

# Independent Consultant Report DUTY OF CARE REVIEW State Library Victoria

July 2024



## **DISCLAIMER**

This Report has been commissioned as independent advice for the internal consideration of the State Library Victoria. The Report does not commit the Library to a particular course of action and the implementation of any or all of the Report's Recommendations is the responsibility of State Library Victoria.

State Library Victoria appointed independent consultants Tony Grybowski and Associates to undertake the Review and prepare this Report. Tony Grybowski and Associates was appointed to the Victorian Government's Professional Advisory Services (PAS) State Purchasing Contract (SPC) Vendor Panel in 2024 and has met all the procurement and associated requirements as set out in Master Supply Agreement (MSA) for the PAS SPC panel.

Inputs to the Review and this Report included source documents provided by the State Library Victoria, observations, experience and understandings of its leadership team and subject matter expertise employees, and a desktop review of relevant industry best practice. Tony Grybowski and Associates acknowledges the reliance on the documentation provided by the Library and takes no responsibility for any findings resulting from source document omissions.

## Foreword

I was retained to guide and provide independent advice to the *Duty of Care Review (Review)* undertaken by the State Library Victoria (Library) following the pausing of the *Teen Writing Bootcamp*.

I regard this as a very timely and positive initiative. The Library is impacted by a range of regulatory requirements. In addition, as a leading cultural institution in Victoria, it is the subject of significant community expectations. Further pressures emanate from the external environment in which the Library operates and these pressures have increased in recent times, particularly given global events. In the circumstances, it is prudent to review operations and policies to ensure they are fit for purpose and meet current legislative requirements and community expectations.

The process undertaken by the Review has been conducted in an open and consultative manner involving authentic consultation with internal and external stakeholders. There has been a genuine attempt to understand the issues and make properly informed, practical recommendations.

In my opinion, the recommendations of the Review are well considered and represent practical outcomes of the Review's work. I have had substantial involvement in the deliberations of the Review team and fully support the recommendations in this Report. These recommendations necessarily involve considerable work, so the prioritisation makes perfect sense with the first priority being to recommence the Teen Writing Bootcamp. That said, I believe the implementation of all the recommendations is necessary to ensure an efficient and effective operating environment at the Library.

During the course of the Review, I have had the opportunity to have broad-ranging discussions with Library staff and participate in a number of meetings with them. A couple of significant issues have emerged from these interactions on which I think it is appropriate to comment.

First, I think there is a significant and urgent opportunity for the leadership of the Library to drive cultural change. Key issues to be addressed in this regard include educating the staff about their obligations as employees working in the public sector and embedding a strong culture of accountability. There are gaps in these areas.

Secondly, the Library's policy environment is unduly complex and requires considerable work to make it fit for purpose. A policy framework was identified very late in the Review. However, it does not contain the essential elements required for a fully functioning framework. Importantly, in its current state, it is ineffective in driving policy awareness and compliance throughout the Library. Implementing recommendations 5 and 7 in the Report will address this shortcoming.

I trust my comments prove useful.

Helen Conway  
External Advisor  
28 June 2024

# Duty Of Care Review Report July 2024

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# Executive Summary

This independent Review Report was commissioned by the State Library Victoria to provide the Executive with advice so that the Library's policies related to Duty of Care are fit-for-purpose, reflect contemporary legislative requirements and community expectations, and are implemented consistently across the diverse services it provides.

Advice has also focused on how policies and procedures support the understanding of the rights of people working in and attending the Library, as well as clarifying the obligations of employees and contractors.

An immediate objective of this Report is to provide advice to enable the 2024 Teen Writing Bootcamp to proceed. It is recommended this is enabled by the adoption of new resources which provide an overview of the requirements and expectations of all workers at the Library. These can be seen as an introduction or welcome to the Library's working environment. This document will capture the elements that together represent the Library's Duty of Care.

The introduction resource will include content for employees and contractors, addressing freedom of expression and the responsibilities of Victorian public sector workers in relation to making public comment. This will also inform an update of the Library's social media policy.

The Library Risk Appetite Statement notes *We will deliver programming that pushes the boundaries of what might traditionally be expected while also reflecting the changing nature of libraries. We understand that this might challenge some user groups.* Achieving a balance between this objective whilst satisfying the legislative requirements and public service codes the library operates within has been a focus of this Review.

Within the 10 recommendations of this Report, procedural refinements are proposed as a priority for the forthcoming Bootcamp program. This will effectively be a pilot program, to assess the adequacy and effectiveness of improvements. It is anticipated the policy, procedures and resource updates will then be adopted across the suite of Library programs and activities.

The Review draws attention to the volume of policies and procedures that staff are required to observe. It is more than challenging for workers to understand and observe a minimum of 62 workplace policies and procedures related to Duty of Care and identified in this Review. A key recommendation is therefore to refresh and consolidate the existing policies and procedures framework.

The Library's current policy framework was made available in the final stages of the Review. There appears to be limited staff awareness of the framework, and the relationship between the rights and obligations of those working for the State Library Victoria. The policy framework should be a key resource for driving policy awareness and compliance. Refreshing the policy framework will also allow for 'gaps' in policies to be addressed, and for content to align with contemporary legislative requirements.

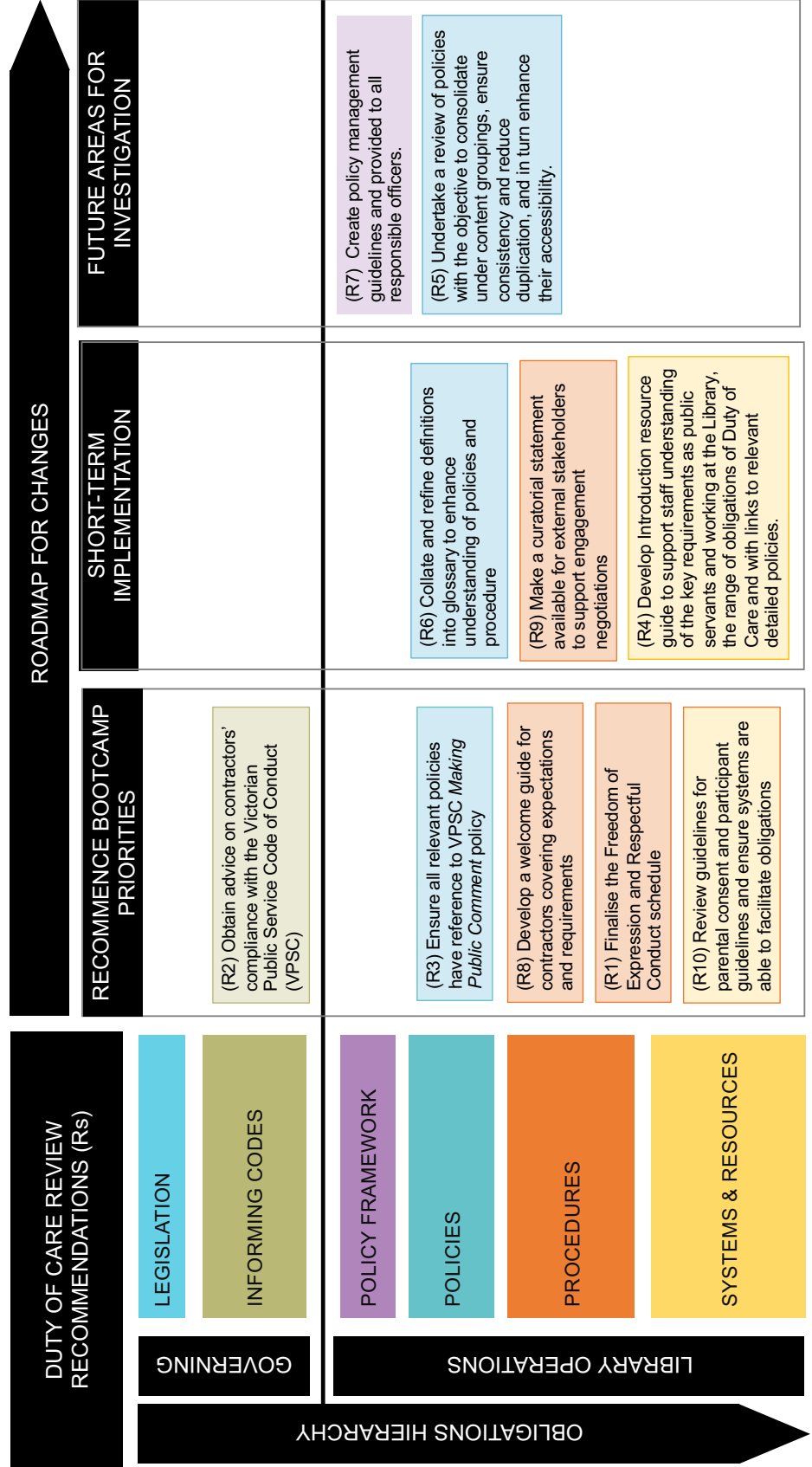
An outcome of this work should enable the responsibilities for managing policy strands to be

allocated more broadly and transparently across the Library leadership to ensure policy and procedural currency, compliance and regular review.

To successfully introduce required changes, a focus on enhancing the culture of policy compliance will be critical, with particular attention on deepening staff understanding of their responsibilities as public servants.

## Recommendation summary

The Report makes 10 Recommendations as outlined in the following pages. The table below provides a summary of the Recommendations and their alignment to the recommencement of Bootcamp, short term actions and longer-term areas for consideration



# 1. Context

## 1.1 Duty of Care for the Library

This Review was initiated by the State Library Victoria to ensure that policies and procedures relating to the Library's responsibilities are aligned, have due regard for state and federal government legislation and reflect best practice for publicly funded cultural institutions.

Duty of Care is commonly described as the *legal or moral responsibility to take all reasonable steps to not cause foreseeable harm to another person or their property*. This responsibility is captured in relevant state and federal legislation.

In the case of organisations such as libraries, this extends to all areas of children and youth work, including program planning and delivery, supervision, communication, and decision-making. It includes disclosure responsibilities relating to particular interactions with children.

Duty of Care policies commonly identify and summarise relevant legislation, with a focus on the provision of a safe environment for staff and people who interact with staff in the normal course of their duties. Staff responsibilities including disclosure obligations, risk management and behaviour standards are commonly included.

Duty of Care policies for public libraries primarily focus on ensuring the safety, well-being, and equitable access of patrons and staff within the library environment. Some key components typically included are:

- **Health and Safety:** Libraries have a responsibility to maintain a safe environment for all visitors and staff. This includes regular inspections of facilities, addressing any hazards promptly, and providing adequate signage for safety protocols.
- **Security:** Implementing measures to ensure the security of patrons and staff, such as appropriate lighting, surveillance where necessary, and procedures for handling disruptive behaviour or emergencies.
- **Accessibility:** Ensuring that the library facilities and services are accessible to all individuals, including those with disabilities. This involves physical accessibility of the building, as well as access to resources and services.
- **Child Protection:** Establishing protocols to protect children who visit the library, including guidelines for staff interactions with minors, procedures for handling lost children, and ensuring that children are not left unattended.

- **Data Protection and Privacy:** Safeguarding patron information and privacy rights according to relevant laws and regulations. This includes handling personal data responsibly and securely.
- **Emergency Procedures:** Developing and regularly updating protocols for emergencies such as fire, medical incidents, or other crises that may arise within the library.
- **Staff Training:** Providing regular training for library staff on safety procedures, customer service protocols, handling emergencies, and recognising signs of distress or abuse.
- **Community Engagement:** Promoting a positive and respectful environment within the library, encouraging inclusive behaviours among patrons and staff, and fostering a welcoming atmosphere for all members of the community.
- **Risk Management:** Assessing potential risks within the library environment and implementing measures to mitigate these risks effectively.
- **Compliance:** Ensuring that the library operates in compliance with relevant legal and regulatory requirements, including health and safety standards, data protection laws, and accessibility guidelines.

These policies aim to create a secure and supportive environment where patrons can access resources, engage in learning, and participate in community activities safely.

## 1.2 Review process

The Library's research objectives for the Review were designed to:

1. Ensure all policy and procedures are aligned, meet contemporary requirements and are fit-for-purpose for the Library context.
2. Support stakeholders (internal, presenters and participants) with procedures and implementation resources to manage expectations and meet Library standards in delivery. These include, but not limited to, resources such as contracts, communications, operational event guidelines.

To address the research scope, the Review undertook two stages: Identification and Analysis.

# 1. Context

## 1.2.1 Identification stage

This involved the collation of resources for a desktop review spanning both existing Library documents and best practice external examples of policy and procedures, to inform benchmarking of strengths and identify gaps.

This work was undertaken by an Internal Reference Group assembled by the Library Executive as an advisory committee to support the independent consultants. The Internal Reference Group represented internal expertise, knowledge and skills across the following areas:

### Policy subject matter expertise

Legal  
Human Resources  
Health, Safety and Wellbeing

### Program procedure subject matter expertise

Creative Programs  
Education  
Collections  
Communications

The Internal Reference Group was asked to identify documentation and information across three distinct areas:

- Legislation and principles (eg Victorian Public Sector Code of Conduct, employer workplace safety obligations, human rights and equal opportunity, professional standards)
- Policy documents, including existing Library and external best practice examples.
- Procedural and operational resources, including existing Library and external best practice.

The Internal Reference Group also consulted with their relevant teams to ensure the collation involved a wide range of internal experiences and practical applications.

## 1.2.2 Analysis stage

This involved the assessment of Library policy and procedures to identify strengths and areas requiring clarification and/or development.

A preliminary assessment was conducted by the Internal Reference Group, with further assessment and support provided by the consultants and special advice by Helen Conway.

Key observations from this assessment are outlined in this Report and were tested throughout the process with the Internal Reference Group and with additional internal and external stakeholders through focus group sessions.

## 1.3 Implementation considerations

Duty of Care obligations cover intersecting legislation and a range of ways to engage with stakeholders. This spans both work practice and compliance obligations.

It is recognised that the scale and complexity of the 10 recommendations which follow cannot be achieved in a short timeframe. For this reason, and to assist the Library with implementation, the Report provides recommendations grouped in immediate, short and longer-term priorities.

The immediate recommendations are focused on what is required to recommence the *Teen Writing Bootcamp*. This program was paused to undertake the Review. The implementation of the priority recommendations can be utilised as a pilot to trial required policy updates, refined procedures and to test new resources. The learnings from this pilot can then support roll-out of updates Library-wide.

With the submission of this Report signifying the completion of the Review, it is understood the Library will consider the independent observations and recommendations to design a roadmap to stage the implementation of policy and operational changes across the organisation.



## 2. Key Observations

There are three key observation areas addressing the research scope of this Review:

1. Policy alignment to legislation requirements
2. Policy and procedural consistency and support for staff and operations
3. Resources and guidance for external stakeholders

### 2.1. Policy alignment

Significant duty of care responsibilities are captured in the Library's *Child Safe Policy* and Procedure and the *Child Safe Code of Conduct*. The framework addresses policy requirements including recruitment, training and supervision and legislative responsibilities, with a focus on disclosure obligations and working with children checks. The procedure requirements also address reporting and disclosure obligations.

The Library includes the *Child Safety Code of Conduct* as a schedule in agreements for external contractors to ensure adherence extends into all elements of activities and program delivery.

In June 2024 a new *Freedom of Expression and Respectful Conduct* schedule was drafted and piloted for inclusion in agreements. The behaviours referenced in this new schedule include the legislative requirements relating to discrimination, vilification, bullying, harassment, victimisation, and respectful conduct. The additional schedule also references the requirement for staff to comply with the *Victorian Public Service (VPS) Code of Conduct*.

**RECOMMENDATION 1: [Priority to recommence *Teen Writing Bootcamp*] Finalise the Freedom of Expression and Respectful Conduct schedule as a legally enforceable requirement for inclusion in external contractor agreements.**

Consultations with Library employees identified divergent views concerning the responsibilities of contractors to comply with the VPS Code of Conduct, and in particular the requirement relating to Making Public Comment.

**RECOMMENDATION 2: [Priority to recommence *Teen Writing Bootcamp*] Obtain (legal and/or governing state department) advice to clarify the status of contractors in relation to compliance with the Victorian Public Service Code of Conduct.**

The internal preliminary review noted the current policies do not address mandatory reporting requirements when possible instances of physical or sexual abuse of minors have been identified. This requirement needs to be incorporated within relevant revised policies.

The revised policies relating to child safety should also address parental responsibility, unaccompanied children, technology and internet safety.

The Library's Risk Appetite Statement notes in part:

*We will deliver programming that pushes the boundaries of what might traditionally be expected while also reflecting the changing nature of libraries. We understand that this might challenge some user groups. While we are open to some controversy and dissatisfaction, our precinct activation will not cause a significant increase in visible security at the expense of a welcoming visitor experience*

The need to achieve a balance between enabling freedom of expression for program participants whilst limiting the potential for program presenters to engage in comment or opinion that would not align with Victorian Public Service requirements will be an important dimension of revised policies.

Whilst the Victorian Public Service (VPS) Code of Conduct includes a section addressing public comment, this is not currently addressed in Library policies and procedures such as the social media policy. The VPS Code of Conduct states

*Public sector employees only make public comment when specifically authorised to do so in relation to their duties. a public sector body, or government policies and programs. Such comment is restricted to factual information and avoids the expression of personal opinion. Public comment includes speaking engagements and providing information or comment through any media, including social media.*

*When making comment in a public capacity, public sector employees ensure their comments are not related to any government activity that they are involved in or connected with as a public sector employee and make it clear that they are expressing their own view. They ensure personal comments do not compromise their capacity to perform their public sector role in an unbiased manner and that their comments are not seen or perceived to be an official comment.*

**RECOMMENDATION 3: [Priority to recommence *Teen Writing Bootcamp*] Ensure all relevant Library policies include specific reference to the wording of the Victorian Public Service Code of Conduct Making Public Comment policy.**

## 2. Key Observations

### 2.2 Support for staff and operations

The Library has over 60 policies and procedures related to Duty of Care. This suggests a highly complex policy and operating environment for staff to navigate.

While training is provided as part of induction and refreshers are required throughout employee tenure, it would be beneficial to support navigation of the complex obligation landscape with an introduction resource. Such a resource could be readily referenced and should provide a plain English and employee-centred understanding of what it means to work in a state government cultural institution and the duty of care requirements.

An example referenced as part of this analysis was the State Library of NSW Code of Ethics and Conduct. Another useful example is the Sydney Opera House Code of Conduct.

**RECOMMENDATION 4: [Short-term implementation]**  
**Develop an Introduction resource guide to support staff understanding of the key requirements as public servants and working at the Library, the range of obligations of Duty of Care and with links to relevant detailed policies.**

The volume and complexity of the policy setting also suggests there is a need to further review and consolidate this considerable policy framework. The current framework lists the approval authority as the Library Board and notes *'Approval date and next review date: 21 October 2020 and October 2021'*.

Updating the policy framework is a significant project and may be best undertaken progressively. The objective should be to review the current clustering of policies by subject matter. A focus should be to ensure key, overarching policies are given due prominence. A benefit of this work will also be identifying and addressing policy 'gaps' and to avoid duplication of content across multiple policies.

A further focus should be on compliance requirements, and mechanisms to ensure regular review. Changes to the policy framework will require endorsement by the Library Board's audit and risk committee and approval by the Board.

**RECOMMENDATION 5: [Future area for investigation or continual improvement]** Undertake a review of policies with the objective to consolidate under content groupings, ensure consistency and reduce duplication, and in turn enhance their accessibility.

From undertaking the collation process during the Identification Stage for this Review, the Internal Reference Group noted complexity of sourcing documents due to a range of terminology for aspects of Duty of Care. The Library would benefit from a Glossary of Terms to establish common understanding of the scope and intent of key Library policies. This would help clarify existing and at times divergent interpretation of policies and procedures.

**RECOMMENDATION 6: [Short-term implementation]**  
**Collate and refine definitions into a glossary to enhance common understanding of Library policies and procedures.**

The research phase of the Review also highlighted inconsistencies in responsibility for the management of the significant volume of Library policies. The Internal Reference Group also noted what they perceived as gaps in follow through of policy and procedures in operation.

This appears to be the result of a culture of delivery evolving to suit specific needs of programs without necessarily cross referencing to the originating policy and/or reporting the need for variations to the policy owner/manager. This reinforces the need for improving a culture of accountability and compliance across the Library, which in part can be addressed with the resource proposed at recommendation 4.

In considering this observation, it is also noted that policies need to remain relevant and reflect legislative or best practice requirements, that review dates are complied with and where necessary, that signed acceptance of policy terms is maintained. These requirements are fundamental to proper policy management.

Responsibility for each Library policy needs to be clarified. Accountability can be increased across the Library by incorporative responsibility for the proactive checking of procedures into leadership team position descriptions. In addition to nominating a policy or procedure owner, policy management should be enhanced by documenting who is accountable and to be informed and consulted for changes. (i.e. the RACI project management approach)

**RECOMMENDATION 7: [Future area for investigation or continual improvement]** Create policy management guidelines and provide to all responsible officers.

## 2. Key Observations

### 2.3. Guidance for external stakeholders

The Victorian Public Sector Commission's Guidance for managers for engaging contractors and consultants, states:

*Certain contractors are required to comply with the Code because they are performing a public sector function. It doesn't matter to the public whether the government service is being provided by an employee or a contractor. They expect the same high standards of integrity.*

Noting this guidance of public expectations, it is important to ensure external stakeholders (contractors, facilitators and program presenters), fully understand the environment they are working in, and that the Library is a state government cultural institution. This should extend to understanding the public and participant expectations for child care and safety.

The Library currently outlines some of these expectations in contract schedules. However, this does not ensure contractors have full awareness upfront during negotiations of conditions before their formal engagement is confirmed. A guide is required that outlines what are the behaviour expectations, how the Library works in the government context, and what contractors can expect from the Library in return. The information should include the rationale and context for the guide, to help promote induction and understanding.

**RECOMMENDATION 8: [Priority to recommence *Teen Writing Bootcamp*] Develop a welcome and induction guide for contractors that outlines the expectations and requirements of working with and for the Library.**

Similarly, external stakeholders such as contractors and those approaching the Library for inclusion in programs would benefit from greater clarity about the curatorial selection process. This should include the intent and focus of programs, draw on the Library's Risk Appetite Statement and explain how the suite of Library policies, and particularly Duty of Care inform program delivery requirements such as ticket advisory warnings.

**RECOMMENDATION 9: [Short-term implementation] Make a curatorial statement available for external stakeholders to support engagement negotiations.**

Finally, when considering external stakeholders, it is important to consider the impact on and of those participating in activities and programs. The Library has resources such as parental guidelines and participant guidelines to help establish care and safety expectations and conduct. These should be reviewed following any changes to contractor obligations and resources to ensure any updates are consistent for the participant experience.

It was further noted that current Library systems, such as public booking systems for participants, do not have the capacity to capture guardian approvals, age of attendees and other relevant information to support the Library's Duty of Care obligations.

**RECOMMENDATION 10: [Priority to recommence *Teen Writing Bootcamp*] Review guidelines for parental consent and participant guidelines and ensure systems are able to facilitate obligations.**

## 3. Recommendations


This table summarises the recommendations in implementation phases

3.1 Priorities to recommence Teen Writing Bootcamp	Area
Recommendation 1 <b>Finalise the Freedom of Expression and Respectful Conduct schedule as a legally enforceable requirement for inclusion in external contractor agreements.</b>	Policy alignment
Recommendation 2 <b>Obtain (legal and/or governing state department) advice to clarify the status of contractors in relation to compliance with the Victorian Public Service Code of Conduct.</b>	Policy alignment
Recommendation 3 <b>Ensure all relevant Library policies include specific reference to the wording of the Victorian Public Service Code of Conduct Making Public Comment policy.</b>	Policy alignment
Recommendation 8 <b>Develop a welcome and induction guide for contractors that outlines the expectations and requirements of working with and for the Library.</b>	External stakeholder resources
Recommendation 10 <b>Review guidelines for parental consent and participant guidelines and ensure systems are able to facilitate obligations</b>	External stakeholder resources
3.2 Short-term implementation	
Recommendation 4 <b>Develop an Introduction resource guide to support staff understanding of the key requirements as public servants and working at the Library, the range of obligations of Duty of Care and with links to relevant detailed policies.</b>	Staff and operations
Recommendation 6 <b>Collate and refine definitions into a glossary to enhance common understanding of Library policies and procedure.</b>	Staff and operations
Recommendation 9 <b>Make a curatorial statement available for external stakeholders to support engagement negotiations.</b>	External stakeholder resources
3.3 Future areas for investigation or continual improvement	
Recommendation 5 <b>Undertake a review of policies with the objective to consolidate under content groupings, ensure consistency and reduce duplication, and in turn enhance their accessibility.</b>	Staff and operations
Recommendation 7 <b>Create policy management guidelines and provided to all responsible officers.</b>	Staff and operations

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