expectations. As MOUs are formal documents, yet non-binding agreements between the parties, the existing approach prevents the regulator from holding its review bodies accountable for their performance.

The regulator advised that at the time, the department told it to establish arrangements for assessing compliance with the minimum standards that worked within the existing school assurance models. However, CECV's and the department's assurance models were designed for a different function—to meet their responsibilities for driving school improvement

Consistent with the 2006 ministerial expectation to not stipulate 'how' the review bodies determine compliance with the child safe standards, neither the appointment letter nor the MOU specify to the review bodies:

- how they should determine whether a school complies
- expectations for their compliance assessment models such as school assessment frequency, coverage of assessment, quality assurance and evidentiary requirements
- reporting requirements including the contexts of compliance reports and data and evidence requirements for assessing compliance against each of the ministerial order requirements
- requirements for reporting potential standards breaches.

Changes to ministerial expectations of the regulator

The regulator acknowledges that the introduction of the child safe standards requirements changed the ministerial expectations of it. However, the regulator continues to operate under the expectations set out for it in 2006.

Since the updated statement of expectations was issued in 2014, the ministerial expectation of the regulator has been that it will undertake the full range of functions and powers provided to it in the legislation. The ministers now expect it to ensure schools meet the required minimum standards while continuing to improve the efficiency and effectiveness of its regulatory activities by considering ways to improve regulatory practice. The ministers also expect that the regulator will continue to strengthen its evidence-based approach to regulation and improve the transparency of its regulatory assessment processes and methodology to reduce non-compliance.

The regulator recognises that it has not updated its arrangements with its review bodies to support these changed expectations. In 2016, it conducted a governance review, which involved interviews with its board members. One of the issues expressed in interviews was that the review body arrangements are insufficient for the regulator to be satisfied that compliance assessments of schools performed by review bodies meet the regulator's expectations in the MOU.

The regulator can improve its oversight of review bodies to better ensure consistent compliance of schools with the child safe standards requirements by specifying in its arrangements with review bodies:

- its requirements for the way they assess school compliance to achieve consistency across all schools
- reporting requirements, including necessary data, to enable it to target areas of non-compliance and monitor trends and performance
- expected quality assurance processes
- how it will evaluate review body performance.

Given the regulator has not licenced its review bodies and delegated its functions, and in light of the department's conflicts of interest, it is important that the regulator establishes a transparent regulatory process that supports its responsibility to satisfy itself that schools comply with the minimum standards for registration.

3.3 How the regulator determines if a school is compliant

While the ministerial order requirements are mandatory, they contain language that is open to interpretation. Specific guidance on the criteria the regulator uses to determine whether a school complies with each requirement is important to support consistent assessments, particularly given the range of assessors across various agencies.

However, the regulator has not determined or documented compliance criteria for each of the 57 ministerial order requirements, or the minimum evidence it requires to satisfy itself that all schools comply with them.

How the regulator determines compliance when a school is first registered

The compliance assessment for a new school application is different from an existing school's ongoing compliance assessment. A new school applicant can only demonstrate compliance against all the ministerial order requirements once a school is operational, such as for:

- requirement 11(2c)—making the school's procedure for reporting suspected child abuse publicly available and accessible to children, school staff, and the wider community
- requirement 12(5)—ensuring that its school governing authority receives appropriate training and guidance regarding the child safe standards on at least an annual basis.

The regulator's staff conduct compliance assessments of schools applying for their initial registration. Schools present the regulator with their documented policies and procedures and the school's commitment to comply once the school is operational. However, the regulator has not documented how it verifies that a school has enacted their commitment.

The regulator provides its staff a child safe standards checklist for new school applicants, which:

- repeats the wording from the ministerial order for 53 of the 57 of requirements
- omits information for ministerial order requirement 10(4) that schools must gather, verify and record information about a person whom it proposes to engage to perform child-connected work 'in accordance with any applicable legal requirement or school policy'
- omits information for ministerial order requirement 10(5) that a school need not comply with requirement 10(4) if it has already made reasonable efforts to gather, verify and record the information set out in requirements 10(4)(a) to 10(4)(d) about a particular individual within the previous 12 months.

The regulator has updated its checklist to include the omitted requirements in response to our audit.

The regulator does not have a training program to ensure its staff make consistent judgements about compliance. It instead relies on 'on-the-job' experience.

For schools assessed as non-compliant, the regulator provides the applicant school with feedback and a rectification plan. The applicant can submit a revised application within four weeks. Unsuccessful applicants can appeal the regulator's decision through the Victorian Civil and Administrative Tribunal.

The lack of compliance criteria, minimum evidence requirements, guidance on how to follow up on school commitments that they will meet requirements once operational, and training to inform consistent judgements, increases the risk of the regulator's staff inconsistently assessing school registration applications.

We reviewed the regulator's assessments of all 23 new school registration applications made during 2017–18. We identified inconsistencies between assessments. For example, one assessor determined a school to be non-compliant with requirements 1(a) and 1(b) under the standard 'Principle of Inclusion' because the school's child safe policy did not include an explicit reference to 'children that are vulnerable', while another school was assessed as compliant despite also lacking such a reference in their child safe policy.

How the regulator determines a school's ongoing compliance

The flexible yet mandatory ministerial order requirements, and the range of outsourced compliance assessors, amplify the need for clarity on how compliance is determined. Assessors require clear guidance from the regulator on how to conduct their assessments to ensure consistency.

In the absence of compliance criteria, the regulator's review bodies have developed their own compliance checklists for their assessors. We found different checklists in use within each sector, variation in the evidence assessors record, and consequently inconsistent determinations of compliance for the same requirements. The different checklists and varied methodologies mean that schools are not comparably assessed against the ministerial order requirements and are ultimately held to different standards.

Since the introduction of the child safe standards, the regulator has held information sessions for assessors to explain its priorities, respond to assessors' questions, and for assessors to share their experiences in assessing compliance. The regulator advises that it provides training to its own staff, review bodies and individual assessors. However, without compliance criteria and minimum evidence requirements for assessors, the training cannot provide meaningful outcomes that would lead to consistent assessments of school compliance that meet a minimum standard. The regulator also does not require its authorisation or approval of CECV's or the department's individual assessors.

This increases the risk of inconsistent assessments of school compliance.

The regulator has found, through its hot review program, that these risks have materialised. In its 2017 hot review evaluation, the regulator found:

- inaccuracies in review bodies' assessment information
- inconsistent approaches to assessing compliance with the minimum standards
- inconsistent approaches to assessing the implementation of documented policies and procedures, particularly in relation to student welfare
- that assessors did not have up-to-date knowledge about legislative requirements, particularly in relation to student welfare
- reviewer conflicts of interest
- examples where regulator officers were unable to determine how an assessor determined compliance
- in a small number of cases, areas of non-compliance that the assessors had not identified
- rushed assessment of some standards, and some that were not covered
- that assessors were uncertain of the evidence requirements for some minimum standards
- review body requirements for assessors were not clear, so it was not apparent which, if any, of the compliance requirements required a more thorough and focussed assessment

The regulator's **hot review program** aims to validate the review body processes implemented, to ensure that the review assessments of compliance are consistent with the regulator's compliance processes and requirements, and that they provide accurate and informed assessments of compliance with the minimum standards.

- that assessors were not supported by system-wide assessment tools to improve the efficiency and consistency of the review process
- inconsistency in assessments between CECV regions
- a lack of clarity around the level and type of training and support provided to the assessors.

During its 2018 evaluation of its hot review program, the regulator found that assessors viewed the advice and support it provided to undertake the compliance check component of the school review as minimal. It also identified that assessors could benefit from a more detailed and explicit briefing, particularly about specific risks to be addressed during the assessments. The regulator advises that it has not yet addressed the deficiencies identified through this evaluation because to do so would result in an increased regulatory burden for its schools and review bodies.

The regulator refers to non-cyclical reviews as 'priority reviews'. The department refers to them as 'pulse checks'.

We randomly selected cyclical review assessments conducted in 2018 from each of the independent, Catholic and government school sectors. Even with a sample size of four out of 104 Catholic school reviews, four out of 421 government school reviews and four out of 47 independent school reviews, we saw variation in the way assessors conduct assessments between sectors. We also found variation in the way compliance is assessed within sectors.

Consistent with the use of different checklists, we found that schools were assessed against a different number of requirements, as discussed in more detail below.

We also found variation in the evidence assessors recorded to support their assessments. In all four of the government school assessments, assessors ticked a box for compliant or non-compliant, but none included comments to substantiate their assessment. In all four of the Catholic school assessments, assessors ticked a box for compliant or non-compliant, but there was variation in the assessors' evidence or comments they documented against each test. While all the regulator's assessors for independent schools included comments to substantiate their assessment, the level of comment detail and evidence relied upon varied between assessments.

This variation is due to the different assessment tools used for school sectors. While all tools provide a box for the assessor to tick compliant or not compliant, they vary in evidence requirements. For independent schools, the regulator's assessment tool provides a column for the assessor to document evidence and another to add a description when non-compliance occurs. For government schools, the department's assessment tool includes a column for assessors to provide comments. For Catholic schools, CECV's Child Safe Standards Assessment Tool provides assessors with a pre-determined sample list of evidence to support each test. It also provides a section for the assessor to document background information on the school or add comments on the school's performance.

As a consequence, the regulator is not able to determine how assessors come to their conclusions on compliance for all schools based on the assessment tools used in each sector.

Variation in school compliance checklists

Each school sector has a different compliance assessment checklist, meaning that schools are not held to the same requirements. Government schools are assessed against the nine high impact requirements identified by the regulator, independent schools against up to 57 depending on the risk rating that the regulator applies, and Catholic schools against 92 tests that are based on the 57 ministerial order requirements.

Independent school checklist

The regulator uses a child safe standards compliance checklist for assessing ongoing compliance of independent schools that is modelled on the 57 ministerial order requirements. The regulator applies a risk-based approach to its assessments. By using a series of indicators outlined in its *Provider Risk Framework*, the regulator assesses a school's risks and determines how many of the ministerial order requirements it will assess.

Government school checklist

The department has developed two different checklists for its different types of reviews of government schools, including the school assessment checklist and the pulse checklist.

The department uses its school assessment checklist for its cyclical reviews, which assess nine of the ministerial order requirements that the regulator identified as having a high impact if they were not met.

The department uses its pulse checklist for its non-cyclical compliance assessments, which includes only 48 of the 57 requirements. Due to the checklist including different language than that of the ministerial order, the department has changed the meaning for four requirements.

As a result, government schools are not assessed against all of the ministerial order requirements and are assessed differently between cyclical and non-cyclical reviews.

Catholic school checklist

CECV uses a checklist that the regulator provided in 2016. The checklist is structured around the 57 ministerial order requirements and applies a series of 92 tests to represent a collection of the requirements. Based on our analysis, the checklist's 92 tests use different wording, which change the meaning for six of the ministerial order requirements.

Figure 3B provides an example of how CECV's checklist for Catholic schools differs from the requirements. In this example, the ministerial order requires governing authorities to ensure that appropriate guidance and training is provided. However, CECV's assessment also tests members of the governing authority and staffs' understanding of child abuse risks.

Figure 3B

Example of CECV's checklist changing the meaning from the ministerial order requirements

Ministerial order Requirement number	Ministerial order requirement	CECV's checklist tests
Requirement 12 (5) (b)	At least annually, the school governing authority must ensure that appropriate guidance and training is provided to the individual members of the school governing authority and school staff about child abuse risks in the school environment.	<p>Test 1.2—There is a schedule or plan and materials for training to be provided to new staff such as an induction kit.</p> <p>Test 1.3—There is a schedule or plan for further training to be provided to existing members (of the governing authority) on an annual basis.</p> <p>Test 1.6—The members of the governing authority understand the child abuse risks in the school environment.</p> <p>Test 5.3—There is a schedule or plan for further training to be provided to existing staff on an annual basis.</p> <p>Test 5.6—The staff understand the child abuse risks in the school environment.</p>

Source: Ministerial order and CECV's checklist.

The regulator advises that although it provided the checklist to its review bodies in 2016, with a view to it being used across all three school sectors, it no longer utilises it because the checklist:

- provided insufficient visibility of school compliance with the child safe standards
- made the compliance assessment process too onerous.

The regulator advises that it did not formally document its rationale for ceasing to use the checklist. The regulator also advises that it notified the department and CECV that it was using an alternative checklist from 2017 and offered it to them. However, the regulator did not require its review bodies to use a checklist consistent to its own.

In its 2018 evaluation of its hot review program, the regulator's observers identified that CECV was still using its 2016 checklist. It found that the checklist was complex, lengthy and time-consuming to complete. It concluded that the burden on schools could be reduced by using a simpler, more transparent tool. CECV advises that it was not aware that the regulator no longer used the original checklist it provided in 2016, or that the regulator considered it to be inadequate for this purpose.

3.4 Consistency of compliance assessment models

Through their 2018 statement of expectations for the regulator, the Minister for Education and the Minister for Training and Skills explained that their expectation was that the regulator would 'provide information to regulated entities to improve the transparency of regulatory assessment processes and methodology to reduce non-compliance'.

While the regulator has conducted compliance activities since the child safe standards were introduced, these activities have not been informed by a documented compliance framework that explains how each activity relates to each other, and how they provide assurance of school compliance. This limits the transparency of the regulatory assessment process and methods, and misses an opportunity to improve compliance through clearly communicated expectations.

The regulator has not clearly specified its expectations for how independent, government and Catholic schools are assessed and how quality assurance is conducted. Because of this lack of clarity, CECV and the department have developed and documented their own compliance assessment models. The regulator has not sought to approve them to ensure they provide it with satisfaction of compliance. This is despite the regulator providing CECV with \$137 600 in 2009 to develop its review body processes.

The regulator acknowledges the risks that this lack of documentation poses in the event of significant staff turnover.

During our audit, the regulator developed a draft school compliance framework. It outlines the regulator's policy to ensure that its regulatory decisions taken after school reviews are fair, consistent, proportionate and transparent. Its purpose is to guide the regulator in assessing and responding to the risks of schools refusing to accept non-compliances and/or urgency of action required. However, it does not explain the regulatory assessment process and assessment methods the regulator uses to satisfy the regulator of school compliance.

Variation in reliance on school attestations of compliance

Schools were required to comply with the seven child safe standards from 1 January 2016. In the letter accompanying the ministerial order, the Minister for Education requested the regulator to assist and support schools to achieve compliance with the 57 ministerial order requirements when they came into force on 1 August 2016.

The regulator required all schools to sign statutory declarations about their school's compliance during the 2016 calendar year. Neither the regulator nor its review bodies undertook assessments to confirm compliance with the ministerial order during 2016.

The regulator has not required a consistent cross-sector approach to self-assessments or attestations since 2017. Figure 3C shows that the extent to which attestations are required, the position accountable for making one, and how often they are to be made, varies by sector.

Figure 3C

Requirements for school compliance attestations by sector as at March 2019

	Independent	Catholic	Government
Regulator's requirement for school attestations	* No requirement	Regulator does not require CECV to seek attestations from Catholic schools	Through its MOU, the regulator requires DET to require government schools to attest
Requirement communicated to schools	N/A	Correspondence provided to schools through CECV intranet	Department's guidelines on the <i>Annual Report to School Community</i>
Position accountable for attestation	N/A	Principal	Principal and school council president
Frequency	N/A	Annually	Annually

Note: * The regulator advises that the ETR Act does not provide it explicit powers to require independent schools to attest to their own compliance.

Source: VAGO.

The regulator advises that the ETR Act does not provide it explicit powers to require independent schools to attest to their own compliance. The regulator therefore has no requirement in place for independent schools. Both the department and CECV require their schools to attest to compliance. School compliance with the attestation is verified at the next school review that is conducted.

Since 2016, CECV has required its school principals to annually attest to compliance in their annual reports, despite no requirement to do so in its MOU with the regulator.

Through their MOU, the regulator requires the department to ensure government schools attest in their annual reports to their schools' compliance.

In 2017, the department required government school principals and school councils to attest that 'the school is compliant with the Child Safe Standards prescribed in Ministerial Order 870—Child Safe Standards, Managing Risk of Child Abuse in Schools' on the front cover of their annual report.

From 2018, the department changed this attestation requirement on the front cover of their annual report to:

- require principals to attest that 'the school is compliant with the Child Safe Standards prescribed in Ministerial Order No. 870—Child Safe Standards, Managing Risk of Child Abuse in Schools'
- require the school council to attest that 'to the extent that the school council is responsible, the school is compliant with the Child Safe Standards prescribed in Ministerial Order No. 870—Child Safe Standards, Managing Risk of Child Abuse in Schools.'

In our 2018 *School Councils in Government Schools* audit, we found that the department had not clearly explained to government school authorities—called school councils in government schools—their role, particularly in relation to school compliance with minimum standards. Although school councils are responsible for school compliance, they do not have the power to ensure their school complies with the ministerial order requirements when employing teachers, including principals, in the government teaching service. This is because the department employs these staff. A school council only has the power to ensure their school complies in relation to staff it employs on temporary contracts, such as education support staff and casual relief teachers.

The department is yet to update its guidance to school councils to explain their compliance responsibility and the meaning of such an attestation within the context of the school council's role.

Variation in school compliance monitoring approaches

As the regulator has not specified its expectations of review bodies' compliance monitoring approaches, there is variation in the way each school sector is assessed against the ministerial order requirements, which means compliance data is not comparable.

As shown in Figure 3D, these variations include the proportion of schools assessed each year, and the frequency and nature of the assessments.

Figure 3D

Variation in monitoring arrangements by school sector

	Independent	Catholic	Government
Cyclical reviews			
Frequency	Every 5 years	Every 4 years	Every 4 years
Nature of assessment	All requirements	All requirements	Part of the school improvement assessment process. Compliance only assessed against the nine high impact requirements identified by the regulator.
Out of cycle reviews			
Frequency	Schools selected when they are classified as high risk—usually due to a complaint or media coverage.	No requirement	10 per cent of government schools randomly selected each year
Nature of assessment	All requirements	No requirement	All requirements

Source: VAGO.

Variation in quality assurance of assessments

Quality assurance involves planned and systematic activities to provide confidence that an assessment meets a predetermined quality requirement.

We found that while the regulator has a practice of checking its own staffs' compliance assessments at initial registration, it has not documented this practice.

In February 2018, the regulator documented its process for assuring ongoing assessments of independent schools through its *School Review Quality Assurance Program*. We found no evidence of how this has been put into practice.

Consistent with the Minister for Education's 2006 statement of expectations, the regulator has not sought to require its review bodies to demonstrate their quality assurance processes. It also does not quality assure their assessments itself.

Through its MOUs with CECV and the department, the regulator committed to 'negotiate an acceptable method, scope and timing through consultation with the review bodies where it seeks to validate the annual compliance report'. We found no evidence this has occurred.

Both the department and CECV confirm that they have no process to validate their assessor's compliance assessments.

3.5 The regulator's requirements on review body compliance assessments and reporting

Lack of clarity on the nature and availability of compliance data

During 2018, the regulator upgraded its systems to record compliance data for independent schools. This will enable it to improve its data analytics and reporting on school compliance in line with the ministerial order requirements.

The regulator receives summarised compliance statistics from its review bodies on a calendar year basis through their annual compliance reports. It has not defined the additional data it needs from its review bodies for government and Catholic schools to meet the ministerial expectation that it:

- strengthens its evidence-based approach to regulation
- collects relevant data to inform a risk-based approach to allocate resources and effort on activities where the risks are greatest
- evaluates the outcomes of these approaches.

Without specifying its data needs, the regulator is also unable to satisfy itself of school compliance and conduct its own analytics of government and Catholic schools to identify compliance trends and issues.

Figure 3E details the school compliance data from the 2017 calendar year for government and Catholic schools, reported by the department and CECV to the regulator in their 2018 annual compliance reports.

Figure 3E**Reported school compliance during 2017 calendar year**

	Number of schools registered in 2017	Coverage of 57 ministerial order requirements	Number of schools assessed	Number of schools assessed as not-compliant at time of assessment	Number of schools compliant at time of assessment	Percentage assessed as compliant at time of assessment
Government schools						
	1 543	Assessed against nine high impact requirements	299	83	216	72%
		Assessed against 48 requirements	68	18	50	74%
Catholic schools						
	492	Assessed against 92 tests	135	51	84*	62%*

Note: *We calculated these figures based on the compliance rate and number of schools assessed.

Source: CECV and the department's annual compliance reports.

The regulator also receives compliance data from its review bodies by financial year for its own annual report and for reporting to the commission.

As shown in Figure 3F, the regulator reports combined compliance statistics based on financial year. The data shows that approximately one third of Victorian schools were found to be non-compliant with the ministerial order requirements at the time that they were assessed.

Non-compliance does not necessarily mean that children are at immediate risk. It could simply be due to a school governing authority being a day late in providing the required 12-monthly guidance and training to its staff about their child safety obligations (requirement 12.5 a). Alternatively, non-compliance could be as significant as a school not verifying that a new staff member has a Working with Children Check (requirement 10.4 a). The regulator advises that all schools were found to be compliant following rectification.

The annual reports identify the compliance rates at the time of assessment. During their assessments, the regulator for independent schools and review bodies for government and Catholic schools work with these schools to address their non-compliance.

Figure 3F

Regulator's reported school compliance statistics by financial year

School review type	Number of schools assessed	Number of schools assessed as not-compliant against ministerial order at time of assessment	Percentage assessed as non-compliant at time of assessment	Percentage assessed as compliant at the time of assessment	Percentage assessed as non-compliant following rectification
2016–17*					
General review	126	44	35%	65%	0%
Specific review	30	5	17%	83%	0%
2017–18					
General review	634	214	34%	66%	0%
Specific review	50	14	28%	72%	0%

Note: * Data only covers the January to June period of 2017. It excludes independent schools for period of January to June 2017. The regulator advises that it did not complete reviews against the ministerial order requirements during this period.

Source: The regulator's annual report.

We found that collating or comparing summary school compliance statistics is of limited value because the data is not comparable. It is based on assessments that lack compliance criteria to guide the assessor's interpretations. The assessments are also based on different requirements and vary in the extent to which they consider all the requirements.

We also could not verify that the regulator's compliance figures accurately reflect school compliance for the reported period because the regulator does not have access to CECV's and the department's source data.

Because of this, the regulator is also not able to analyse the data to identify compliance trends and identify risks.

3.6 Reporting on potential breaches of the child safe standards requirements

Lack of clarity for review bodies, schools and system administrators on reporting of potential breaches of the child safe standards requirements

As review bodies, CECV and the department detect non-compliance when they conduct school assessments, and work with schools to address non-compliance.

While the regulator expects its review bodies to provide a collated report on school compliance annually as a result of these assessments, it has not clearly specified its needs relating to reports of potential breaches that they find throughout the year.

CECV and the department as system administrators, and individual schools, can also become aware of potential breaches through receiving complaints.

The regulator has its own complaints management process for all schools. CECV and the department have separate complaints management processes for Catholic and government schools respectively. CECV records complaints related to the minimum standards, but does not specifically identify the child safe standards. Neither CECV's nor the department's complaints processes are designed to enable the regulator to identify potential breaches relating to the child safe standards. They also do not specify when they would notify the regulator.

Unlike the legislative requirements for reporting to the commission on potential reportable conduct within three business days, there are no legal requirements to ensure schools or system administrators report to the regulator on potential breaches of the child safe standards requirements in a timely way.

This approach is consistent with the Minister for Education's 2006 statement of expectations for the regulator. At the time, the Minister for Education expected that the regulator would not act as a complaints body and that system administrators, such as the department, would manage complaints about schools.

However, the introduction of the child safe standards in 2015 brought with it a new expectation that the regulator would be responsible for responding to alleged breaches. The Minister for Education and the Minister for Training and Skills now expect the regulator to undertake the full range of functions and powers provided to it in the legislation. The regulator has powers to monitor and investigate potential breaches of the child safe standards requirements under the ETR Act and enforce school compliance.

Without clarity on the regulator's data needs relating to potential breaches that review bodies find and address throughout the year, the regulator is not able to communicate these to schools and system administrators. The regulator therefore misses a valuable source of information about potential breaches, limiting its ability to use its investigative and enforcement powers.

The regulator relies on referrals from other agencies, schools, and system administrators to advise it of potential breaches. It also relies on other sources, such as media reports or complaints made to it directly, as well as the limited data available to it through the annual collated reports provided by its review bodies.

We found that this approach does not reliably ensure that the regulator is kept informed, or able to analyse evidence to inform a risk-based approach to regulating schools.

How the regulator responds to alleged breaches

When assessing and investigating an alleged breach, the regulator tests the allegations against relevant minimum standards, conditions, guidelines or required behaviours. Where the regulator finds that a registered school does not comply with one or more of the minimum standards or has not complied with a condition of its registration, the regulator can conduct a review. The regulator then works collaboratively with schools to help them meet their obligations.

However, when this approach is unsuccessful, the regulator has powers to ensure that the school meets the minimum standards. The ETR Act provides that it may:

- accept a written undertaking to comply from the proprietor or principal
- impose conditions on the school's registration
- prohibit the school from enrolling any new students
- require the school to report its non-compliance to parents
- suspend or cancel the school's registration
- apply for a Court Order if the undertaking is breached.

While the regulator advises that it takes into account the following factors to make a decision, it is yet to document:

- whether there is any risk to the safety of children at the school
- whether there is any risk to the children's education or learning outcomes
- the financial viability of the school
- the nature and extent of the non-compliances
- the school's history of compliance
- the school's response to the non-compliances and whether it is willing to work with the regulator to address any non-compliances
- the outcomes the regulator is trying to achieve.

The lack of clearly documented criteria limits the transparency of the regulator's decision-making process.

During our audit, the regulator developed a draft document that outlines the regulator's policy to ensure that its regulatory decision taken after school reviews are fair, consistent, proportionate and transparent. Its purpose is to guide the regulator in assessing and responding to the risks of school's refusing to accept non-compliances and/or the urgency of action required. While this document explains the process for making a decision, including who is responsible, the document does not identify the criteria that decision-makers will use.

3.7 Supporting the commission on the child safe standards

Supporting the commission to report publicly on compliance

The regulator supports the commission to report publicly on compliance with the child safe standards requirements. The commission must give a report of the details of compliance with the standards to the Minister for Child Protection and the DHHS Secretary any time they require it to do so. The commission may request that the regulator provide it with information on school compliance with the standards for schools.

The regulator has committed to provide compliance information on schools through its annual report.

As we have found the compliance data that the regulator collates is not comparable, the commission's reports to the Minister for Child Protection and the DHHS Secretary relating to schools are equally affected.

4

The department's evaluation of the regulator's performance

Under the Victorian Government's current statement of expectations framework for regulators, departments must evaluate the statement of expectations for regulators within their portfolios.

The evaluation requirements are intended to ensure an objective review of the framework's success in improving regulator performance and outcomes and reducing costs for regulated parties.

This Part focuses on the department's evaluation of the regulator's performance against the ministerial expectations of it. These include the expectations relating to the child safe standards requirements. We have also considered how the department identifies opportunities for continuous improvement for the regulator and for development of the next statement.

4.1 Conclusion

The department's first evaluation of the regulator's performance was based on public information and advice from the regulator's staff and its board. It focused on the regulator's performance against one of the ministers' expectations—that the regulator would continue to undertake its core responsibility to provide clear guidance and support for educational organisations to successfully implement the child safe standards. The department did not evaluate the regulator's performance against ministerial expectations relating to its regulatory approach.

As a result, the department did not evaluate the regulator's performance against the ministers' full set of expectations.

In this audit, we identified numerous performance issues relating to the regulator's guidance and its regulatory approach that were not within the scope of the statement of expectations evaluation, and also found areas where the regulator needs to improve guidance and support to schools. These issues and other relevant findings from this audit should be considered in establishing future statements of expectations and related targets, and the scope of future evaluations.

4.2 The department's evaluation

Victorian Government requirement to evaluate the regulator's performance

All regulators in Victoria are issued a ministerial statement of expectations—a strategic direction that outlines the Victorian Government's expectations about regulatory governance and performance.

In 2017, the Victorian Government introduced a new *Statement of Expectations Framework for Regulators*. It aims to promote greater efficiency and effectiveness of regulators.

The Department of Treasury and Finance's *Guidelines for Evaluation of Statements of Expectations for Regulators* outlines that the evaluation process should be completed six months prior to the end of the statement, so learnings from the evaluation can feed into the development of subsequent statements.

The purpose of the evaluation of regulator outcomes is to assist regulators to identify opportunities and develop plans to:

- improve performance and outcomes
- reduce costs on regulated parties.

At a minimum, the evaluation should include:

- an assessment of how well the regulator performed against its intended outcomes
- identification of any key risks or barriers affecting its performance
- an outline of applicable lessons going forward.

The guidelines explain that the complexity and depth of analysis contained in the evaluation should be reasonable (evidence-informed and defensible) and proportionate to both the size of the regulator and the scale of regulatory activity. Evaluations should be as comprehensive as possible without imposing significant additional and potentially costly extra work.

The evaluations must also be undertaken in collaboration with the regulator and rely on established processes where appropriate.

The regulator's statement of expectations

The Minister of Education and the Minister for Training and Skills jointly issued the regulator's current statement for 2018–19 on 8 January 2018. It expires on 30 June 2019, making it an 18-month cycle. Future statement cycles will cover a two-year period, in accordance with the requirements in the statement of expectations framework.

General expectations

The regulator's current statement of expectations expresses the ministers' expectation that it will undertake the full range of functions and powers provided to it in the legislation. It explains that the regulator should continue to improve the efficiency and effectiveness of its regulatory activities by considering ways to improve regulatory practice. This includes reducing the regulatory burden on regulated entities, and in particular multi-sector providers, by streamlining the regulatory processes. It also includes continuing to engage with stakeholders to inform the ongoing improvement of its regulatory activities.

The statement does not include specific performance improvement targets. The expectations are instead framed in terms of the regulator's processes.

The ministers' expectations focus on the following areas of regulatory activity:

- home schooling
- expulsions reform
- child safe standards in schools
- apprenticeships and traineeships.

The statement also explains that the regulator should continue to:

- strengthen its evidence-based approach to regulation and collect relevant data to inform a risk-based approach to allocate resources and effort on activities where the risks are greatest, and to evaluate the outcomes of these approaches
- provide information to regulated entities to improve the transparency of regulatory assessment processes and methodology to reduce non-compliance. This will support providers and clients to understand and comply with their legal and regulatory obligations.

Expectations specific to the child safe standards

The expectations that apply to the regulator's activities to assure compliance with the minimum standards for school registration apply equally to the ministerial order requirements.

The ministers in particular expected that the regulator would continue to undertake its core responsibilities, including providing clear guidance and support for educational organisations to:

- successfully implement the child safe standards
- meet the required minimum standards for registration.

The ministers expected the regulator to undertake its core responsibilities while working in partnership with all sectors to embed the minimum standards as a core part of school improvement and effective governance.

The department's evaluation

Focus and scope

The department conducted its first evaluation of the regulator's performance against its ministerial statement of expectations during our audit. It focused on the four functional areas from the 2018–19 statement of expectations with specific improvements and targets, including the child safe standards. As the evaluation should be undertaken at least six months before it expires, to inform the next iteration of the statement, the effective period for the department's evaluation was between January and December 2018.

The department's evaluation intended to report on what activities the regulator has been able to achieve in the time available, and to highlight any issues and challenges. The evaluation report aims to establish baseline measures for the development of future statement of expectation targets. It was not intended to make causal attributions between the regulator's activities and outcomes.

Consistent with the guidance, the department's evaluation was limited to publicly available information and advice from the regulator. The department advises that it has no powers to compel the regulator to provide information. The department therefore considered information in the regulator's annual reports, client and stakeholder research and other information provided by the board. The department also consulted the regulator's staff and board members and considered the regulator's own assessment of its performance against the statement of expectations.

The department's statement of expectations evaluation plan noted our audit was being undertaken, but that it could not be incorporated into the evaluation due to the timing of both the evaluation and our audit. It notes that our audit was likely to be comprehensive and provide more significant insight into the regulator's performance in relation to the child safe standards. In comparison to our audit, the department's evaluation of the child safe standards had a very specific focus and was limited by the factors outlined above.

Department's evaluation of the regulator's performance relating to the child safe standards

The department's evaluation included a 'process evaluation', which found that general aspirations expressed in the statement were not conducive for evaluation, and that future statements should frame expectations as measurable performance objectives. The department concluded that the child safe standards should remain a focus of future statements.

Guidance and support

The department found that the regulator provided guidance and promoted the child safe standards. The department recognised that schools need further guidance from the regulator.

As discussed in Part 2, we found that while the regulator provides guidance and support for educational organisations, its guidance does not specify the criteria it uses to determine compliance. Without this information, the regulator's ability to meet the ministerial expectation that it will support schools to understand and comply with their legal and regulatory obligations is limited.

To avoid ongoing uncertainty about the regulator's responsibilities, future statements of expectations for the regulator should provide clarity on the ministerial expectation of the regulator's role and responsibility, including for:

- providing clear guidance to schools on the criteria it uses to determine compliance with the minimum standards relating to child safety
- providing guidance on how schools can embed child safe cultures
- coordinating its guidance with the department and the commission.

The regulator's assurance of school compliance

In relation to the child safe standards, the department's evaluation did not focus on the regulator's activities to assure compliance with the ministerial order requirements as a minimum standard requirement for school registration.

Within the limited scope of the evaluation, the department concluded that because the regulator's monitoring and enforcement activities identified incidences of non-compliance with the child safe standards in all sectors, that the review process is effective.

The department recognises that more needs to be done to ensure greater compliance.

As discussed in Part 3, we found that the regulator's current approach to regulating school registration largely reflects the ministerial expectation of it in 2006. Its approach has not changed to reflect the introduction of the child safe standards in 2015 or to respond to the 2018 ministerial expectation for it to monitor and enforce compliance with the minimum standards. We also found that it lacks appropriate accountability arrangements for its review bodies.

To avoid ongoing uncertainty about the regulator's responsibilities, future statements of expectations for the regulator should provide clarity on the ministerial expectation of the regulator, including with respect to:

- its regulation approach for the minimum standards—including the standard for child safety and how it assures school compliance while also reducing schools' regulatory burden
- its authority over its appointed review bodies and its ability to specify its requirements of their compliance assessments to satisfy itself of school compliance, and ensure schools are assessed consistently
- its need to document its processes
- minimum expectations for data quality and evidence-based decision-making.

Appendix A

Audit Act 1994 section 16— submissions and comments

We have consulted with the department and the regulator and we considered their views when reaching our audit conclusions. As required by section 16(3) of the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to those agencies and asked for their submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses were received as follows:

Department of Education and Training	76
Victorian Registration and Qualifications Authority	79

RESPONSE provided by the Secretary, Department of Education and Training



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BRI1927275

Mr Andrew Greaves
Auditor-General
Victorian Auditor-General's Office
Level 31, 35 Collins Street
MELBOURNE 3000

Dear Mr Greaves

Proposed report: School compliance with Victoria's Child Safe Standards

Thank you for your letter of 29 May 2019, and the opportunity to comment on the proposed report for the *School compliance with Victoria's Child Safe Standards* performance audit.

The Department is committed to meeting its obligations under the Child Safe Standards and to maintaining childsafe schools for all Victorian students, and accepts the DET-specific recommendations in your report.

The Department welcomes the findings of the Victorian Auditor-General's Office (VAGO), which will support affected agencies to focus their efforts on clarifying compliance requirements for schools. It is worth noting that the purpose of Ministerial Order 870 is to embed a culture of child safety in schools, which requires more from schools than solely compliance with minimum standards. The Department will continue to support schools to engage in best practice in relation to child safe cultures, as well as addressing VAGO's findings.

The Department recognises that a process of continuous improvement is required to enable the cultural change envisaged by the Child Safe Standards. Schools have been building and continue to build on strong child safety foundations in order to comply with the standards. The Department reviews its policies and guidance on the Child Safe Standards on an ongoing basis. However, this audit and the Department of Health and Human Services' review of the standards provide the Department with further opportunities to continue to improve systems, guidance, policies and resources in relation to embedding cultures of child safety.

I am pleased to hear that your auditors were able to meet with the Department to discuss its feedback, and resolve any issues at the officer level, before finalising your report.



RESPONSE provided by the Secretary, Department of Education and Training—continued

Should you wish to discuss the Department's response, please contact Jonathan Kaplan, Executive Director, Integrity and Assurance Division, Department of Education and Training, on 7022 0119 or by email: kaplan.jonathan.e@edumail.vic.gov.au.

Yours sincerely



Jenny Atta
Secretary
12/6/2019

RESPONSE provided by the Secretary, Department of Education and Training—continued

DET action plan for School Compliance with Victoria's Child Safe Standards					
#	Recommendations for DET	Response	#	Action(s) that address the recommendation	End date
5	Clarify the ministerial expectations of the regulator in relation to: <ul style="list-style-type: none">its responsibilities for providing guidance to schools on how to implement the child safe standards and what they must do to comply with related requirements for school registrationits regulatory approach to assuring compliance with the child safe standard requirements as a minimum standard for registration and its oversight of its appointed review bodies.	Accept	5.1	Advise the Minister on articulating the expectations of the regulator, via the appropriate implementation mechanisms, for: <ul style="list-style-type: none">providing schools with compliance-related assistance with respect to school registration and advice on implementing child safe standards, andassuring regulatory approach, as a minimum standard for registration, and governance supports compliance with child safe standards requirements.	Feb 2020
			5.2	Subject to ministerial approval, develop and implement an action plan to clarify ministerial expectations, regarding: <ul style="list-style-type: none">providing schools with compliance related assistance and advice on implementing child safe standards, andassuring the regulatory approach and governance supports compliance with child safe standards requirements..	Dec 2020
6	Consider the findings from this audit and its identified areas for improvement in developing future statements of expectations for the regulator, including performance targets for the regulator to be considered in future evaluations.	Accept	6	Develop a plan and ensure that findings from this audit (and its identified areas for improvement, including performance targets) are considered in developing future statements of expectations for the regulator.	Dec 2020
7	In light of the Department of Health and Human Services' review of the Child Safe Standards for Victoria, advise the Minister for Education on any amendments required to Ministerial Order 870 and the compliance arrangements for assuring school compliance.	Accept	7.1	Advise the Minister on the implementation of outcomes from the Department of Health and Human Services (DHHS) review of Child Safe Standards for schools including adoption of the national principles and any amendments required to Ministerial Order 870.	Dec 2019 (subject to finalisation of the DHHS review)
			7.2	Develop a transition plan to move the Department from the current compliance regime to the new one.	Sep 2020 (subject to the timing of any legislative change)

RESPONSE provided by the Chair, Victorian Registration and Qualifications Authority



Victorian Registration &
Qualifications Authority

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Mr Andrew Greaves
Auditor-General
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Dear Mr Greaves

Proposed Performance Audit Report School compliance with Victoria's child safe standards

Your reference: File No: 33618

Thank you for providing the Victorian Registration and Qualification Authority (VRQA) with the proposed report for review and your acquittal of the matters raised in the VRQA response to the provisional draft report. We note the findings.

The VRQA is pleased with the generally positive response received from schools as part of the VAGO survey on the child safe standards. The VRQA will continue to work with our review bodies, school systems and schools to identify further information and resources to support their compliance with the child safe standards.

As previously advised, the VRQA considers that the recommendations identified as being related to the direct responsibility of the VRQA (recommendations one to four) raise policy and resourcing issues for the Department and Government. The VRQA will work with the Department to ensure alignment with any future changes to the child safe standards.

Both Lynn Glover the VRQA Chief Executive Officer (Director) and I are available to discuss this response with you or your officers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pam White', is written over a horizontal line.

Pam White
Chair, VRQA Board
13 June 2019
Cc Mr Andrew Evans, Director, Ms Ingrid Blackburn, Senior Manager

VRQA action plan to address recommendations from School's Compliance with Victoria's Child Safe Standards

No	VAGO recommendation	Action	Completion date
1	We recommend that Victorian Registration and Qualification Authority updates its website to provide an information portal for schools to access guidance on the child safe standard requirements for school registration, and links to other relevant websites as required.	Accepted.	Ongoing
2	<p>We recommend that Victorian Registration and Qualification Authority improve the transparency of its regulatory assessment processes and methodology to reduce non-compliance and drive consistency in assessment approaches, by:</p> <ul style="list-style-type: none"> • documenting its compliance framework • documenting its criteria for determining compliance • establishing a quality assurance framework covering all three school sectors, to ensure compliance assessments meet required standards. 	<p>Partially accepted. The safety of children is paramount and the VAGO survey of schools indicated that they understand their responsibilities with regard to the child safe standards. The updated VRQA Schools Compliance Framework was published on the VRQA website on 11 June 2019. This Framework balances the need for consistency across school sectors with the recognition that school must have flexibility in the implementation of the minimum standards for registration. It also reaffirms the criteria for determining compliance as set out in the <i>VRQA Guidelines to the Minimum Standards and Requirements for School Registration</i>.</p> <p>As stated, the safety of children is paramount and the VRQA welcomes suggestions as to how its regulatory approach can be strengthened to maintain the current safety standards in schools. The VRQA will work with Independent Schools Victoria, the Department and the Catholic Education Commission of Victoria to continue to improve the transparency of its regulatory assessment processes and methodology by further clarifying its criteria for determining compliance and establishing a quality assurance framework covering all three school sectors.</p>	July 2020
3	We recommend that Victorian Registration and Qualification Authority update its review body appointment processes to ensure it is able to satisfy itself of school compliance, and equivalence and consistency in assessments, by:	Partially accepted. The VRQA will have regard to the outcomes of the Department's response to recommendation 6 as it relates to this recommendation. As emphasised throughout this audit process the VRQA believes there is a balance to be reached between the codification of regulatory requirements and the need for a school to customise its practices to ensure it meets the needs of its community.	To be determined in consultation with the Department and CECV.

No	VAGO recommendation	Action	Completion date
	<ul style="list-style-type: none"> • updating its <i>Guide for School Review Bodies</i> and its appointment documentation to specify its expectations of its appointed review bodies including: <ul style="list-style-type: none"> ◦ the nature of assessment models, including reliance on attestations, frequency of assessments, extent of coverage of the requirements and quality assurance ◦ data and evidence requirements ◦ reporting arrangements to the regulator including in relation to data availability • incorporating a regular review process into all review body appointments. 	<p>There are potentially significant resourcing implications associated with implementation of this recommendation which be the subject of separate discussion between the VRQA and the Department. In particular the consultation, design, development and implementation of new school assessment models and associated databases.</p> <p>The VRQA will update its <i>Guide for School Review Bodies</i> to ensure that current regulatory requirements are fully reflected and to incorporate processes for review.</p>	July 2020
4	<p>We recommend that Victorian Registration and Qualification Authorities specify information requirements for school bodies and system administrators for all school sectors, to improve its evidence-base, inform its risk-based approaches and to evaluate outcomes, in relation to:</p> <ul style="list-style-type: none"> • school compliance data • reporting alleged and actual breaches of the child safe standards, to strengthen its ability to make evidence and risk-based decisions on regulation of the child safe standards 	<p>Partially accepted. There are significant resourcing implications associated with implementation of this recommendation which will be the subject of separate discussion between the VRQA and the Department and key stakeholders.</p> <p>As noted in this report, the VRQA has already commenced recording school child safe standards compliance data for independent schools. The VRQA will continue to work with the two review bodies to establish mechanisms for the collection of data from reviews of child safe standards compliance in their sectors. This data should identify those child safe standards which require school guidance from the VRQA.</p> <p>The VRQA will strengthen analysis of its complaints data and consult with the review bodies in relation to their complaints data to inform its risk-based approach to regulation.</p>	To be determined in consultation with the Department and key stakeholders.

Appendix B

Ministerial order requirements

Figure B1
Ministerial order requirements

Ministerial order requirement number	Ministerial order requirements
6	<p>In implementing the minimum child safety standards in accordance with this Order, school governing authorities must:</p> <ul style="list-style-type: none"> (a) take account of the diversity of all children, including (but not limited to) the needs of Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse backgrounds, children with disabilities, and children who are vulnerable; and (b) In implementing the minimum child safety standards in accordance with this Order, school governing authorities must: make reasonable efforts to accommodate the matters referred to in clause 6(a).
7	<p>(1) The school governing authority must:</p> <ul style="list-style-type: none"> (a) develop strategies to embed a culture of child safety at the school; (b) allocate roles and responsibilities for achieving the strategies; (c) inform the school community about the strategies, and allocated roles and responsibilities; (d) put the strategies into practice, and inform the school community about these practices; and (e) periodically review the effectiveness of the strategies put into practice and, if considered appropriate, revise those strategies.
8	<p>(1) The school governing authority must ensure that the school has a child safety policy or statement of commitment to child safety that details:</p> <ul style="list-style-type: none"> (a) the values and principles that will guide the school in developing policies and procedures to create and maintain a child safe school environment; and (b) the actions the school proposes to take to: <ul style="list-style-type: none"> (i) demonstrate its commitment to child safety and monitor the school's adherence to its child safety policy or statement of commitment; (ii) support, encourage and enable school staff, parents, and children to understand, identify, discuss and report child safety matters; and (iii) support or assist children who disclose child abuse, or are otherwise linked to suspected child abuse. <p>(2) The school governing authority must inform the school community about the policy or statement and make the policy or statement publicly available.</p>

Figure B1

Ministerial order requirements—*continued*

Ministerial order requirement number	Ministerial order requirements
9	<p>(1) The school governing authority must develop, endorse, and make publicly available a code of conduct that:</p> <ul style="list-style-type: none"> (a) has the objective of promoting child safety in the school environment; (b) sets standards about the ways in which school staff are expected to behave with children; (c) takes into account the interests of school staff (including other professional or occupational codes of conduct that regulate particular school staff), and the needs of all children; and (d) is consistent with the school's child safety strategies, policies and procedures as revised from time to time.
10	<p>(1) Subject to the requirements of the ETR Act, the school governing authority must ensure that the school implements practices for a child-safe environment in accordance with this clause.</p> <p>(2) Each job or category of jobs for school staff that involves child-connected work must have a clear statement that sets out:</p> <ul style="list-style-type: none"> (a) the job's requirements, duties and responsibilities regarding child safety; and (b) the job occupant's essential or relevant qualifications, experience and attributes in relation to child safety. <p>(3) All applicants for jobs that involve child-connected work for the school must be informed about the school's child safety practices (including the code of conduct).</p> <p>(4) In accordance with any applicable legal requirement* or school policy, the school must make reasonable efforts to gather, verify and record the following information about a person whom it proposes to engage to perform child-connected work:</p> <ul style="list-style-type: none"> (a) Working with Children Check status, or similar check; (b) proof of personal identity and any professional or other qualifications; (c) the person's history of work involving children; and (d) references that address the person's suitability for the job and working with children. <p><i>* Please refer to the Working With Children Act 2005 which establishes a process to screen persons engaging or intending to engage in child-related work through a working with children check, and also sets out exemptions from that requirement for volunteers, parents and others.</i></p> <p>(5) The school need not comply with the requirements in clause 10(4) if it has already made reasonable efforts to gather, verify and record the information set out in clauses 10(4)(a) to 10(4)(d) about a particular individual within the previous 12 months.</p> <p>(6) The school must ensure that appropriate supervision or support arrangements are in place in relation to:</p> <ul style="list-style-type: none"> (a) the induction of new school staff into the school's policies, codes, practices, and procedures governing child safety and child-connected work; and (b) monitoring and assessing a job occupant's continuing suitability for child-connected work. <p>(7) The school must implement practices that enable the school governing authority to be satisfied that people engaged in child-connected work perform appropriately in relation to child safety.</p> <p><i>Explanatory note: To be 'satisfied' it is not necessary that the school governing authority make each decision about the selection and supervision of school staff engaged in child-connected work. The school governing authority needs to be satisfied about the appropriateness of the school's arrangements that would regulate or guide other people who make such decisions for or on behalf of the school about child safety matters and child-connected work.</i></p>

Figure B1

Ministerial order requirements—*continued*

Ministerial order requirement number	Ministerial order requirements
11	<p>(1) The school governing authority must have a clear procedure or set of procedures for responding to allegations of suspected child abuse in accordance with this clause and other legal obligations.</p> <p>(2) The school governing authority must ensure that the procedure is:</p> <ul style="list-style-type: none"> (a) sensitive to the diversity characteristics of the school community; (b) made publicly available; and (c) accessible to children, school staff, and the wider community. <p>(3) The procedure must:</p> <ul style="list-style-type: none"> (a) cover all forms of ‘child abuse’ as defined in the ETR Act (b) apply to allegations or disclosures of child abuse made by or in relation to a child, school staff, visitors, or other persons while connected to a school environment (c) identify the positions of the person or people who are responsible for: <ul style="list-style-type: none"> (i) promptly managing the school’s response to an allegation or disclosure of child abuse, and ensuring that the allegation or disclosure is taken seriously; (ii) responding appropriately to a child who makes or is affected by an allegation of child abuse; (iii) monitoring overall school compliance with this procedure; and (iv) managing an alternative procedure for responding to an allegation or disclosure if the person allocated responsibility under clause 11(3)(c)(i) cannot perform his or her role; (d) include a statement that fulfilling the roles and responsibilities contained in the procedure does not displace or discharge any obligations that arise if a person reasonably believes that a child is at risk of child abuse; (e) clearly describe the actions the school will take to respond to an allegation of child abuse, including actions to: <ul style="list-style-type: none"> (i) inform appropriate authorities about the allegation (including but not limited to mandatory reporting); (ii) protect any child connected to the alleged child abuse until the allegation is resolved; and (iii) make, secure, and retain records of the allegation of child abuse and the school’s response to it. <p>(4) The procedure must not:</p> <ul style="list-style-type: none"> (a) prohibit or discourage school staff from reporting an allegation of child abuse to a person external to the school; (b) state or imply that it is the victim’s responsibility to inform the police or other authorities of the allegation; (c) require staff to make a judgment about the truth of the allegation of child abuse; or (d) prohibit staff from making records in relation to an allegation or disclosure of child abuse.
12	<p>(1) The school governing authority must develop and implement risk management strategies regarding child safety in school environments.</p>

Figure B1

Ministerial order requirements—*continued*

Ministerial order requirement number	Ministerial order requirements
(2)	The school's risk management strategies regarding child safety must identify and mitigate the risk(s) of child abuse in school environments by taking into account the nature of each school environment, the activities expected to be conducted in that environment (including the provision of services by contractors or outside organisations), and the characteristics and needs of all children expected to be present in that environment.
(3)	<p>If the school governing authority identifies risks of child abuse occurring in one or more school environments the authority must make a record of those risks and specify the action(s) the school will take to reduce or remove the risks (risk controls).</p> <p>Explanatory note: Different risk controls may be necessary for particular groups of children depending on the nature of the risk and the diversity characteristics of children affected by the risk.</p>
(4)	As part of its risk management strategy and practices, the school governing authority must monitor and evaluate the effectiveness of the implementation of its risk controls.
(5)	<p>At least annually, the school governing authority must ensure that appropriate guidance and training is provided to the individual members of the school governing authority and school staff about:</p> <ul style="list-style-type: none"> (a) individual and collective obligations and responsibilities for managing the risk of child abuse; (b) child abuse risks in the school environment; and (c) the school's current child safety standards.
13	<p>(1) The school governing authority must develop strategies to deliver appropriate education about:</p> <ul style="list-style-type: none"> (a) standards of behaviour for students attending the school; (b) healthy and respectful relationships (including sexuality); (c) resilience; and (d) child abuse awareness and prevention. <p>(2) The school governing authority must promote the child safety standards required by this Order in ways that are readily accessible, easy to understand, and user-friendly to children.</p>

Source: Ministerial order.

Appendix C

Royal Commission recommended standards

Figure C1
National principles for child safe organisations

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 are 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 the 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.

Source: National Principles for Child Safe Organisations.

Appendix D

Survey of school principals

During this audit, we conducted a survey of all Victorian school principals on their understanding of the child safe standards and the ministerial order requirements, and of their schools' compliance obligations.

In the survey, we asked school principals about their perception and understanding of the available guidance and support, their self-assessing of compliance, and demonstration of compliance through the school review process, as shown in Figure D1.

Figure D1
Survey questions for school principals

Profile questions

- What type of school do you represent?
- Approximately how long have you been in your current school role as Principal?
- Approximately how long have you worked as a school principal in general?
- What type of education do you provide?

Questions on guidance and support

- Respondents' answers to question 'Our school has accessed documented guidance material on the Victorian Child Safe Standards from ...'
- To what extent do you agree with this statement: 'The available documented guidance material clearly explains what schools must do to comply with the Victorian Child Safe Standards and each of the Ministerial Order 870 requirements.'
- Has your school received training on how to comply with the Child Safe Standards and Ministerial Order 870 requirements? If so, where from?
- How effective has the available training been at showing your school how to comply with Victoria's Child Safe Standards and Ministerial Order 870?
- Outside of the documented guidance material and available training, what else has informed your knowledge of how to comply with the Victorian Child Safe Standards and the Ministerial Order 870 requirements?

Questions on self-assessing compliance

- Which of the following regulator's tools do your school use to self-assess its compliance with the Child Safe Standards?
- To what extent do you agree with this statement—My school complies with the Victorian Child Safe Standards and requirements of the Ministerial Order 870.

Questions about demonstrating compliance through the school review process

- To what extent do you agree with this statement: I am clear on what evidence is required for my school to demonstrate compliance with the Victorian Child Safe Standards and the Ministerial Order 870 requirements.
- Has your school's compliance with the Child Safe Standards and Ministerial Order 870 been assessed to date? (Note: this excludes any self-assessments performed by your school)
- Has your school been identified as non-compliant in any of the Ministerial Order 870 requirements since they came into effect on 1 January 2016?

Figure D1
Survey questions for school principals—continued

- Following your school’s assessment, was it clear to you what needed to be put in place to become compliant?
- How effective has the school review process been at assessing your school's compliance with Victoria's Child Safe Standards and Ministerial Order 870?

Source: VAGO.

Approximately 30 per cent of Victorian school principals (678) responded to our survey conducted between 26 February and 13 March 2019.

The proportion of responses from each sector—government, Catholic and independent—was proportional to the number of registered schools per sector as shown in Figure D2.

Figure D2
Proportion of respondents per sector

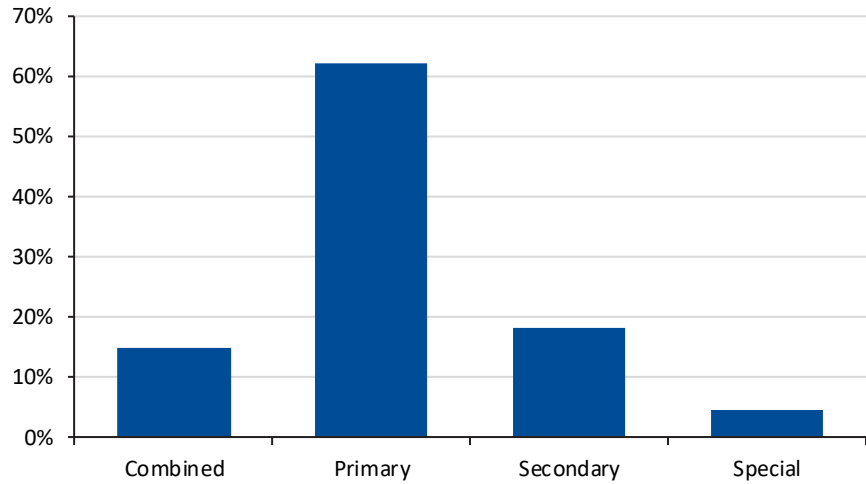
Sector	Number of survey respondents per sector	Percentage of survey respondents per sector	Number of registered schools per sector	Percentage of registered schools per sector
Government	451	67%	1 549	68%
Catholic	135	20%	494	22%
Independent	91	13%	219	10%
Unidentified*	1	N/A	N/A	N/A
Total	678	100%	2 262	100%

Note: * One respondent did not identify their school's sector.

Source: VAGO survey of school principals regarding the child safe standards.

As shown in Figure D3, 62 per cent of respondents were primary school principals, followed by secondary (18 per cent), combined (15 per cent), and special school principals (5 per cent).

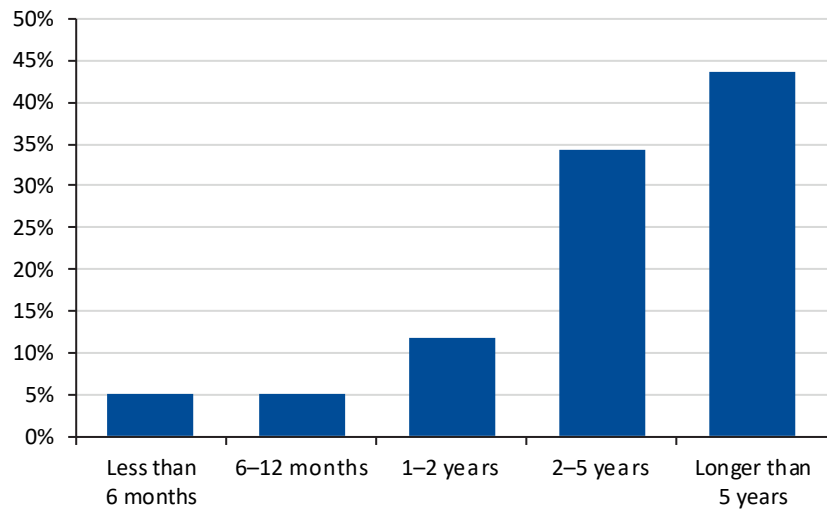
Figure D3
School type represented by respondent



Source: VAGO survey of school principals regarding the child safe standards.

As shown in Figure D4, respondents varied in the length of time they had been principals.

Figure D4
Length of time as principal



Source: VAGO survey of school principals regarding the child safe standards.

Auditor-General's reports tabled during 2018–19

Report title	Date tabled
Local Government Insurance Risks (2018–19:1)	July 2018
Managing the Municipal and Industrial Landfill Levy (2018–19:2)	July 2018
School Councils in Government Schools (2018–19:3)	July 2018
Managing Rehabilitation Services in Youth Detention (2018–19:4)	August 2018
Police Management of Property and Exhibits (2018–19:5)	September 2018
Crime Data (2018–19:6)	September 2018
Follow up of Oversight and Accountability of Committees of Management (2018–19:7)	September 2018
Delivering Local Government Services (2018–19:8)	September 2018
Security and Privacy of Surveillance Technologies in Public Places (2018–19:9)	September 2018
Managing the Environmental Impacts of Domestic Wastewater (2018–19:10)	September 2018
Contract Management Capability in DHHS: Service Agreements (2018–19:11)	September 2018
State Purchase Contracts (2018–19:12)	September 2018
Auditor-General's Report on the Annual Financial Report of the State of Victoria: 2017–18 (2018–19:13)	October 2018
Results of 2017–18 Audits: Local Government (2018–19:14)	December 2018
Professional Learning for School Teachers (2018–19:15)	February 2019
Access to Mental Health Services (2018–19:16)	March 2019
Outcomes of Investing in Regional Victoria (2018–19:17)	May 2019
Reporting on Local Government Performance (2018–19:18)	May 2019
Local Government Assets: Asset Management and Compliance (2018–19:19)	May 2019
Compliance with the Asset Management Accountability Framework (2018–19:20)	May 2019
Security of Government Buildings (2018–19:21)	May 2019
Security of Water Infrastructure Control Systems (2018–19:22)	May 2019

Security of Patients' Hospital Data (2018–19:23)	May 2019
Results of 2018 Audits: Universities (2018–19:24)	May 2019
Results of 2018 Audits: Technical and Further Education Institutes (2018–19:25)	May 2019
Child and Youth Mental Health (2018–19:26)	June 2019
Recovering and Reprocessing Resources from Waste (2018–19:27)	June 2019
Melbourne Metro Tunnel Project—Phase 1: Early Works (2018–19:28)	June 2019
Fraud and Corruption Control—Local Government (2018–19:29)	June 2019
Managing Private Medical Practice in Public Hospitals (2018–19:30)	June 2019



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