



The **Salvation** Army

Australia

The Salvation Army Australia

Response to the

Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper 1 – Working with Children Checks

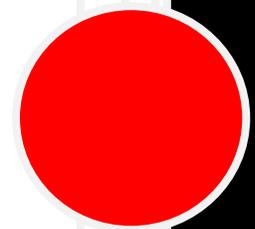
August 2013

The Salvation Army
Australia Southern Territory
Professional Standards Office
99 Railway Road, Blackburn VIC 3130

Phone: 03 8878 4500
www.salvationarmy.org.au

The Salvation Army
Australia Eastern Territory
Professional Standards Office
140 Elizabeth Street, Sydney NSW 2000

Phone: 02 9266 9536
www.salvos.org.au



The Salvation Army Australia

Response to the

Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper 1 – Working with Children Checks

INTRODUCTION

The Salvation Army Australia welcomes the opportunity to respond to the first issue paper on Working with Children Checks released by the Royal Commission into Institutional Responses to Child Sexual Abuse.

The Salvation Army provides a range of out of home care services for children and youth at risk with high level and multiple complex needs. In addition, a range of support, recreational, music and family supports are provided through The Salvation Army's network of social support services, community centres and churches across the country.

As a national organisation providing services and programs to children and youth at risk Working with Children Checks (WWCC) are a very real and complex issue for The Salvation Army. Currently, The Salvation Army works across five state based jurisdictions requiring specific working with children checks (Victoria, New South Wales, Queensland, Northern Territory, Western Australia); the Australia Capital Territory which regulates activities and screening requirements for working with vulnerable people inclusive of children and youth; and a state based point in time system of employee checks and requirements for organisational approaches that support safe services in South Australia. Given the complexities and inconsistencies between the various state based systems, The Salvation Army supports a national WWCC system.

In making this response, The Salvation Army recognises that there is limited evidence to support the effectiveness of WWCC or any other screening as a standalone risk management response. As such The Salvation Army advocates that any national WWCC system must sit within a broader framework that proactively supports organisations to align with and produce child safe policy, procedure and best practice principles. Such a framework is articulated in the *Creating Safe Environments for Children* guidelines developed by the Community and Disability Services Minister's Advisory Council in 2005.

About The Salvation Army

The Salvation Army is one of the largest national providers of welfare services. Operating for over 130 years in Australia, The Salvation Army has a significant history of working with and advocating for the rights and needs of disadvantaged people in our community. Consistent with our values of human dignity, justice, hope, compassion and community, The Salvation Army is committed to the promotion of social justice and protection of the rights of disadvantaged and vulnerable people, including children and youth at risk.

The Salvation Army Australia, with an annual operating budget of approximately \$600 million, provides over 1,000 social programs and activities through a network of social support services, community centres and churches across the country.

Key services provided by The Salvation Army Australia network include:

- Children and youth at risk programs
- Out of home care services, including foster care and residential care
- Material aid and emergency relief
- Financial counselling and assistance
- Personal counselling and support
- Drug and alcohol support and treatment services
- Family and domestic violence support and accommodation services
- Accommodation and homelessness services
- Disability services
- Education, training and employment support services.

The Salvation Army Australia currently mandates specific child and church safe programs and practice guidelines for all of its church and ministry based activities involving children and youth. Both systems, *ChildSafe* and *Safe Church (Safe Salvos)* provide standards, guidelines and training consistent with providing safe organisational environments for individuals engaged in child, youth and family based activities and events.

Both systems make it mandatory for anyone in a children's or youth ministry position, or involved in working with children and youth, to undergo screening processes including a WWCC and participating in training on child protection measures.

RESPONSE TO ISSUES PAPER 1 - Working with Children Check

Questions 1 – Question 2: Should there be a national Working with Children Check and what features should be included in a national scheme?

The Salvation Army strongly supports the development of a national Working with Children Check scheme that provides consistency of regulations, processes and definitions.

A national system would ensure legislative consistency across all jurisdictions, providing uniformity of processes for all organisations and individuals utilising the system across the country. For national organisations, a national WWCC system will ensure that there are no gaps in processes due to state based requirements, and it will provide more streamlined processes for organisations providing activities across state and territory boundaries.

Recognising that no checking process will provide total assurance of safety for children, any checking system needs to be embedded in broader organisational requirements that build capacity for and promote a child safe culture and environment.

The requirement for organisations to equip themselves as child and youth safe has been set in place on a national basis by the National Framework – Creating Safe Environments for Children (Community and Disability Services Ministers’ Conference, 2005). A number of states have operationalised this framework establishing clear policy and process agendas and requirements for organisations working with children and young people, i.e. Government of South Australia Department for Education and Child Development Child Safe Environments as defined in the Children’s Protection Act 1993(SA); Queensland Government’s Creating Safe and Supportive Service Environments for Children and Young People Child and Youth Risk Management Strategy Toolkit (Commission for Children and Youth People and Child Guardian).

Working with Children Checks should not be a ‘point in time’ check but should continue to be a check that is continually monitored and updated, as is current process under state based jurisdictions.

A national approach to WWCC would include:

- Standardised checking processes including risk assessment, clearances, duration of checks
- Standardisation of individual and organisational requirements
- Standardisation of terminology and definitions used to describe the clearance status of a check, including clearance notices, child-related work, child-related sectors
- Standardised regulations and processes for cross jurisdictional activities
- Consistent definition of child-related work, child-related sectors and child-related roles
- Standardisation of exemptions supported by clear and transparent rationale
- A national database that records people cleared for work with children and youth
- A standardised process for the checking of people who have been living overseas
- A standardised process that places checking responsibilities on to the individual making the application, in terms of disclosing relevant convictions, renewal processes
- Standardisation of costs of checks
- Free checks for volunteers

As one of the world's largest Christian social welfare organisations, The Salvation Army provides a significant range of ministry and church based activities and supports the continued mandatory requirements for those in ministry and spiritual leader positions to have WWCC as specified in current legislation.

The Salvation Army supports a consistent approach for any individual 16 years of age and over, who is engaged in child related work to have a WWCC.

In addition, we believe that obtaining an initial check and the process of a check's renewal should remain an individual's responsibility. Both the individual and the employing organisation should share the responsibility for notifying the screening agency of any changes to a person's risk status.

Ongoing development and review of checking processes must be mandated at both a national and organisational level to ensure maintenance of best practice that adapts and responds proactively to change.

Question 3: If there is no national scheme, should there be minimum requirements for each state and territory scheme.

Whilst The Salvation Army supports a national WWCC scheme, in lieu of this coming to fruition, we strongly advocate that there be minimum requirements for each state and territory to provide consistency of policy and process that would support alignment across states.

Minimum requirements for state and territory schemes would need to provide consistency across:

- Length of time a clearance could be granted
- Consistent definition of child-related work, child-related sectors and child-related roles
- Consistency of definitions and terminology of key aspects of the WWCC i.e. clearance notices
- Consistency and transparency of WWCC application process and clearance processes
- Standardisation of processes and regulations for activities that cross state and territory boundaries and for workers who travel interstate to undertake child related work activities.

Question 4: How long should any clearance be granted?

Currently, a WWCC is not a 'point in time' check, but is monitored on an ongoing basis by the relevant state based jurisdiction responsible for the processing of WWCC. The card holder and their employer are notified by the relevant state base authority that their WWCC has been barred because of offences that are committed by card holders in their employ.

The period for any clearance is therefore somewhat academic if the regulatory body continues to monitor offences that would require a card revocation, and that both card holder and employing organisation are notified and the card is withdrawn.

The Salvation Army supports check renewal periods to be set at 3 years and renewable every 3 years afterwards.

Question 5: Should a person be able to commence work before the check is completed?

The Salvation Army supports an individual commencing work before a check has been cleared with two very clear provisos:

- Receipt of the lodging of a check is sighted by the employer
- The individual works under supervision until such time as a clearance notice has been received.

If either of these two conditions cannot be met, then the individual should not commence work.

Whilst best practice would suggest individuals do not commence work in child related activities until they have a cleared check, the reality is that the length of time the current process takes for checks to be processed makes delaying employment/recruitment difficult for both the individual and the employer.

Questions 6 – 7: How should child-related work, child-related sectors and roles be defined?

A further issue to emerge in the debate about screening revolves around the definition of what constitutes ‘child related work’ with different jurisdictions providing slightly different definitions of child related work. A nationally consistent definition is required in order to avoid confusion for employers and employees, and to ensure that only appropriate background checks are performed. How child related work is defined and identified is fundamental to any further consideration of how organisations can provide child safe environments.

The Salvation Army advocates a definition of child-related work that:

- Is consistent across all jurisdictions
- Refers to work that involves or is likely to or may potentially involve regular direct contact with a child
- Includes reference to work that is either paid or voluntary
- Defines ‘child’ as an individual under 18 years of age
- The child-related work definition should inform the definition of the child-related sector and roles

Question 8: Are current exemptions for a WWCC adequate or appropriate, in particular should a WWCC apply to those:

- ***Living in the homes of children in out of home care?***
- ***Parent volunteers***

The Salvation Army is concerned that the current regime of exemptions within legislation is too broad and contradictory, with significant inconsistencies between states and territories. In general, The Salvation Army advocates that exemptions for a WWCC are not appropriate.

It is the opinion of The Salvation Army, as a significant provider of out of home care services and an organisation with a significant volunteer contingent that:

- All individuals aged 16 years and over, living in the homes of children in out of home care should have a WWCC
- All parent volunteers working in child related work should have a WWCC regardless of whether their own child is engaged in that activity or not.

Where exemptions can apply:

Some professional groups, e.g. teachers and police, are exempt from WWCC, with specific requirements being made under profession specific legislation. In these situations, it is important that organisations sight and record reference details to ensure that a relevant and up to date clearance has been granted by the professional body. The Salvation Army would, however, advocate the requirement for WWCC where individuals are engaged in work different to and outside of their professional role. Current legislation does not allow for this.

Exemptions to WWCC should be made in reference to a standardised definition and organisational role description. For example, an administrative worker within a youth residential facility will have regular and direct contact with children, although their role does not specify any direct work with children. Such a role would require a WWCC.

Exemptions to WWCC should be made with reference to the standardised definition and with reference to a nationally defined and consistent set of criteria specifying the number of days of child related work being undertaken within a twelve month period for interstate and periodic work within the sector.

Question 9: What records should be included in the check? Should the check include juvenile records?

The Salvation Army recommends that all records of convictions, spent convictions and charges pending, including juvenile records pertaining to offences against children should be considered in relation to a WWCC.

In addition, The Salvation Army supports review of professional association disciplinary actions or registration limitations or disqualifications as appropriate to individual applications.

The Salvation Army recognises the sensitivity of checking against charges where no conviction has been made, however data supports that the number of individuals charged with sexual offences is significantly higher than the number of individuals convicted of abuse. As such, there is an argument for charges of offences against children and spent convictions being considered in a background check.

In saying this, The Salvation Army strongly advocates a risk assessment process that reviews WWCC applications and the context and circumstances of convictions against standardised criteria, such as:

- Relevance of the offence to the child related work and position
- How long ago the offence took place
- Whether the offence was committed as a juvenile or an adult

- Whether the offence represents an isolated incident or a pattern of offences/criminality
- Whether the offence represents an acceptable and unjustifiable risk to children.

A national WWCC system would standardise those offences that automatically prohibit a person from holding a WWCC and working within child-related sectors either as an employee or volunteer.

Question 10: How should an appeal process operate?

Any appeal process needs to be a simple and easily navigated process that is state and territory based. The Salvation Army would support a local state based appeal process managed through the Child Safety Commissioner of each state or territory providing consistent and transparent governance processes.

Question 11: What issues arise from the current regime of records that result in automatic barring of a person from working with children?

The Salvation Army does not identify any issues with the automatic barring of individuals from working with children, particularly within a system that supports a rigorous and transparent review and appeals process.

WWCC card holders must accept responsibility for administrative requirements of maintaining their clearance. Individuals barred due to non-compliance with administrative processes (i.e. not notifying of change of address/change of employment) must accept responsibility for this and follow due process to have clearance re-established.

Question 12: The adequacy of the risk assessment process

The Salvation Army is not able to comment on current risk assessment process undertaken by the checking authority. Under a national system this process would be standardised and transparent, reflecting procedural fairness and natural justice.

From a local organisational perspective, standard risk assessment policy and procedure that informs the decision making about acceptance or exclusion of people working within child related employee or volunteering positions should be established and should be informed by nationally defined governance processes and standards.

Question 13: To what degree should the WWCC minimise the need for institutions to establish clear processes for responding to inappropriate behaviours of staff in child-related positions?

A WWCC and other background checks should only ever be considered as one of a range of risk management strategies to be implemented to ensure the establishment and maintenance of a safe organisational environment. They are not fool proof and do not necessarily screen out all risk.

As such, a WWCC should never minimise the need for organisations to establish clear processes for the recruitment and ongoing management and supervision of staff and volunteers in child-relation positions. WWCC should only ever be seen as a component of broader governance processes including referee checks, appraisal processes, practice governance standards that focus on staff supervision, practice review and operational guidelines defining what is appropriate conduct.

The Salvation Army supports a national WWCC scheme that defines organisational requirements for the provision of child safe environments. As articulated earlier, a national framework has been agreed to and a number of states have already progressed extensive work in the development of sector driven reform to advance child safe organisations.

A national WWCC scheme should set minimum organisational requirements to establish clear processes for organisations to be recognised as child and youth safe.

Question 14: How should the effectiveness of any existing WWCC be evaluated and/or monitored?

A national scheme should have a transparent and nationally consistent audit and review process of its own internal policy and procedures, identifying exceptions and irregularities and adapting process as required.

From an organisational perspective, WWCC can never be the only 'check' of a person's appropriateness to work with children. Along with regular professional development and training, appropriate supervision and effective implementation of risk-assessment processes, organisations should provide mechanisms to continuously monitor and review an individual against their position description. In addition, organisations should have a process of planned audit and review of organisational policy and procedure to ensure processes maintain relevance in an ever changing sector and continue to advance best practice principles.

A comprehensive national communication strategy targeting the general community as well as related service sectors, would need to be developed to ensure clarity of the schemes purpose, processes and standards.