Submission by

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

to the

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

re:

ISSUES PAPER 1 WORKING WITH CHILDREN CHECK ISSUE

This submission is in response to the Royal Commission’s request for input from interested individuals and government and non-government organisations as to whether the Working With Children Check should be nationally and consistently applied.

The Church of Jesus Christ of Latter-day Saints (“LDS”) is of the opinion that the Working With Children Check should be nationally and consistently applied for the following reasons, which are not exhaustive:

(a) national organisations would be relieved from the burden of having to monitor the ever-changing requirements of each state and territory’s child protection scheme to ensure compliance – information that is not always easily obtainable;
(b) national organisations could reduce the number of people involved in compliance monitoring and administration;
(c) national organisations would have internal clarity on what is required anywhere in Australia to comply with child protection requirements;
(d) people who crossed state and territory borders regularly in the course of their work (working with children) would no longer have to comply with several different state/territory child protection regimes;
(e) police background checks are already nationwide; the child protection scheme itself should also become a single, nationwide scheme.
Addressing the issues of interest to the Royal Commission, LDS makes the following comments:

1. **Should there be a national WWCC?**
   - LDS feels that there should be a national WWCC that entirely replaces all existing state and territory child protection schemes.
   - LDS does not want to see a national scheme introduced that merely sits on top of state and territory schemes, thereby adding additional complexity.
   - As regards Tasmania, where no child protection scheme currently operates similar to those in other states and territories, LDS would wish to see this state included in any national scheme that might be introduced.
   - Uniform national requirements would make ensuring compliance easier.
   - A national scheme is needed by organisations that operate nationally in order to streamline the staff time and costs presently involved in ensuring compliance state-by-state.
   - A national scheme would not adversely affect organisations that only operate in one state or territory.
   - A national scheme would assist people working with children who regularly cross state borders and presently have to comply with multiple child protection schemes.
   - Since police background checks are already carried out nationally (not just intra-state/territory), a large part of each existing state/territory scheme is already “national”.
   - A national approach will be more likely to better protect children.

2. **What features should be included in any national scheme?**
   - At present there have been two approaches:
     (a) “declaration” schemes, which place the ultimate responsibility for employing a person to work with children on the employer; and
     (b) “card” schemes, which see the state or territory government taking responsibility for determining whether a person is suitable to work with children.

   Of these two approaches, LDS prefers card schemes because they involve mandatory background checks carried out by the police, rather than declaratory schemes which rely on the honesty of the declarant.

   However, New South Wales is presently (2013) rolling out a new scheme which will be almost fully automated and will maintain a constantly updated database on certified individuals. This database will be made available to employers so that they can check on the status of each employee working with children to ensure that their clearance status has not changed, and in addition the scheme will actually notify the employer if an employee’s clearance status has changed.

   Whatever scheme is adopted nationally, LDS would like individual certification to be fully portable throughout Australia.
The notice issued to the applicant and prospective employer should clearly state whether the person is approved to work with children or not.

A national police background check is essential.

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

LDS would support “minimum requirements” for each state and territory if they were uniform and nationwide.

4. How long should any clearance be granted for?

If the New South Wales approach was adopted nationwide, ie where employers can at any time check a database that is constantly updated, the question about length of clearance term may no longer be relevant.

However, if a nationwide scheme is implemented that uses some other approach, a WWCC card would be preferred by LDS to a declaratory system. A one-year clearance term for such cards would be preferred, but since this is probably not practical, LDS supports three years provided negative events are notified immediately to both the employer and employee and the card of the offending employee promptly cancelled.

Both the individual and the employer must be informed as soon as possible of any change in clearance status.

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

No.

6. How should child-related work be defined?

The definition could be something like the following:

Work (no matter how frequent or infrequent, and whether carried out by paid or unpaid employees) is “child-related” if it requires any contact or interaction whatsoever with children aged under 18 years, whether or not that contact is under the supervision of a certified or related adult*.

*“Adult” being a person aged over 18 years.

7. How should child-related sectors and roles be defined?

No comment.
8. Are current exemptions for a WWCC adequate or appropriate – in particular, should a WWCC apply to those:
   a. living in the homes of children in out-of-home care?
   b. parent volunteers?
      ➢ LDS supports exemptions for people who are already vetted by their own
        professional organisations, eg police and teachers, but is not so supportive of the
        types of exemptions mentioned at 8(a) or 8(b), where no vetting of any kind has
        taken place.
      ➢ LDS feels that certification is the best protective system that can be achieved under
        present circumstances and therefore supports its application to everyone wishing to
        work (paid or unpaid) with children.
      ➢ Keeping exemptions to a minimum would also assist in making a nationwide WWCC
        scheme simple to implement.
      ➢ However, it is recognised that in volunteer organisations, uncertified volunteers may
        need to step in last-minute to assist a certified person working with children due to
        an unforeseen absence by certified volunteers who should be working with the
        children. It would be unreasonable to prohibit uncertified volunteers from assisting
        in such circumstances, as it would make it virtually impossible for volunteer
        organisations to operate. However, uncertified people must always be supervised by
        a certified person.

9. What records should be included in the check? For example, should the check include juvenile records?
   ➢ Yes, the check should include juvenile records.
   ➢ The check should seek information from all relevant sources.

10. How should an appeal process operate?
    ➢ If a person is issued with a negative notice, they should have the right to appeal,
        preferably in an inexpensive forum.

11. What issues arise from the current regime of records that result in automatic barring of a person from working with children?
    ➢ The safety of children is paramount, and if there is doubt, then a person must be
        barred from working with children unless and until they can clear their name
        through appropriate processes.

12. The adequacy of the risk assessment process.
    ➢ The risk assessment process as outlined by some of the states can be effective and
        thorough.
Such processes are, however, only effective if they are properly implemented, maintained, reviewed regularly and amended from time to time to meet changing circumstances.

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

- WWCC, whether national or state-by-state, does not minimise the need for institutions to establish their own processes for responding to inappropriate behaviour by staff in child-related positions.
- Institutions must also train their employees so that they are familiar with the processes and follow them.
- Clear parameters need to be set. This makes it easier for staff to know and follow them.

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

- Certain states, such as Queensland, have already noted a decline in child abuse since instituting their child protection scheme. Presumably the only way to evaluate and monitor the effectiveness of any scheme is to look at the statistics and see whether there is a decline in child abuse/negligence incidents.

15. Other issues?

- LDS is an international organisation which has foreign volunteers coming into Australia on a regular basis to stay for 1-2 years. Some of these volunteers would like to be able to work with children while they are in Australia, but are unable to do so because they cannot meet the 100-point ID requirement in order to get certified, eg they have a foreign driver’s licence; the utility bills they pay are not in their name; they do not have an Australian bank account, etc. It would be helpful if the WWCC ID requirements were revised to accommodate foreign volunteers.

Thank you for the opportunity to make this submission. We sincerely hope that a nationwide WWCC program will be implemented as soon as possible.

Yours sincerely,

Mark Allen
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