

# BRIEFING PAPER



**To:** ACBC Members, CRA Members  
**Cc:** National Office for Safeguarding Project Reference Group  
**From:** The Hon Geoff Giudice AO, Chair, Catholic Professional Standards Ltd  
**Date:** 4 August 2020  
**Subject:** **National Office for Safeguarding**

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The Board of CPSL has been advised of the resolutions of the ACBC in relation to the proposed national office for safeguarding. The Board has noted the direction to the new Reference Group to consult with CPSL and other bodies in preparing its model.

CPSL remains supportive of the plan to bring the work of CPSL, ACCPS and the IAG together and looks forward to providing substantive input to the Reference Group and the decision makers in relation to the proposed model. We support using an incorporated structure as the basis for the new entity.

This Briefing Paper outlines some higher-level questions which should be considered by decision makers in relation to any proposed model.

These questions are:

1. Will the new model diminish the public commitment to the principles which underpinned the establishment of CPSL?
2. Will it fulfil the promises made to victims/survivors, the people of God and civil society when announcing the establishment of CPSL?
3. Will the new model be less costly for the Church in total?
4. Can the method of funding the new agency be changed to make work more sustainable and payments by Church bodies more affordable?
5. Does the change create a risk of reducing the focus on children's safety now and in the future?
6. How can the new model be stronger than current arrangements?

## 1. Principles

The establishment of CPSL was underpinned by a set of principles which were a very public part of the Church's response to the Royal Commission. Any reduction in the commitment to these principles would constitute a breach of trust with victims/survivors, the people of God and civil society.

The key principles which underpinned the establishment of CPSL were:

### ***Independence***

The entity would be independent of its funders in how it conducted its role and in reporting on the results of its audits. Church Authorities would not determine how they conducted and reported on audits.

### ***Transparency***

The manner in which audit results were derived and the outcomes of audits would be made public by CPSL. They would not be directed by Church Authorities.

### ***Consistency***

A key objective of the standards, policy and audit work of CPSL was to assure people in relationship with the

Church that all Church entities were safe places for children and vulnerable adults now, and into the future. Church entities would adhere to the same standards and be assessed in a consistent fashion across Australia. Many of the mooted changes diminish the adherence to these principles.

Three features of any new model that are important in maintaining these principles:

**a A company structure**

The maintenance of a company structure is an essential element in demonstrating that the Church is committed to independent decision making.

The difference between an unincorporated body and a company is that the directors of a company are bound to carry forward the objects of the company. Although they are permitted to take other matters, such as the reputation of the Church, into account the objects set out in the Constitution are to be given primacy. An unincorporated body can never be more than advisory. This is one of the reasons CPSL was created as it was. Adoption of a purely advisory structure will be seen as a step back to decision making which potentially prioritises Church interests over the interests of children.

Questions about the independence of the company and the performance of audits by the company owned and funded by the Church have also been raised. The Government's auditors are similarly owned and funded by Government but their independence is not questioned. The key to independence is the legal powers given to a body – not its ownership.

It is possible, even with a company structure, to stifle the independence of the Board by specifying that important powers can only be exercised with the consent of the shareholders. While the CPSL Constitution uses this device, the power to conduct audits and publish the results is not so limited. This power in relation to audits is a key constituent of CPSL's independence.

**b Public reporting**

Publication of audit results is critical to transparency. Church Authorities having discretion whether to engage an auditor, and if so whether to share the audit results and with whom, will eliminate any notion of transparency.

One accessible place where all audit reports are publicly reported is critical to maintaining transparency regarding the progress of the Church to being a safe Church for children and adults at risk. People seeking assurance should not be asked to search for audit reports on multiple websites to understand the status of safety in Church entities. The new entity should be the single source of truth about Church practices.

**c Consistency**

The conduct of audits of Church entities against safeguarding standards is in its infancy in Australia. CPSL currently conducts audits with the help of contracted auditors when required. CPSL had intended to move to a system of accredited auditors over time.

To move to a model now where Church entities contract their own auditors will exacerbate a lack of consistency which already exists.

*"[We] have found that, despite the very substantial expenditure of safeguarding related funds, the Church cannot provide any guarantee of consistency and quality in safeguarding practice across all its ministry areas." (Catholic Safeguarding Australia – report on a new national office: April 2020, ACU p 23 – quoting from '2019 Review of Catholic Church Safeguarding Arrangements for the ACBC CRA')*

It is too early to move to a devolved model of auditing and reporting. It would potentially make the conduct of audits more expensive and exacerbate the lack of consistency and effectiveness of practice.

## 2. Promises

There were also some key promises made.

The key promise that there would be a significant development in how the Church in Australia operates. This would be achieved by the establishment of a company, CPSL, governed by a board of lay people which would act with independence in relation to the functions reserved to it.

CPSL would be responsible for setting the highest standards to ensure the safety of individuals involved with the Church.

CPSL would audit and publicly report on the compliance of each Church Authority against these new standards.

CPSL would provide education and training regarding these new standards.

There are suggestions in the recent review that a number of substantial elements of the work would no longer be done by the new entity – eg: the conduct of audits and delivery of training. The conduct of audits and the choice of audit resources by CPSL is a key way of ensuring national consistency and independence. It also ensures that the standards, and related capacity building, can evolve in response to practice.

Is the promise of a major change in the way the Church conducts its business realised in the new model or is there a reversion to control by clerics and lack of transparency?

A second key question is are the core promises made on what CPSL would do at risk of not being delivered in the revised functions of the new model?

## 3. Cost of new model

The ACU Report is based on an assertion that the new model will be less costly than the current model. In many areas, this is achieved by transferring costs that are funded through levy and fees to Church entities (eg: training and audits to be done by private companies or government for a fee). Outsourcing by individual entities is likely to be more costly and certainly less transparent.

The total cost of safeguarding in the Church is unknown. The latest estimate is \$36M ([Fr Tony Percy, 30/06/2020](#)). The ACU reported an expenditure of \$4-\$4.5M per annum between the agencies proposed to be combined and suggested that this could be reduced to less than \$2M. The bulk of existing safeguarding expenditure was not analysed to see if it was duplicative or efficient.

CPSL conducted a Request for Quote process with a number of small to medium sized audit and consulting firms in 2018-19. Some of the firms we received submissions from do extensive work for Church entities. Based on submissions received during this process, CPSL estimates that the use of external audit firms would see the overall price equivalent to or higher than the CPSL cost (the CPSL cost includes a margin to reduce the levy overall).

The housing of training, the conduct and publication of audits and the ongoing development of standards together is efficient. If all Church entities purchase their own audits, the new entity would need to incur substantial costs to maintain consistency and quality control before publication of audits.

CPSL has adopted new methods of audit and training as a result of the public health restrictions resulting from the outbreak of COVID-19. Participants have reported comparable learning and satisfaction outcomes with training activities (anecdotal evidence from audit participants has also been positive). Retaining these modes of delivery into the future would result in a reduction in direct costs of approximately 30% for training and approximately 22% for audit.

## 4. Funding model

The model initially adopted by the Church was a levy which would evolve to fee for service over time. CPSL has done work on alternatives and submitted these to the ACU team. CPSL is also in the process of broadening fee for service work to non-members as well as exploring other potential funders. The report did not cover this issue.

Given that inability to fund through the levy is driving these changes, alternatives should be considered.

## **5. The safety of children and vulnerable adults in the future**

CPSL, through its standards setting, audits and training, is driving a safer future. This work is driving culture change. There is a risk that this work will be disrupted whilst the new entity forms and may be crowded out by the search for new staff, premises, etc.

Decision makers need to consider how to avoid disruption. Progress has been slow. We are now approaching 3 years since the Royal Commission handed down their final report, and in that time only eleven Catholic entities have submitted themselves to audit.

## **6. Strengthening the new model**

The existing model has many strengths – but could have been stronger. One of the major weaknesses has been the ability of funders to strangle progress by engaging in short term funding arrangements. This has considerably undermined progress. In addition, the majority of Church entities have failed to engage with the audit process. There has been no commitment/requirement that all entities would submit to demonstrating accountability in a consistent way.

A long-term funding arrangement and a commitment by all Church entities to being audited on a cyclical basis would strengthen the model.

Finally, the ACU report has not set out views on whether state professional standards offices are necessary, what they would do, and how they would relate to the national body.

We attach an extract from our earlier submission on the possible functional allocation between national, state and local levels. We are happy to further expand on this in consultation.

## **7. Conclusion**

In conclusion, CPSL is concerned that the new model may cost the Church more than the existing model and urges those making decisions to be clear about this overall cost before proceeding. We also think it is critical that expenditure being used to assure child and adult safety now and into the future (prevention work) is adequate and not conflated with necessary expenditure related to dealing with matters of the past and making appropriate reparation for those who have been harmed. To ensure a transparent, accountable and consistent approach, the national office must have a company structure; it must have a mandate to publish audit reports; it must have a role in the delivery of training, support and audits. Outsourcing all audits and training will likely be more expensive, will not build consistent practice and knowledge across the country and will make the system less transparent.