



Legal Services Commission
OF SOUTH AUSTRALIA

82-98 Wakefield Street
ADELAIDE SA 5000
Postal Address: GPO Box 1718
ADELAIDE SA 5001
DX 104

ABN: 90 731 571 498

Our reference: GZC
Contact: Susan Errington
Telephone: 08 8463 3604
Your reference: Issues Paper 3
Date: 7 August, 2013

Telephone: (08) 8463 3596
Facsimile: (08) 8463 3594
Telephone Advice Line: 1300 366 424
TTY: (08) 8463 3691
www.lsc.sa.gov.au

The Managing Solicitor
Royal Commission into
Institutional Responses to
Child Sexual Abuse
solicitor@childabuseroyalcommission.gov.au

Dear Solicitor,

Re Issues Paper 3 – Working with Children Checks (WWCC)

The Legal Services Commission of South Australia (LSC) supports the general principal that WWCC should be uniform around Australia as this will be of benefit to employers, workers and family who wish to move between or work across Australian jurisdictions. At the very least, there should be common minimum requirements in each State and Territory.

According to the *Australian Institute of Family Studies*, there are currently two types of schemes operating around Australia, one is employer-based as in South Australia, and the other is individual-based, (<http://www.aifs.gov.au/cfca/pubs/factsheets/a141887/>.) In the first scheme, the employer is required to undertake the background check each time the employee participates in a new child-related activity, in the second, the individual employee or volunteer obtains his or her own certification which is portable during the period of its currency. Both schemes offer clearance for a set period of time, after which reapplication is required. Only Queensland appears to have a system which specifically requires organisations to have policies and procedures in place designed to minimise harm to children which are subject to a monitoring system. However, we consider that the complex screening system currently in place in Queensland would not be suitable for a national model as it is unnecessarily onerous, overly subjective, time-consuming and costly for the applicant. South Australian law requires that organisations have a policy framework relating to child safety. (*Department for Communities and Social Inclusion* <http://www.dcsi.sa.gov.au/services/screening/the-screening-and-assessment-process>)

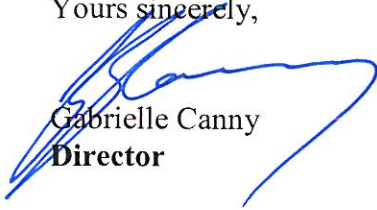
In South Australia, the obtaining of a *National Criminal Record History Check* (NCRHC) is the primary legal requirement for ascertaining an employee's suitability. This check shows all criminal history pertaining to the employee and is not limited to offences relating to children or other relevant offences such as sexual offences. The requirement to provide information about convictions which have no bearing on risks to the safety of children can act unfairly against a potential employee and cause needless embarrassment.

Were South Australia to introduce a mandatory WWCC as operated in some other jurisdictions, the LSC would be concerned if any local or national WWCC included unproven or discredited allegations made against individuals, including charges which

have been dismissed or withdrawn by a court. We believe that the inclusion of such material would result in an injustice against the individual concerned as we have had experience of clients who have been wrongly accused of sexual offences against children in both the criminal law and family law jurisdictions.

Thank you for the opportunity to comment on this Issues Papers.

Yours sincerely,



Gabrielle Canny
Director