Our ref. 13028466

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Ms Janette Dines
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Royal Commission into Institutional Responses to Child Sexual Abuse
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By email only: solicitor@childabuseroyalcommission.gov.au

Dear Ms Dines

**Issues paper of the Royal Commission on Working With Children Checks**

We refer to the first Issues Paper released by the Royal Commission on 17 June 2013 on Working with Children Checks. In our earlier correspondence of 2 July 2013, we provided some information regarding work undertaken by the Attorney-General's Department and the Council of Australian Governments regarding inter-jurisdictional exchange of criminal history information for people working with children.

We are pleased to provide the attached submission, prepared on behalf of the Commonwealth of Australia, for the Commission's consideration. We would be very pleased to discuss the attached submission, if it would assist the Commission.

Please do not hesitate to contact the writer on the number below.

Yours sincerely

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Commonwealth of Australia
Submission on the first Issues Paper of the Royal Commission into
Institutional Responses to Child Sexual Abuse

Working with Children Checks

INTRODUCTION

1. The Commonwealth welcomes the opportunity to provide this submission in response to the Royal Commission's Issues Paper 1 - Working with Children Checks, released on 17 June 2013 (the Issues Paper).

2. Working with children checks (WWCC) are an essential (but not the only) component of national policy on keeping Australia's children safe. They seek to protect children from the risk of harm by screening candidates or volunteers to ensure that those working with children do not pose a risk to their safety. (In this submission, 'working with children' includes volunteering.)

3. Each State and Territory bar one (Tasmania) operates its own statutory scheme for WWCC. The schemes operate at this level because, in our federal system, the States and Territories have the legislative responsibility for child protection. While the Commonwealth has no direct legislative power in this area, it has an important public policy role in protecting Australia’s children in collaboration with State and Territory governments and the non-government organisation sector.

4. As the Issues Paper points out, there are variations between the different statutory schemes. Some of the differences relate to fundamental aspects of WWCC, such as who is required to undergo a check and what information is used. In addition, a working with children clearance in one jurisdiction is generally not recognised in another (except in some very limited circumstances).

5. In light of the variations in WWCC across the different jurisdictions, and the issues of consistency and coverage those variations create, the Issues Paper asks whether a nationally consistent WWCC system should be established. In particular, it asks whether there should be a national WWCC scheme.

6. The Australian governments and the non-government sector have been working towards keeping Australia’s children safe and well through goals and strategies set out in a national framework called Protecting Children is Everyone's Business, National Framework for Protecting Australia’s Children 2009-2020. This national framework was endorsed by the Council of Australian Governments (COAG) in April 2009 (the 2009 National Framework). The Commonwealth's interest in the matters raised in the Issues Paper is founded in its participation in the work being progressed through the 2009 National Framework.

7. While a national WWCC system, or a national scheme, has certain benefits, it would be most practical to achieve this through the promotion of consistency across jurisdictions, rather than through centralisation. In this regard, the Commonwealth’s role in the 2009 National Framework has been to contribute to and support the
development of nationally consistent practices and processes for the protection of children.

8. The Commonwealth recognises the value of consistency in WWCC and acknowledges that more can be done to achieve a nationally consistent approach in this area. However, when considering these issues, it is also necessary to recognise the complexities associated with achieving national consistency or a national WWCC system (however desirable they may be considered to be).

9. This submission expands on these points by:
   — outlining the Commonwealth's role to date in WWCC and describing the work that has been done, under the 2009 National Framework in particular, towards national consistency in this area;
   — highlighting some of the inconsistencies that presently exist between the different State and Territory WWCC systems and some of the concerns associated with those inconsistencies; and
   — addressing some options for progressing better consistency.

THE COMMONWEALTH'S CURRENT ROLE IN WWCC

Protecting Children is Everyone's Business, National Framework for Protecting Australia's Children 2009-2020

10. The 2009 National Framework (attached at Appendix A) is an ambitious long-term approach to protecting vulnerable children. It sets a target of ‘a substantial and sustained reduction in child abuse and neglect in Australia over time’. The 2009 National Framework articulates an approach which focuses on prevention and early intervention, rather than simply responding to abuse and neglect, and involves all sectors of the community: parents, families, communities, governments at all levels, business and non-government services. The framework sets out the strategies for achieving those outcomes. The strategies are then implemented through 3-year actions plans. Two actions set for the first 3-year plan (covering 2009-2012) related directly to WWCC. These were:

   — implementation of ‘a national framework for inter-jurisdictional exchange of criminal history for people working with children’; and

   — development of a 'nationally consistent approach to working with children checks and child safe organisations across jurisdictions'. All jurisdictions have responsibility for achieving this outcome.

11. The first of these actions has been achieved through an information-sharing arrangement known as the National Exchange of Criminal History Information for People Working with Children (ECHIPWC). Progress has been made on the second action. A position paper released by the Standing Council on Community and

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1 See page 32 of the 2009 National Framework.
2 See page 18 of the 2009 National Framework.
Disability Services (the Standing Council) in October 2011 called *Toward a Nationally Consistent Approach to Working with Children Checks* is an important outcome of this work. Each of these achievements is explained below.

**ECHIPWC**

12. ECHIPWC, like the 2009 National Framework, is a COAG-led initiative. Work on ECHIPWC was underway before the 2009 National Framework was adopted. In 2007, COAG agreed in principle to a framework for an exchange of criminal history information between all Australian governments for the purpose of WWCC and, in 2008, it agreed to the establishment of the arrangement. ECHIPWC commenced as a 12-month trial on 30 November 2009 under a Memorandum of Understanding (MOU) which was signed by all States, Territories, and the Commonwealth on 26 November 2009. The MOU is attached at Appendix B. In accordance with the MOU, the Commonwealth and States and Territories made legislative and administrative changes to facilitate the exchange of information. At the Commonwealth level, this involved amendments to the *Crimes Act 1914*, discussed below.

13. ECHIPWC is important because it seeks to facilitate a greater range of information that can be shared about a person's criminal history. This has enabled the screening agencies which receive this information to consider a person's full and complete history to better inform their assessments of the person's suitability to work with children. Jurisdictions were already sharing criminal history information before ECHIPWC, but this information was generally limited to a person's convictions - it generally did not extend to spent convictions or convictions overturned on appeal or charges which did not result in convictions. ECHIPWC has facilitated the exchange of this kind of information, as well as information about the circumstances of an offence or charge (such as whether the offence or charge concerned a child).

14. The sharing of expanded criminal history information contributes to greater national consistency. However, at present ECHIPWC is subject to some limitations. Information can only be released to the extent permitted by legislation or policy in each jurisdiction. For example, Victoria does not participate in the sharing of certain 'non-conviction charges' information,\(^3\) because (as explained below) criminal history information in that jurisdiction relates to 'findings of guilt'. Another limitation is that most, but not all, jurisdictions have screening agencies which are authorised to receive the expanded of criminal history information. Under the MOU, before screening agencies can participate in the exchange of this information, they must meet strict conditions relating to the receipt, use, storage and destruction of the information.\(^4\)

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3 See clauses 3.6 and 4.3.3 of the MOU. ‘Non-conviction charge’ means a charge that was withdrawn or was the subject of a nolle prosequi, a no true bill or submission of no evidence to offer; or a charge that led to a conviction that was quashed on appeal; or a charge upon which a person was acquitted or disposed of by a court otherwise than by way of conviction.

4 See clauses 4.11 and 4.12 of the MOU.
When ECHIPWC began, the MOU authorised screening agencies from the majority of jurisdictions – New South Wales, Victoria, Western Australia, Queensland and the Northern Territory – to participate in the exchange of information. More recently, the ACT’s Office of Regulatory Services received approval as a participating screening agency at a COAG Senior Officials’ Meeting on 12 July 2013. South Australia has recently nominated a participating screening agency which is currently under consideration. It is understood Tasmania – which has indicated it will introduce a statutory scheme requiring screening of all people who intend to work with children later this year – intends to nominate a screening agency.

**Changes to the Crimes Act**

As mentioned above, the *Crimes Act 1914* was amended to facilitate the exchange of the expanded criminal history information at the Commonwealth level. This was effected in March 2010 with the commencement of amendments to the scheme in Part VIIIC of the *Crimes Act*, which governs disclosure of Commonwealth pardoned, quashed and spent convictions. Subdivision A was inserted in Division 6 to provide exclusions to the general rules in Part VIIIC. It allows information about Commonwealth pardoned, quashed or spent convictions to be disclosed to and considered by persons and bodies (screening agencies) prescribed by the *Crimes Regulations 1900*, for the purpose of conducting WWCC. The Regulations presently name the same screening agencies listed in the MOU and 3 other New South Wales agencies. The Australian Federal Police and CrimTrac facilitate the disclosure process.

The *Crimes Act* requires 2 reviews of the operation of the amendments. The first review, conducted by the Attorney-General’s Department’s in 2011, found that, where the expanded Commonwealth criminal history information was being disclosed, Subdivision A was operating to achieve its aim of helping to protect children from individuals who may pose a risk to their safety and wellbeing. Screening agencies had reported that sharing this expanded information provided valuable additional background information and improved their decision making about an individual’s suitability for working with children. A copy of the review report is attached at Appendix C. The Attorney-General’s Department is currently undertaking the second review which will take into account the findings and recommendations of the 2011 review. The report must be completed by 30 September 2013 and tabled in Parliament within 15 sitting days after the day on which the Minister receives the report. It can be provided to the Royal Commission at that time.

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5 The amendments were made by the *Crimes Amendment (Working with Children - Criminal History) Act 2010* (Cth).

6 Regulation 7A.

7 The Department of Education and Communities, Department of Health and the Catholic Commission for Employment Relations. Also see s 85ZZGE as to the requirements screening agencies must meet.

8 See s 85ZZGG.

9 See s 85ZZGA.
Inter-governmental agreement

18. The MOU intended that, after the 12-month trial and an evaluation of ECHIPWC, an inter-governmental agreement would replace the MOU to provide for ‘the operation of the exchange on a permanent basis’. An inter-governmental agreement was approved at the COAG Senior Officials’ Meeting on 12 July 2013. The agreement – which largely replicates the effect of the MOU – will take effect once signed by all relevant Ministers. In the meantime, ECHIPWC continues to operate under the MOU.

Towards a nationally consistent approach

Creating Safe Environments for Children - Organisations, Employees and Volunteers
National Framework (2005)

19. Work towards a nationally consistent approach to protecting children had begun before the 2009 Framework with a framework called Creating Safe Environments for Children - Organisations, Employees and Volunteers (the 2005 Framework). This framework (attached at Appendix D) was developed through consultation between all jurisdictions and signed by each Commonwealth, State and Territory Community and Disability Services Minister at the Community and Disability Services Ministers’ Conference (CDSMC). Its focus is narrower than COAG’s 2009 National Framework: the 2005 Framework articulates a national approach to increasing the safety of children having contact with community services organisations (government and non-government), which focuses on creating safe environments for children. The framework’s overarching aim is to ‘provide a more comprehensive and cohesive national approach to strengthening the capacity of organisations and systems to increase child safety’. It recognises that children will be protected if they have safe environments.

20. The framework regards WWCC as essential in ensuring environments are safe for children, but not enough to create and maintain safe environments. It emphasises that organisations must also have the capacity to keep their environments safe for children. Building this capacity – which includes having effective risk management strategies – is therefore a priority.

21. Under the framework, States and Territories implement the national approach in ways that are appropriate to their circumstances (respect for variations between jurisdictions is one of the framework’s principles) but guided by a series of best practice guidelines contained in schedules to the framework (also adopted by the CDSMC). The 4 National Schedules are attached at Appendix E. One of the schedules, about sharing criminal history information across jurisdictions, deals with issues ECHIPWC has since sought to address (anticipating ECHIPWC, the schedule refers to a COAG Working Group ‘formed to progress inter-jurisdictional agreements in this area’). Two other schedules are directly relevant to WWCC. They

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10 See clause 10.1.
11 And also ‘information relevant to the assessment of prospective out-of-home carers for licensing or registration purposes’.
are An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking and Guidelines for Exclusion of Persons from Employment/Volunteering in Child-related Areas. Both are informed by national and international research.

**An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking**

22. This guideline is directed at the risk assessment element of WWCC: assessing whether a candidate or volunteer poses a risk to children. Its purpose is to inform that decision-making, and also to 'contribute to the further development and refinement of relevant legislation, policy and practice across Australia'. It is not a prescriptive, step-by-step guide to decision-making, but rather outlines 'national agreement about broad principles, guidelines and key elements to promote risk assessment and decision-making that is ethical, rigorous, consistent and evidence-based'. The guideline acknowledges that different jurisdictions use different methods of risk assessment.

**Guidelines for Exclusion of Persons from Employment/Volunteering in Child-related Areas**

23. This guideline provides guidance on the 'categories of criminal behaviour' which could lead to a candidate or volunteer being excluded from working with children. It is based on the premise that 'certain criminal offences or patterns of offences create an unacceptably high level of risk to children' - so children should not be exposed to people who have been involved in those offences. An important consideration underlying the guideline is that 'differences and inconsistencies' between standards applied in States and Territories 'should not allow' persons excluded from working with children in one jurisdiction to 'gravitate towards other jurisdictions or agencies'.

**Governance arrangements under the 2009 National Framework**

24. Particular governance arrangements for the 2009 National Framework were created to progress the work towards national consistency in WWCC. The framework's governance arrangements are explained in a diagram included at Appendix F. In short, as relevant to this discussion:

- COAG oversees the 2009 National Framework and the Standing Council is responsible for its implementation.


- The Standing Council is supported by the Standing Council for Community and Disability Services Advisory Committee (the Standing Council Advisory Committee). The chief executive officers of the Community and Disability Services Departments in each jurisdiction, including the Commonwealth, sit on
the Standing Council Advisory Committee. It is responsible for addressing strategic directions set by Ministers for implementation of the 2009 National Framework.

— A National Framework Implementation Working Group (the Implementation Working Group) was formed under the Standing Council Advisory Committee. The Implementation Working Group is a ‘trilateral’ committee consisting of senior officers from the Commonwealth, State and Territory governments and representatives of the Coalition of Organisations Committed to the Safety and Wellbeing of Australia’s Children, known as the NGO Coalition. The NGO Coalition represents about 120 non-government organisations working in child protection.

— In 2010, a WWCC Sub-committee was formed under the Implementation Working Group to agree on an approach to developing national consistency in WWCC. It consists of policy officers and operational advisors from the National Operators' Forum (the Forum).

— The Forum is a network of representatives from screening agencies across Australia. The object of the Forum is for members to discuss best practice and share their knowledge and experiences in order to enhance the operation of screening units.

25. The WWCC Sub-committee developed the position paper adopted by the Standing Council in October 2011 called Toward a Nationally Consistent Approach to Working with Children Checks (the Position Paper).

Position Paper

26. The Position Paper, attached at Appendix G, highlights that an effective WWCC system should have 3 elements - screening, risk management and ongoing monitoring - and that work towards consistency should focus on all 3 elements, not only consistent screening practices. It emphasises, in particular, the importance of nationally consistent risk management strategies, as identified in the 2005 Framework. An attachment to the Position Paper sets out actions towards national consistency in WWCC that had been achieved or were in progress as at June 2010, and proposes a number of actions which could help achieve greater consistency.

27. As a first step towards greater national consistency, the Standing Council agreed in March 2012 to address the fact that different exemptions apply to interstate visitors in different jurisdictions. State and Territory governments are implementing national exemption arrangements for workers and volunteers crossing state borders for work-related purposes for up to 30 days in any 12-month period. As part of this process, in June 2012, the Standing Council endorsed national exemption definitions. New South Wales has enacted the 30-day exemption in its new WWCC legislation. The ACT’s legislation provides an exemption for visitors engaging in an

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12 Regulation 20(1)(m) of the Child Protection (Working with Children) Regulation 2013 (NSW).
activity in the ACT for 28 days or less (in any 12-month period) if they hold a working with children clearance in another jurisdiction.\textsuperscript{13}

28. The remaining jurisdictions are in different stages of implementing the exemptions, with most expecting to have exemptions in place by 2014.

CONCERNS AND COMPLEXITIES

29. The Position Paper did identify some concerns about the current system. It said:

\ldots not all children receive the same level of protection from the organisations and systems designed to protect them. The variation between state and territory systems makes it difficult to recognise and accept safety checks of volunteers and workers who move across borders. In addition, the lack of cross jurisdictional infrastructure means that any change to the suitability status of the person cannot be effectively actioned and communicated to any relevant employers or organisations accessing that person’s services.

30. Concerns about the current system, such as those identified in the Position Paper, stem from the variations which result from having 7 separate WWCC systems at the State and Territory level. Comparing the different statutory schemes is a complicated exercise: inconsistencies relate to things such as who is required to undergo a WWCC, what information is considered as part of the WWCC, including what ‘criminal history’ information is considered, how long the WWCC is valid for and what exemptions apply. Without purporting to be comprehensive, some of the differences between the various statutes include the following:

- The activities which constitute work requiring WWCC, while similar in many respects, differ in some respects between some jurisdictions. Take the ACT and Queensland’s legislation, for example. The ACT’s legislation includes activities – such as transport services – which are not mentioned in Queensland’s legislation.\textsuperscript{14} The reverse also applies: the Queensland Act covers a range of health services which are not mentioned in the ACT’s legislation.\textsuperscript{15}

- Whether a WWCC is required also depends on the level of contact a person is likely to have with children. How ‘contact’ is defined for this purpose differs between jurisdictions. For example, the definition in the ACT’s legislation is broad. It includes oral communication over the telephone and written electronic communication, as well as physical contact.\textsuperscript{16} Under the legislation in New South Wales, by contrast, contact is limited to ‘direct contact’, which means

\textsuperscript{13} And the activity they engage in the ACT is ‘substantially similar’ to an activity they are permitted to engage in under the clearance they hold: see s 12 of the \textit{Working with Vulnerable People (Background Checking) Act 2011} (ACT).

\textsuperscript{14} See \textit{Schedule 1} of the \textit{Working with Vulnerable People (Background Checking) Act 2011} (ACT), Part 1.3, clause 1.20.

\textsuperscript{15} See \textit{Schedule 1} of the \textit{Commission for Children and Young People and Child Guardian Act 2000} (Qld), clause 6.

\textsuperscript{16} See s 9 and s 10 of the \textit{Working with Vulnerable People (Background Checking) Act 2011} (ACT). Western Australian and the Northern Territory have similar definitions: see s 6 and s 4 of the \textit{Working with Children (Criminal Record Checking) Act 2004} (WA) and s 185 and s 13 of the \textit{Care and Protection of Children Act} (NT).
‘physical contact’ or ‘face to face contact’. Victoria’s legislation contains a similar definition, but a WWCC is only required under that Act ‘in circumstances where [the] contact is not directly supervised by another person’.18

— South Australia’s legislation is structured differently from the other statutory schemes. In other jurisdictions, a person is prohibited from engaging in, or employing a person to, work with children without a clearance given by a screening agency – a person commits an offence if he or she does so.19 South Australia’s legislation, by contrast, does not impose similar prohibitions. Instead, it requires an organisation20 to ensure that a person’s criminal history is assessed before employing the person in a ‘prescribed position’.21 The organisation itself may assess the criminal history and decide whether a person ‘may pose a risk to the safety of children’ (in accordance with standards issued by the Chief Executive of the Department for Education and Child Development).22 This is different from the other jurisdictions, where screening agencies decide in accordance with statutory criteria whether an applicant should be given a clearance to work with children.23

— Across the different statutory schemes, decision-making processes differ. This extends to the kinds of information that are taken into account as part of the assessment. Take the example of an applicant with no criminal history. Under Western Australia’s legislation, the screening agency24 must not issue a clearance unless a criminal record check has been conducted and must issue a

17 Section 6 of the Child Protection (Working with Children Act) 2012 (NSW).

18 Section 9 and s 3 of the Working with Children Act 2005 (Vic). [D]irect supervision of a person requires immediate and personal supervision but does not require constant physical presence’: s 9(2).

19 For example, see s 13 and s 14 of the Working with Vulnerable People (Background Checking) Act 2011 (ACT); s 8 and 9 of the Child Protection (Working with Children Act) 2012 (NSW); s 187 of the Care and Protection of Children Act (NT); Divisions 3, 4 and 6 of Part 4 of Chapter 8 of the Commission for Children and Young People and Child Guardian Act 2000 (Qld); s 33 to s 36 of the Working with Children Act 2005 (Vic); and s 22 to s 24 of the Working with Children (Criminal Record Checking) Act 2004 (WA).

20 The requirement applies to (a) government organisations and (b) non-government organisations that provide health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children.

21 A penalty applies if this does not occur: see s 8B of the Children’s Protection Act 1993 (SA).

22 See s 8B of the Children’s Protection Act 1993 (SA) and regulation 6 of the Children’s Protection Regulations 2010 (SA) and the Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children. An organisation can also apply to the Department for Families and Communities Screening Unit to conduct an assessment — but where an organisation does so, it remains responsible for making the final decision on whether to employ a person (see page 26 of the Standards).

23 See, for example, s 12 of the Working with Children (Criminal Record Checking) Act 2004 (WA); Division 9 of Part 4 of Chapter 8 of the Commission for Children and Young People and Child Guardian Act 2000 (Qld); s 12 to s 14 and s 17 of the Working with Children Act 2005 (Vic); and s 18 of the Child Protection (Working with Children) Act 2012 (NSW).

24 The chief executive officer of the Department for Child Protection.
notice if a person has no criminal history.\textsuperscript{25} Northern Territory's legislation is different: where a person has no criminal history, the screening agency has a discretion. It must 'decide whether the candidate poses an unacceptable risk of harm or exploitation to children'.\textsuperscript{26} In doing so, it may have regard to a wide range of factors, including (among others):

- 'information pertaining to employment records and/or disciplinary proceedings';
- information about 'stability of a person's lifestyle';
- a person's 'history of drug or alcohol abuse and any treatment undertaken'; and
- a person's 'mental health history which has resulted in criminal charges being discontinued'.\textsuperscript{27}

Some legislation, such as that in Queensland and Western Australia, defines criminal history broadly.\textsuperscript{28} In those jurisdictions, a person's criminal record includes all of their convictions\textsuperscript{29} (including spent convictions) and any charges laid against them, even if the charges did not result in findings of guilt (including where a court overturned a conviction on appeal).\textsuperscript{30} Victoria's legislation, on the other hand, does not define what is included in a person's 'criminal record', but the screening agency\textsuperscript{31} may have regard to certain convictions, findings of guilt and pending charges.\textsuperscript{32} This is consistent with Victoria Police's Information Release Policy under which criminal history information is released in Victoria.\textsuperscript{33}

According to that policy, 'findings of guilt' are released and details of matters

\textsuperscript{25} Section 12(2) to (4) of the \textit{Working with Children (Criminal Record Checking) Act 2004} (WA).

\textsuperscript{26} Section 189(2) of the \textit{Care and Protection of Children Act} (NT).

\textsuperscript{27} See the Administrative Guidelines for Chapter 3, Part 3.1 of the \textit{Care and Protection of Children Act} (NT).

\textsuperscript{28} See the definition of 'criminal record' in s 4 and the definition of 'conviction' in s 8 of the \textit{Working with Children (Criminal Record Checking) Act 2004} (WA) and the definitions in Schedule 7 and s 157 of the \textit{Commission for Children and Young People and Child Guardian Act 2000} (Qld).

\textsuperscript{29} Which means any finding of guilt.

\textsuperscript{30} Also see, for example, the definitions of 'criminal history' and 'non-conviction information' in s 24 and s 25 of the \textit{Working with Vulnerable People (Background Checking) Act 2011} (ACT). The screening agency in the ACT must consider convictions for a relevant offence set aside or quashed on appeal and charges for a relevant offence which resulted in acquittal: s 28.

\textsuperscript{31} The Secretary to the Department of Justice.

\textsuperscript{32} See s 12 to s 14 and definitions in s 4, s 5 and s 6 of the \textit{Working with Children Act 2005} (Vic).

under investigation or awaiting court hearing may be released. This would exclude charges which did not result in a court finding the person guilty.\(^{34}\)

— A working with children clearance is valid for 5 years in some jurisdictions (Victoria and New South Wales), 3 years in others (Queensland, Western Australia and the ACT) and 2 years in the Northern Territory.

— In some jurisdictions (South Australia, Western Australia and the Northern Territory), but not others, fees apply to WWCC applications for volunteers.\(^{35}\)

31. These differences highlight the extent of the harmonisation that would be needed in order to achieve a national WWCC scheme or a fully nationally consistent approach to WWCC. The Position Paper suggested that harmonisation ‘would require substantial investment of resources to bring the data and related information management mechanisms into line’.

32. One driver for pursuing the goal of national consistency is to ensure that no gaps are created by the disparate processes at the State and Territory level. For example, it is conceivable that different WWCC outcomes could result from decisions being based on different information (say, disciplinary information, or certain non-conviction information, considered in one jurisdiction, but not in another). A situation could arise where relevant information (such as disciplinary information) which would lead to exclusion in one jurisdiction (such as Victoria or Queensland)\(^{36}\) may not be known to a decision-maker in another jurisdiction (such as Tasmania), because consideration of that information is not provided for. This creates a risk that a person who should not be given a clearance, and would be denied in one jurisdiction, is granted a clearance in another jurisdiction; or that a person seeks out a particular jurisdiction because it is more likely than another to grant a clearance, since certain information is not considered in that jurisdiction.

**Mutual recognition**

33. The Position Paper also observed, as quoted above, that ‘[t]he variation between state and territory systems makes it difficult to recognise and accept safety checks of volunteers and workers who move across borders.’\(^{37}\)

34. In that statement, the Position Paper alludes to a system of mutual recognition, whereby a working with children clearance issued in one jurisdiction is accepted in another. On its face, a mutual recognition scheme could be expected to have advantages for workers and their employers, volunteers and the organisations which

\(^{34}\) The definition of ‘finding of guilt’ in s 4 of the *Working with Children Act 2005* (Vic) expressly excludes ‘a finding of guilt that is subsequently quashed or set aside on appeal’.

\(^{35}\) The fees currently are $5 in the Northern Territory, $10.50 in Western Australia and, depending on who makes the application and who the application is made to, between $41.25 and $42.40 (including GST) in South Australia.

\(^{36}\) See s 11 and s 14 of the *Working with Children Act 2005* (Vic) and s 221 and s 228 of the *Commission for Children and Young People and Child Guardian Act 2000* (Qld).

\(^{37}\) Some jurisdictions provide for mutual recognition in very limited circumstances: see s 12(2)(c) of the *Working with Vulnerable People (Background Checking) Act 2011* (ACT) and reg 20(1)(n) of the *Child Protection (Working with Children) Regulation 2013* (NSW).
employ them, and bureaucracies. For example, mutual recognition would ease the administrative burden of having to obtain separate clearances in different jurisdictions and make it easier for workers and volunteers to work in, or be deployed to, other jurisdictions. From this point of view, these kinds of benefits are desirable.

35. Against these considerations, though, there is a risk that, unless appropriate national standards are adopted, mutual recognition may not necessarily achieve greater protection of children. This is because, from a design perspective, a mutual recognition scheme would require the States and Territories to agree on and adopt consistent minimum standards, processes and requirements. If those minimum standards were, for example, less stringent than standards which currently apply in some jurisdictions, a mutual recognition scheme, while bringing administrative benefits, could possibly weaken in at least some jurisdictions the protection WWCC seeks to provide. This is an important consideration. The safety of children must remain the primary concern.

TOWARDS BETTER CONSISTENCY

36. As the achievements outlined above demonstrate, work has progressed under the 2009 National Framework to move towards greater national consistency in WWCC. This has been achieved through the Commonwealth, States and Territories and the non-government sector working together under the arrangements established under the 2009 National Framework. But, as explained above, child protection requires more than WWCC - it is only one of the elements of effective child protection.

37. The 2009 National Framework calls for jurisdictions and the non-government sector to work together to progress a second 3-year action plan, covering 2012 to 2015 (attached at Appendix H). One of the priorities of the Second Action Plan is 'continuing to improve the effectiveness of [WWCC] across jurisdictions'. The Standing Council has previously agreed to identify and scope the next project to be undertaken to address this priority by the end of 2013.

38. Exploring opportunities for mutual recognition and identifying best practice risk management strategies are options put forward in the Position Paper that could be considered for this next project.

CONCLUSION

39. The Commonwealth would be happy to expand on any of the points made in this submission, or provide any further information about this issue, which may assist the Royal Commission.
Appendix A

Protecting Children is Everyone’s Business
National Framework for Protecting Australia’s Children 2009–2020

An initiative of the Council of Australian Governments
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Foreword

Australia’s children deserve a safe, healthy and happy childhood.

Our children must be able to grow up nourished and supported in loving and caring environments. They must have time to be children with all the wonder, happiness and innocence that childhood should bring.

Over recent years the reported levels of child neglect and abuse in Australia have increased at an alarming rate. Child abuse and neglect has become an issue of national concern. Meanwhile, statutory child protection systems are struggling under the load.

Protecting children is everyone’s responsibility. Parents, communities, governments and business all have a role to play.

Australia needs a shared agenda for change, with national leadership and a common goal.

All Australian governments have endorsed the first National Framework for Protecting Australia’s Children 2009-2020 and are committed to implementing the initial actions it contains. It is a long-term, national approach to help protect all Australian children.

The National Framework represents an unprecedented level of collaboration between Australian, State and Territory governments and non-government organisations to protect children. Placing children’s interests firmly at the centre of everything we do.

Reducing child abuse and neglect is not an easy task and it will take time. The National Framework provides the foundation for national reform.

Endorsed at the Council of Australian Governments meeting on 30 April 2009 by:
The Hon Kevin Rudd MP, Prime Minister of Australia
The Hon Nathan Rees MP, Premier of New South Wales
The Hon John Brumby MP, Premier of Victoria
The Hon Anna Bligh MP, Premier of Queensland
The Hon Mike Rann MP, Premier of South Australia
The Hon Colin Barnett MLA, Premier of Western Australia
The Hon David Bartlett MP, Premier of Tasmania
The Hon Paul Henderson MLA, Chief Minister of the Northern Territory
Jon Stanhope MLA, Chief Minister of the Australian Capital Territory
Why we need to work together to protect Australia’s children

All children have the right to be safe and to receive loving care and support. Children also have a right to receive the services they need to enable them to succeed in life. Parents have the primary responsibility for raising their children, and ensuring that these rights are upheld.

We recognise that the best way to protect children is to prevent child abuse and neglect from occurring in the first place. To do this, we need to build capacity and strength in our families and communities, across the nation.

The vast majority of parents - supported by the community and the broad range of government supports and services available to all families - have the capacity to raise happy and healthy children. But some families need more help. And in some cases, statutory child protection responses will be required.

The investment by governments and the non-government sector into family support and child protection services is significant, yet our separate efforts still fail many children and young people (Steering Committee for the Review of Government Service Provision 2009). We need a unified approach that recognises that the protection of children is not simply a matter for the statutory child protection systems.

Protecting children is everyone’s responsibility.

Families, communities, governments, business and services all have a role. And we need to work together.

What is the problem?

In 2007-08, there were 55,120 reports of child abuse and neglect substantiated by child protection services.

For the first time since national data collection there was a reduction in child abuse substantiations from the previous year (2006-07). This is a promising indication that substantial increases in family support may be effective at preventing child abuse and neglect. Data in future years will tell us if this trend continues.

Despite this, the rate has more than doubled over the past 10 years and the number of children subject to child abuse and neglect remains unacceptably high. Indigenous children also remain significantly over-represented. Indigenous children are six times more likely to be the subject of a substantiation than other children (AIHW 2009).

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1. Australia is a signatory to the United Nations Convention on the Rights of the Child. In the Convention, the term ‘child’ is defined as anyone under the age of 18 years. This National Framework follows that definition.
2. The estimated total recurrent expenditure on child protection and out-of-home care services was $2 billion in 2007–08, an increase of 13.5 per cent on the previous financial year.
Some of the increases over time are a result of changing social values and better knowledge about the safety and wellbeing of children. Child protection services were originally established in response to serious physical abuse. Now, in response to changing community expectations, they address physical abuse, sexual abuse, emotional abuse, neglect and domestic violence. These changes have been a major driver of increased demand on child protection services (Bromfield & Holzer 2008).

Emotional abuse and neglect are now the most commonly substantiated types of child maltreatment, followed by physical abuse (AIHW 2009). However, research shows that many children experience sexual abuse, and that it is often undetected or not reported to authorities (ABS 2006; Morrison 2007).

As a community we have been shocked and concerned to hear of children who were not identified or adequately protected by welfare systems – for some, their suffering was not known until after their deaths. Systems and procedures such as mandatory reporting requirements have been developed to try to better identify those children who have experienced or are at-risk of abuse or neglect. For many people concerned about a child or family, their first (and perhaps only) response is to make a report to child protection services (Bromfield & Holzer 2008).

Substantial numbers of children and their families now come to the attention of child protection services. In 2007-08, there were 317,526 reports to child protection services in Australia. The vast majority of these reports were not substantiated — meaning the report was assessed and a child protection response was not required at that time. In these cases, other forms of support would have been a more appropriate response.

The numbers of children being removed from their parents has also more than doubled over the past decade. At 30 June 2008, there were 31,166 young people in out-of-home care (AIHW 2009). Children in out-of-home care experience significantly poorer long-term outcomes, particularly where the child did not experience stable care placements (Cashmore & Paxman 2006). Each year in a small number of terrible cases, children die as a result of child abuse and/or neglect. The exact numbers are difficult to ascertain due to reporting limitations.

**What needs to change?**

Australia needs to move from seeing ‘protecting children’ merely as a response to abuse and neglect to one of promoting the safety and wellbeing of children. Leading researchers and practitioners – both in Australia and overseas – have suggested that applying a public health model to care and protection will deliver better outcomes for our children and young people and their families (Holzer 2007; O’Donnell, Scott, & Stanley 2008; Scott 2006; ARACY 2007). The components of such a system are illustrated in Figure 1.

Under a public health model, priority is placed on having universal supports available for all families (for example, health and education). More intensive (secondary) prevention interventions are provided to those families that need additional assistance with a focus on early intervention. Tertiary child protection services are a last resort, and the least desirable option for families and governments.

**Just as a health system is more than hospitals so a system for the protection of children is more than a statutory child protection service.**
In reality, Australia’s child welfare service systems more closely resemble an hourglass than a pyramid. As demands on child protection services have grown, the size of child protection services have grown to meet that demand. Child protection services cannot provide a response to all vulnerable children and their families.

A public health model offers a different approach with a greater emphasis on assisting families early enough to prevent abuse and neglect occurring. It seeks to involve other professionals, families and the wider community – enhancing the variety of systems that can be used to protect children and recognising that protecting children is everyone’s responsibility (Higgins & Katz 2008).

Ultimately, the aim of a public health approach is to reduce the occurrence of child abuse and neglect and to provide the most appropriate response to vulnerable families and those in which abuse or neglect has already occurred.
A national approach for protecting Australia’s children

Australia needs a shared agenda for change, with national leadership and a common goal. Recognising that the safety and wellbeing of children is the responsibility of all levels of government, the Australian Government has led the development of the National Framework, working closely with States and Territories.

Similar challenges are being faced across the nation. State and Territory governments currently spend in excess of $2 billion annually on child protection alone, with average annual increases of more than 12 per cent.

State and Territory governments are currently implementing reforms to their statutory child protection systems - all focused on early intervention. But for these reforms to be truly effective, they need to be coordinated with Australian Government programs, policies and payments - a large part of the early intervention response.

The National Framework will deliver a more integrated response but does not change the responsibilities of governments. States and Territories retain responsibility for statutory child protection, as the Australian Government retains responsibility for providing income support payments. The National Framework also recognises the significant existing efforts and reforms which are being undertaken by governments across Australia in protecting children and supporting families. A summary of existing effort and reforms underway in each State and Territory is at Appendix A.

It does however, involve a commitment from all parties to focus our own efforts on protecting children to, and work together better in areas of shared responsibility. It also involves a commitment to better link the many supports and services we provide – avoiding duplication, coordinating planning and implementation and better sharing of information and innovation. Naturally, the span of activity required to support these outcomes means that new efforts will build on and link with existing initiatives to achieve the best possible outcomes.

A National Framework provides an opportunity to drive improvements across all systems and all jurisdictions. National leadership will provide the momentum for key national projects – such as data, research, information sharing and national consistency in critical areas. A National Framework also provides a mechanism for engaging the non-government sector and the broader community on a national level.
National Framework for Protecting Australia’s Children

The National Framework for Protecting Australia’s Children 2009-2020 consists of high-level and supporting outcomes, strategies to be delivered through a series of three-year action plans and indicators of change that can be used to monitor the success of the National Framework. The actions and strategies that governments and others will agree to take under this National Framework are all aimed to achieve the following high-level outcome:

Australia’s children and young people are safe and well.

As a measure of this outcome, governments and the non-government sector have set the following target:

A substantial and sustained reduction in child abuse and neglect in Australia over time. 3

To demonstrate progress towards achieving the target the following measures have been identified:

- Trends in key national indicators of children’s health, development and wellbeing
- Trends in hospital admissions and emergency department visits for neglect and injuries to children under three years
- Trends in substantiated child protection cases
- Trends in the number of children in out-of-home care.

Supporting outcomes, strategies and indicators of change

The six supporting outcomes are:

1. Children live in safe and supportive families and communities
2. Children and families access adequate support to promote safety and intervene early
3. Risk factors for child abuse and neglect are addressed
4. Children who have been abused or neglected receive the support and care they need for their safety and wellbeing
5. Indigenous children are supported and safe in their families and communities
6. Child sexual abuse and exploitation is prevented and survivors receive adequate support.

The supporting outcomes and strategies help to focus effort and actions under the National Framework in order to reach the high-level outcome. Indicators of change are provided to measure the extent to which governments and non-government organisations are achieving the

3 It is acknowledged that measuring a reduction in child abuse and neglect is difficult, as Australia currently does not have robust data on incidence/prevalence. Even if such data existed, it may not be sensitive to change over a short period.
supporting outcomes. Given the inherent difficulties in isolating the impact of specific actions on broader social outcomes, a broad suite of indicators have been identified which, when viewed collectively, will be reported annually and provide a basis for measuring progress over the life (12 years) of the National Framework.

Principles to guide our actions

Children have a right to be safe, valued and cared for. As a signatory to the United Nations Convention on the Rights of the Child, Australia has a responsibility to protect children, provide the services necessary for them to develop and achieve positive outcomes, and enable them to participate in the wider community.

In line with Australia’s obligations as a signatory to the UN Convention, the National Framework is underpinned by the following principles:

- All children have a right to grow up in an environment free from neglect and abuse. Their best interests are paramount in all decisions affecting them.
- Children and their families have a right to participate in decisions affecting them.
- Improving the safety and wellbeing of children is a national priority.
- The safety and wellbeing of children is primarily the responsibility of their families, who should be supported by their communities and governments.
- Australian society values, supports and works in partnership with parents, families and others in fulfilling their caring responsibilities for children.
- Children’s rights are upheld by systems and institutions.
- Policies and interventions are evidence based.

The National Framework also recognises the importance of promoting the wellbeing of Aboriginal and Torres Strait Islander children, young people and families across all outcome areas.

Everyone has a role to play

Under the National Framework for Protecting Australia’s Children, protecting children is everyone’s responsibility. Some of the key groups and their involvement in the National Framework are described below.

Parents and families care for and protect their children and engage in decision making that has an impact on them and their children.

Children and young people participate in decisions affecting them.

Communities support and protect all their members, and support families to raise their children, particularly vulnerable families.

Non-government organisations deliver services (including on behalf of governments), contribute to the development of policy, programs and the evidence base and actively promote child safety, protection, rights and wellbeing.

The business and corporate sector supports parents to raise their children through family-friendly policies. They may also support programs and initiatives to directly assist children and families, including direct financial assistance, pro bono activities of their staff and professional support to community organisations.
Local governments deliver a range of services to vulnerable families, including youth and family centres and local infrastructure, and play a pivotal role in engaging vulnerable children and their families in those services.

State and Territory governments deliver a range of universal services and early intervention initiatives to prevent child abuse and neglect, and fund and coordinate many services by the non-government sector. They are responsible for the statutory child protection systems, including the support provided to children and young people in out-of-home care. Other responsibilities include:

- providing therapeutic and support services for families, children and young people at-risk of abuse or neglect
- conducting research into child protection
- delivering health and education services, including maternal and child health services, schools, and specialist services for at-risk children and young people and their families
- providing police and justice systems, including court services to hear child/youth care and protection matters.

The Australian Government delivers universal support and services to help families raise their children, along with a range of targeted early intervention services to families and children. 4

The foundation of the Australian Government’s support is the provision of income and family support payments to provide both a broad social safety net and specifically support families in their parenting role. This includes pensions, family payments, childcare benefit and tax rebates. The Australian Government provides a range of services available for all Australian families such as Medicare, employment services, child and parenting support services, family relationship services and the family law system. In addition, the Australian Government provides support for key services through the States and Territories such as hospitals, schools, housing and disability services.

The Australian Government also offers more targeted services for vulnerable individuals and families, including mental health, substance abuse, intensive parenting services, intensive employment assistance, and allowances for young people leaving care to help with the transition to independent living. The Australian Government also funds and delivers a range of services for families at higher risk of disadvantage including those in Indigenous communities.

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4 Families include foster, grandparent and kinship families
Protecting children is everyone's business.
Supporting outcome 1:
Children live in safe and supportive families and communities

Communities are child-friendly. Families care for children, value their wellbeing and participation and are supported in their caring role.

Reducing vulnerability of families and protecting children from abuse and neglect begins with developing a shared understanding of, and responsibility for, tackling the problem of child abuse and neglect.

Businesses and the broader community can play a part in supporting families through child and family-friendly policies and practices. It is important to educate and engage the community to influence attitudes and beliefs about abuse and neglect but also more broadly about children and their needs. Informing communities about parenting and children’s development can also promote understanding about the ways in which community members can better support families.

Upholding children’s right to participate in decisions that affect them is a key signal of valuing and supporting children. In the context of child welfare, this is particularly relevant in judicial proceedings in care and protection, juvenile justice and family court matters, and in child protection and out-of-home care services.
## Supporting outcome 1

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<tr>
<th>Strategies</th>
<th>Initial 3-year actions</th>
<th>Delivery</th>
<th>Indicators of change</th>
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<tbody>
<tr>
<td>1.1 Strengthen the capacity of families to support children</td>
<td>Continue to establish and support family and children’s centres such as:  - Child and Family Centres (ACT)  - Early Years Service Centres (QLD)  - Children’s Centres (SA)  - 30 Child and Family Centres (TAS)  - Early Learning and Care Centres (WA)  - 46 Children’s Services Hubs (VIC)</td>
<td>Ongoing States &amp; Territories</td>
<td>• Community attitudes towards and value of children (TBD, survey)  • Children’s perception of their value within the community (TBD, survey)  • Measure of children’s and young people’s participation in administrative and judicial proceedings that affect them (TBD)</td>
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<td>Combine and refocus community programs within the Department of Families, Housing, Community Services and Indigenous Affairs to enhance support for families and parenting</td>
<td>2009-10 Commonwealth</td>
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<td>Continue to improve family support services such as:  - bringing together secondary services consistent with WA’s Strategic Framework for Supporting Individuals and Families At-risk</td>
<td>Ongoing All jurisdictions</td>
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<td>1.2 Educate and engage the community about child abuse and neglect and strategies for protecting children</td>
<td>Support community organisations to deliver cost-effective, community-based initiatives, including information and awareness campaigns, for example funding for National Child Protection Week and a survey of community attitudes to protecting children</td>
<td>Ongoing Commonwealth with NAPCAN</td>
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<tr>
<td>1.3 Develop and implement effective mechanisms for involving children and young people in decisions affecting their lives</td>
<td>Explore the potential role for a National Children’s Commissioner including the relationship with State and Territory Children’s Commissioners</td>
<td>Advice to Government in late 2009 Commonwealth in consultation with States &amp; Territories</td>
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<td></td>
<td>Identify and implement approaches through the Supporting Children After Separation Program, to assist children from separating families to deal with issues arising from the breakdown of their parents’ relationship and to participate in decisions that affect them</td>
<td>Ongoing Commonwealth</td>
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<td>Finalise, print and distribute an information booklet for children entering foster care</td>
<td>2009 Commonwealth with the Australian Childhood Foundation</td>
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<td>Continue to improve the experience of court processes for children, such as:  - Victoria’s work with court stakeholders to improve practices and processes in state and federal jurisdictions involved with children  - NSW’s legislative amendments to encourage alternative dispute resolution and the roll-out of the Magellan project  - WA’s trialling of court diversion conferencing</td>
<td>Ongoing States &amp; Territories</td>
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<td></td>
<td>Support participation of children in decision making such as:  - Models developed by the SA Guardian for Children and Young Persons</td>
<td>Ongoing States &amp; Territories</td>
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</table>
Supporting outcome 2: Children and families access adequate support to promote safety and intervene early

All children and families receive appropriate support and services to create the conditions for safety and care. When required, early intervention and specialist services are available to meet additional needs of vulnerable families, to ensure children’s safety and wellbeing.

The basic assumption of a public health approach to protecting children is that by providing the right services at the right time vulnerable families can be supported, child abuse and neglect can be prevented, and the effects of trauma and harm can be reduced.

Providing the right supports at the right time will also ultimately reduce demand on State and Territory child protection systems, allowing them to improve their capacity to perform specific statutory functions and better support children at-risk.

National and international research shows that:

- families have strengths that can be built upon to keep children safe and well
- families may require advice and support, particularly in times of change
- provision of services early in a child’s life and/or early in the life of a problem can improve long-term outcomes for children and reduce negative impacts
- a focus on early intervention and prevention is more cost-effective in the long term than responding to crises, or treating the impacts of abuse and neglect (Stronger Families Learning Exchange 2002).

Disadvantage and vulnerability can be concentrated in particular communities. Evidence from Australia (such as implications from the national evaluation of the Stronger Families and Community Strategy) suggests that area-based interventions can have positive impacts on vulnerable children and families. Effective elements include:

- an explicit focus on the coordination and collaboration of services by one organisation that is given responsibility and resources to be a leader in this area in the community
- increased service provision and capacity to work with families previously disengaged from early childhood services and those from groups traditionally considered ‘hard to reach’.
### Supporting outcome 2

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<tr>
<th>Strategies</th>
<th>Initial 3-year actions</th>
<th>Delivery</th>
<th>Indicators of change</th>
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<tbody>
<tr>
<td>2.1 Implement an integrated approach to service design, planning and delivery for children and families across the lifecycle and spectrum of need</td>
<td>Expand the <em>Communities for Children</em> program to: - realign existing sites to enhance integration and target the most disadvantaged communities - establish new demonstration sites to test models of integrated service delivery and provide more intensive assistance to children at-risk</td>
<td>Realign existing sites 2009-10 New sites established by July 2010 Commonwealth in partnership with States &amp; Territories and NGOs</td>
<td>• Proportion of pregnant women who receive perinatal care (TBD) • Number of at-risk children and families accessing support services (TBD) • Rate per 100,000 babies born with low birth weight • Proportion of communities with improved measures against the Australian Early Development Index • Proportion of disadvantaged 3 year olds in early childhood education • Proportion of children aged 4 to 14 years with mental health problems • Rate of child protection notifications</td>
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<td></td>
<td>Implement integrated and co-located child and family service models including: - 35 Indigenous Child and Family Centres (Commonwealth) - <em>Brighter Futures</em> early intervention program (NSW) - SCAN multi-agency teams (QLD) - integrated child and family case management system (SA) - coordination service for pregnant women and their families (ACT) - Best Beginnings program (WA) - 6 multidisciplinary Autism Early Learning and Care Centres (Commonwealth) - Child and Family Services Alliances (VIC)</td>
<td>Ongoing All jurisdictions and NGOs</td>
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<td>2.2 Develop new information sharing provisions between Commonwealth agencies, State and Territory agencies and NGOs dealing with vulnerable families</td>
<td>Develop a nationally consistent approach to working with children checks and child safe organisations across jurisdictions</td>
<td>In place by December 2009 All jurisdictions</td>
<td>2009-10 Commonwealth in partnership with States &amp; Territories</td>
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<td>Extend the national protocol for sharing information on children at-risk to other Commonwealth agencies starting with Medicare Australia and the Child Support Agency</td>
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<td>Investigate options for improving information sharing between NGOs and government agencies in secondary prevention through the <em>Common Approach to Assessment, Referral and Support Taskforce</em> (see 3.5)</td>
<td>Options by December 2009 Commonwealth and ARACY in partnership with States &amp; Territories and NGOs</td>
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<td>2.3 Ensure consistency of support and services for all children and families</td>
<td>Implement a national approach to early childhood education and care including: - universal access to quality early childhood education and care in the year prior to schooling by 2013 - National Quality Framework for Early Childhood Education and Care and the Early Years Learning Framework - National Early Years Workforce Strategy</td>
<td>Ongoing Through the COAG Early Childhood Agenda</td>
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## Supporting outcome 2 continued

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<th>Strategies</th>
<th>Initial 3-year actions</th>
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<th>Indicators of change</th>
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<td>Support the development of quality assurance processes for registered</td>
<td>Support the development of quality assurance processes for registered community based</td>
<td>States &amp; Territories</td>
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<td>community based child and family services; and out-of-home care services,</td>
<td>community based child and family services; and out-of-home care services, such as the</td>
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<td>such as the Victorian model</td>
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<td>Enhance national consistency in child and family health services through:</td>
<td>Enhance national consistency in child and family health services through:</td>
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<td>- progressing the development of a national framework for child and family</td>
<td>- progressing the development of a national framework for child and family health</td>
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<td>health services through the Australian Health Ministers’ Conference</td>
<td>health services through the Australian Health Ministers’ Conference</td>
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<td>- the healthy kids check through the MBS for 4 year olds to help ensure</td>
<td>- the healthy kids check through the MBS for 4 year olds to help ensure children are</td>
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<td>children are healthy and ready for school</td>
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<td>Implement the National Perinatal Depression Plan including a national</td>
<td>Implement the National Perinatal Depression Plan including a national universal</td>
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<td>universal screening program</td>
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<td>Increase funding for disadvantaged schools with a focus on improving</td>
<td>Increase funding for disadvantaged schools with a focus on improving student wellbeing</td>
<td>Ongoing</td>
<td>Through the Low SES School Communities</td>
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<td>wellbeing</td>
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<td>2.4 Enhance services and supports for children and families to target the</td>
<td>Refocus services under the Commonwealth’s Family Support Program to target vulnerable</td>
<td>From 2009-10</td>
<td>Commonwealth</td>
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<td>most vulnerable and protect children ‘at-risk’</td>
<td>families and children at-risk</td>
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<td>Expand and/or target State and Territory family support programs for</td>
<td>Expand and/or target State and Territory family support programs for vulnerable</td>
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<td>vulnerable families and children at-risk such as:</td>
<td>vulnerable families and children at-risk such as:</td>
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<td>- Victoria’s continued roll-out of Child FIRST</td>
<td>- Victoria’s continued roll-out of Child FIRST</td>
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<td>- NSW’s Keep Them Safe initiatives including new Child Wellbeing Units</td>
<td>- NSW’s Keep Them Safe initiatives including new Child Wellbeing Units and</td>
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<td>and expanding Brighter Futures.</td>
<td>expanding Brighter Futures.</td>
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<td>Evaluate income management trials in WA, NT and Cape York</td>
<td>Evaluate income management trials in WA, NT and Cape York</td>
<td>2009-10</td>
<td>Commonwealth in consultation with</td>
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<td>relevant jurisdictions</td>
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<td>Comprehensive evaluation of family law</td>
<td>Findings by end of 2009</td>
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<td>reforms designed to strengthen family relationships, including:</td>
<td>Commonwealth</td>
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<td>- research into the characteristics of shared care parenting arrangements that work in</td>
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<td>the best interests of the child</td>
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<td>- research on the impact of family violence on relationship breakdown</td>
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<td>2009-10 to 2012-13</td>
<td>Commonwealth</td>
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## Supporting outcome 2 continued

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<th>Delivery</th>
<th>Indicators of change</th>
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<tbody>
<tr>
<td>2.5 Provide priority access to services for children who are at serious risk of abuse and neglect</td>
<td>Enhance access to childcare services for children at serious risk of harm by increasing awareness and availability of services and supports in the childcare sector, organisations working with vulnerable children and child protection agencies</td>
<td>From July 2009 Commonwealth</td>
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<td>Develop alternative pathways for children who are at serious risk and those at lower risk, including:</td>
<td>Ongoing States &amp; Territories</td>
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<td>- establishment of Child Wellbeing Units in a range of NSW government agencies</td>
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<td>- establishment of regional intake and referral services in NSW</td>
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<td>- introduction of Gateway services to provide single entry points in TAS</td>
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<td>- availability of Child FIRST community intake centres in 24 locations across Victoria</td>
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Supporting outcome 3:
Risk factors for child abuse and neglect are addressed

*Major parental risk factors that are associated with child abuse and neglect are addressed in individuals and reduced in communities. A particular focus is sustained on key risk factors of mental health, domestic violence and drug and alcohol abuse.*

Key to preventing child abuse and neglect is addressing the known risk factors. Many of the factors that research has shown to be associated with abuse and neglect are behaviours or characteristics of parents, which can then be the target of both population-based strategies and specific interventions.

The problems most commonly associated with the occurrence of child abuse and neglect and identified in families involved with child protection services are:

- domestic violence
- parental alcohol and drug abuse
- parental mental health problems.

Often, families in which parents experience these problems face broader challenges of exclusion and disadvantage (Allen Consulting Group 2003; Leek, Seneque & Ward 2004; Wood 2008). Other known risk factors for abuse and neglect include:

- poverty and social isolation
- unstable family accommodation and homelessness
- poor child and maternal health
- childhood disability, mental health and/or behavioural problems
- young people disconnected from their families, schools and communities
- past experiences of trauma (Fleming, Mullen, & Bammer 1997; Frederick & Goddard 2007; National Child Protection Clearinghouse 2008).

Many families also experience more than one of these risk factors (Jeffreys, Hirte, Rogers & Wilson 2009; Wood 2008).

Adult treatment or support services – particularly those addressing domestic violence, substance misuse and mental health issues, as well as housing, gambling, disability, employment and income support services – need to be more child-focused, and responsive to the needs of families (Scott 2009).

These factors can also be the longer-term outcomes for children who have suffered abuse and neglect, contributing to intergenerational cycles of disadvantage. Disadvantage can be concentrated in neighbourhoods or geographic areas. Efforts to build and strengthen communities and address economic and social disadvantage are important elements in an overall approach to ensuring children’s safety and wellbeing.
## Supporting outcome 3

<table>
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<tr>
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<th>Initial 3-year actions</th>
<th>Delivery</th>
<th>Indicators of change</th>
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</thead>
<tbody>
<tr>
<td><strong>3.1 Enhance alcohol and substance abuse initiatives to provide additional support to families</strong></td>
<td>Implement the <em>National Binge Drinking Strategy</em></td>
<td>Ongoing Commonwealth</td>
<td>• Rate per 1,000 children living in households where there is adult abuse of alcohol and/or other drugs (TBD, previous survey)</td>
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<td>Redesign the <em>Strengthening Families Program</em> to implement a more focused model incorporating parenting support for vulnerable families where children are at-risk of harm</td>
<td>Ongoing Commonwealth</td>
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<td></td>
<td>Implement community based healthy lifestyle interventions in disadvantaged communities including addressing alcohol abuse</td>
<td>Ongoing Commonwealth to lead through the COAG National Preventative Health Partnership</td>
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<td><strong>3.2 Enhance programs which reduce family violence</strong></td>
<td>Progress priority actions in areas of Commonwealth responsibility in <em>Time for Action: The National Plan for Australia to reduce Violence against Women and their Children, 2009-2021</em> from the National Council to Reduce Violence against Women and their Children</td>
<td>From May 2009 Commonwealth through COAG</td>
<td>• Number of children living in jobless families (TBD)</td>
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<td>Expand models of integrated support to enable women and children experiencing domestic and family violence to remain at home safely</td>
<td>2009 onwards Through the National Partnership on Homelessness</td>
<td>• Rate per 1,000 children living in households where family violence occurs (TBD)</td>
</tr>
<tr>
<td><strong>3.3 Increase services and support for people with mental illness</strong></td>
<td>Develop a <em>National Suicide Prevention Strategy</em></td>
<td>Commonwealth</td>
<td>• Proportion of parents with a mental illness who are accessing mental health services (TBD)</td>
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<td>Further roll out the <em>Personal Helpers and Mentors Program</em> with a focus on disadvantaged communities and vulnerable groups</td>
<td>2009 – 2011 Commonwealth</td>
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<td>Enhance support for children or parents with disabilities, such as:</td>
<td>Ongoing All jurisdictions</td>
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<td>- evolve therapeutic and behaviour support services to support specialist disability assessments with complex needs (QLD)</td>
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<td>- develop a Statement of Principles for working with children with a disability and their families (VIC)</td>
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<td>- implement a new assessment tool for Carer Payment (child) to support more carers of children with disabilities (Commonwealth)</td>
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<td>- measures to support early intervention for children with autism (Commonwealth)</td>
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<td>- develop safeguards for children including strengthening availability of disability support services for children and their families (NSW)</td>
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### Supporting outcome 3 continued

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| **3.4 Expand housing and homelessness services for families and children at-risk** | Increase availability of affordable and social housing through the:  
- National Affordable Housing Agreement  
- investment in social housing under the Nation Building Economic Stimulus Plan  
Targeted support to assist children and families who are homeless including:  
- additional services for up to 2,250 families at-risk of homelessness through the HOME Advice Program  
- additional specialist support to children who are homeless including closer links between homelessness and child protection services  
- early intervention and prevention services for up to an additional 9,000 young people aged 12 to 18 years at-risk of homelessness to remain connected with families (where appropriate), education, training and employment | By December 2010  
Commonwealth in partnership with States & Territories  
Ongoing  
Through the National Partnership on Homelessness | |
| **3.5 Increase capacity and capability of:**  
- adult focused services to identify and respond to the needs of children at-risk  
- child-focused services to identify and respond to the needs of vulnerable families  
- the broader system to identify children at-risk | Establish professional development resources on the risk factors for, and impacts of, child abuse and neglect to be provided to child and adult focused services and professions (including joint training across professional groups and organisations)  
Convene an expert taskforce to develop options for shared tools and approaches for assessment and referral across services and professional groups to better identify children at-risk of harm: the Common Approach to Assessment, Referral and Support Taskforce  
Support the development and distribution of a resources guide to schools and early childhood services about responding to the needs of traumatised children  
Build on and extend initiatives to support the workforce, such as WA's Foster Care Team Development initiatives | Training resources to be developed by December 2010  
Commonwealth to lead in partnership with States & Territories and NGOs  
Establish Taskforce May 2009, with options by end of 2009  
Commonwealth and ARACY in partnership with States & Territories and NGOs  
2009  
Commonwealth with the Australian Childhood Foundation  
Ongoing  
States & Territories | |
Protecting children is everyone's business.
Supporting outcome 4:
Children who have been abused or neglected receive the support and care they need for their safety and wellbeing

Children and young people who have been abused (or are at-risk of abuse) receive timely, appropriate, high-quality child protection and other support services to secure their safety and promote their long-term wellbeing.

Efforts to reduce the occurrence of child abuse and neglect are important. It is equally important that those children who have experienced abuse and neglect are provided high-quality services and interventions, as they are among the most vulnerable in our community.

To secure children’s safety and wellbeing in the short and long term they need high-quality child protection services that are evidence based, child-focused, attend to children’s developmental needs and help children to overcome the effects of trauma, abuse and neglect (Bromfield 2008). There is a need for further research and evaluation to ensure that services and interventions provided actually work to improve outcomes for children and families (Bromfield & Arney 2008).

Out-of-home care is viewed as an intervention of last resort, and the preference is always for children to be reunited with their natural parents if possible. Many children can be safely reunited with their families when their families receive appropriate supports and interventions. Research highlights the need for children to have stable and secure placements, whether that be with their natural parents or in out-of-home care. The quality of relationships with carers is also critical. A sense of security, stability, continuity and social support are strong predictors of better outcomes for young people’s long-term outcomes after leaving care (Cashmore & Paxman 2006).

Young people leaving care are at great risk of experiencing negative life outcomes (Bromfield & Osborn 2007). Care leavers can be better supported if they are equipped with improved employment and independent living skills and more social and emotional skills while in care, and the state continues to act as a ‘good’ parent in the first few years after they leave care (Cashmore & Paxman 1996; Maunders, Liddell, Liddell, & Green 1999; Mendes & Moslehuuddin 2006).

While the need for foster carers has been rising, there has been some evidence of decreasing numbers of individuals willing to foster (McHugh 2002; Siminski, Chalmers & McHugh 2005). The attraction and retention of an appropriately skilled and qualified workforce – including statutory and non-government service workers, as well as voluntary carers – is a high priority.
## Supporting outcome 4

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<tr>
<td><strong>4.1 Enhance access to appropriate support services for recovery where abuse or neglect has occurred</strong></td>
<td>Target the <em>Personal Helpers and Mentors Program</em> where appropriate for people who have experienced abuse or neglect.</td>
<td>2009-10 Commonwealth</td>
<td>• Proportion of investigations finalised by time taken to complete investigation.</td>
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<td>Support community-based recovery programs for people who have experienced abuse or neglect such as, Adults Surviving Child Abuse (ASCA) therapy programs for survivors of childhood abuse.</td>
<td>2009 Commonwealth</td>
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<td><strong>4.2 Support grandparent, foster and kinship carers to provide safe and stable care</strong></td>
<td>Provide specialist supported playgroups for grandparent and kinship carers to enhance peer support and provide developmental opportunities.</td>
<td>2009-10 Commonwealth</td>
<td>• School retention rates (Years 10 &amp; 12) of young people in out-of-home care or under guardianship (TBD).</td>
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<td>Continue to explore options through CDSMAC working group for improving financial and non-financial support to grandparent, kinship and foster carers such as: - SA’s <em>Time for Kids</em> grandparent respite and support - WA’s Foster Care Partnership Policy, centred on the child.</td>
<td>2009-10 All Jurisdictions</td>
<td>• Retention rate of foster carers and child protection workers (TBD).</td>
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<td></td>
<td>Increase the focus of support and services available for grandparent and kinship carers through Indigenous Child and Family Centres.</td>
<td>From 2009-10 Commonwealth</td>
<td>• Number of out-of-home carers, by type of carer.</td>
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<td>Support programs for grandparent, kinship and foster carers, such as: - Victoria’s implementation of the new <em>Kinship Care</em> program model - NSW’s initiatives to better support carers including providing a resource manual to carers; and establishing Regional Foster Care Advisory Groups - QLD’s <em>Foster and Kinship Carer Strategy</em> includes a support line, caring allowance, flexible respite options and training</td>
<td>Ongoing States &amp; Territories</td>
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<td>Continue to explore options through the Australian Health Ministers’ Conference in relation to the healthcare needs of children entering and in out-of-home care.</td>
<td>Report by end of 2009 All Jurisdictions</td>
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<td>Enhanced support for grandparent and kinship carers as a specified target group under the <em>Communities for Children</em> program.</td>
<td>2009-10 Commonwealth</td>
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### Supporting outcome 4 continued

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<tr>
<td>4.3 Improve support for young people leaving care</td>
<td>Increase support through NGOs for young people leaving care to establish their independence</td>
<td>Ongoing from July 2009 Commonwealth in partnership with NGOs</td>
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| | Continue and improve State and Territory initiatives targeting young people as they leave care, such as:  
- NT’s Leaving Care options package  
- ACT’s Time to Fly leaving care kit | Ongoing States & Territories |  |
| | Implement policy of ‘no exits into homelessness’ from statutory care | Ongoing Through the National Partnership on Homelessness |  |
| 4.4 Support enhanced national consistency and continuous improvement in child protection services | Develop and introduce ambitious National Standards for Out-of-home Care which:  
- focus on key areas that directly impact on the outcomes and experiences of children and young people in out-of-home care  
- allow for mutual recognition of existing State and Territory quality assurance standards and processes that meet the requirements of the National Standards  
- include the development of an agreed evidence tool to verify, review and monitor progress against agreed national standards | To CDSMC for approval by June 2010 Commonwealth, States & Territories in collaboration |  |
| | Support child protection services to maintain continuous improvement, such as:  
- SA’s reshaping of the child protection system towards relationship based practice  
- TAS’s reform of out-of-home care services  
- ACT’s development of out-of-home care standards  
- WA’s child protection and family support reforms  
- VIC’s Every Child Every Chance reforms | Ongoing States & Territories |  |
| | Support the Australian New Zealand Child Death Review Committee to develop more consistent data to help better understand the circumstances of child deaths and how these could be prevented | By 2010 Commonwealth to lead in partnership with States & Territories |  |
| | Improve our understanding of children in the child protection and care system by:  
- developing and implementing a system for the collection and analysis of confidential unit record data across homelessness, juvenile justice and child protection records  
- reviewing existing data definitions for child protection to improve national reporting | By 2011 Commonwealth to lead in partnership with States & Territories |  |
| | Support a National Research Agenda for Child Protection | 2009-10 to 2013-14 Commonwealth to lead in partnership with States & Territories |  |
Supporting outcome 5:
Indigenous children are supported and safe in their families and communities

Indigenous children are supported and safe in strong, thriving families and communities to reduce the over-representation of Indigenous children in child protection systems. For those Indigenous children in child protection systems, culturally appropriate care and support is provided to enhance their wellbeing.

Preventing child abuse and neglect and improving responses to those children who have experienced maltreatment are priorities for all Australian children. However, those who are particularly disadvantaged require additional responses. Aboriginal and Torres Strait Islander children are significantly over-represented in all parts of the child protection system.

Indigenous communities experience intergenerational cycles of adversity and trauma, leading to entrenched social problems including poverty, high levels of violence, psychological distress, destructive behaviours, and individual, family and community dysfunction. These problems are also associated with heightened rates of abuse and neglect (Atkinson 2002; Berlyn & Bromfield 2009; Robertson 2000). Addressing Indigenous disadvantage is critical to addressing the factors that put Aboriginal and Torres Strait Islander children at-risk of abuse and neglect.

Child abuse and neglect can be prevented by addressing disadvantage (for example, overcrowded and inadequate housing); recognising and promoting family, community and cultural strengths that protect children; and developing community-wide strategies to address specific risk factors where they occur in high concentration, such as alcohol misuse and family violence. It is critical that approaches to address Indigenous disadvantage and the underlying causes of abuse and neglect are holistic and culturally sensitive, and empower families and communities to develop and take responsibility for community-identified solutions (Aboriginal Child Sexual Assault Taskforce 2006; Anderson & Wild 2007; Atkinson 2002; Gordon, Hallahan & Henry 2002; Robertson 2000; Silburn, et al. 2006).

The best interests and safety of a child are paramount. Where Aboriginal and Torres Strait Islander children cannot remain safely in the care of their parents or community, timely and culturally appropriate responses for their care, protection and nurture are needed.

Maintaining connection to family, community and culture is essential within a framework that respects the physical, mental and emotional security of the child. This is particularly important in light of the historical experiences that Aboriginal families have had with child protection agencies.

In order to provide culturally appropriate responses, strategies developed under the National Framework need to be based on partnerships between Indigenous families and communities, and between Indigenous agencies, mainstream service providers and governments. Strategies should build on existing strengths, match expectations with appropriate supports, and recognise the importance of Indigenous-led and managed solutions (Higgins 2005).
## Supporting outcome 5

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<tr>
<td><strong>5.1 Expand access to Indigenous and mainstream services for families and children</strong></td>
<td>Expand Indigenous Parenting Support Services to additional sites</td>
<td>Commence 2009-10 Complete by 2011</td>
<td>• Rate per 1,000 Indigenous children with substantiated cases compared to other children</td>
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<td>Link 35 Indigenous Child and Family Centres with the range of family and community programs for at-risk children</td>
<td>By 2011 Through COAG Indigenous Early Childhood Development Partnership</td>
<td>• Rate per 1,000 Indigenous children in out-of-home care compared with other children</td>
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<td>Improve access to child and maternal health services for Indigenous families</td>
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<td>• Proportion of Indigenous children placed in accordance with the Indigenous Child Placement Principles</td>
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<td>Support SNAICC to develop resources and materials to support and promote child and family services within Indigenous communities</td>
<td>Over 3 years to 2011 Commonwealth</td>
<td>• Proportion of Indigenous 3 to 4 year olds participating in quality early childhood education, development and child care services</td>
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<td>Continue to focus new activities in the <em>Indigenous Family Violence Partnership Program</em> and <em>Indigenous Family Violence Regional Activities Program</em> on child protection issues</td>
<td>Ongoing Commonwealth</td>
<td>• Rate of hospitalisations for injury and poisoning for Indigenous children aged 0 to 4 years</td>
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<td><strong>5.2 Promote the development of safe and strong Indigenous communities</strong></td>
<td>Ongoing support and strengthening of the Northern Territory Emergency Response including:</td>
<td>Ongoing Commonwealth</td>
<td>• Ratio of Indigenous out-of-home care placement through mainstream or Indigenous services</td>
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<td>- the Family Support Package which provides Remote Aboriginal Family and Community workers, Mobile Child Protection Team and 22 safe houses in the Northern Territory</td>
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<td>- law and order measures including specialist AFP officers in the child abuse taskforce as part of additional AFP positions</td>
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<td>Continued support for Indigenous community building activities, such as:</td>
<td>Ongoing All jurisdictions</td>
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<td>- the <em>Aboriginal Life Story Book</em> to provide Aboriginal children and young people with opportunities to explore their culture and develop a sense of connectedness to family, kin and community (NSW)</td>
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<td>- Child Wise’s <em>Speak Up</em> project targeting Indigenous communities (Commonwealth)</td>
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<td>- supporting SNAICC to run workshops in Indigenous community organisations (Commonwealth)</td>
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<td>- Continue services and support for families in Cape York (Commonwealth)</td>
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| 5.3 Ensure that Indigenous children receive culturally appropriate protection services and care | Develop and expand the Indigenous child protection and welfare workforce, including:  
- fostering Aboriginal controlled services to deliver support to Aboriginal families (NT) | Ongoing States & Territories |  |
| | Improve child protection service delivery for Indigenous families and children:  
- working with Aboriginal organisations to increase capacity and play an enhanced role in out-of-home care and other service options (NSW & SA)  
- integrating Indigenous perspectives in the learning agenda to build capacity of organisations (WA)  
- implementing initiatives to improve safety and wellbeing of Aboriginal children in the child protection system (WA)  
- planning, with Aboriginal organisations, the transfer of some or all guardianship responsibilities for Aboriginal children (VIC)  
- ensuring the involvement of authorised Aboriginal agencies in all decisions about placements for Aboriginal children (VIC)  
- implementing strategies under *Keep Them Safe* including working with Aboriginal communities to develop capacity of services (NSW)  
- establishing Safe Houses within remote Aboriginal and Torres Strait Islander communities (QLD)  
- providing Indigenous Alcohol Diversion Program to provide treatment for parents of children at-risk (QLD) | Ongoing States & Territories |  |
| | Strengthen the application of, and compliance with, the Aboriginal and Torres Strait Islander Child Placement Principle | Ongoing States & Territories |  |
Supporting outcome 6:  
Child sexual abuse and exploitation is prevented and survivors receive adequate support  

*Children are protected from all forms of sexual exploitation and abuse through targeted prevention strategies, and survivors are supported by the community, and through specific therapeutic and legal responses.*

Strategies and services designed to support vulnerable families are important in preventing maltreatment – especially neglect, emotional and physical abuse. However, child sexual abuse may require a different response.

Perpetrators may come from inside or outside the family. Sexual abuse can also occur in a range of settings, including the family home, friendship networks, schools, churches, community organisations, and online. Legal responses to sexual abuse require the involvement of police and criminal justice processes alongside child protection services; family law processes may also be underway (Higgins 2007).

It is estimated that fewer than 30 per cent of all sexual assaults on children are reported and that the reporting rate is even lower for Aboriginal and Torres Strait Islander children (Stanley, Tomison & Pocock 2003). Sexual abuse specific strategies are needed both to increase detection of child sexual abuse and to prevent child sexual abuse across a range of settings.

The vast majority of child sexual abuse perpetrators are family members or someone well known to the child or young person (Healey 2003). There is also increased reporting of children and young people with sexually abusive behaviours and of sibling sexual abuse (Neave, Friedman, Langan, & Little 2004). Risk factors for child sexual abuse are exposure to family violence, other types of abuse and neglect, pornography, highly sexualised environments and inadequate supervision (Boyd & Bromfield 2006; Irenyi, Bromfield, Beyer & Higgins 2006).

Raising awareness and knowledge in children and the broader community about risks can foster protective behaviours and may help to increase detection of abuse. The importance of educating young people about healthy relationships is increasingly being recognised. Raising awareness about the role of the internet as a mechanism for the sexual abuse or exploitation of children and young people is also a central focus. Organisations, businesses and institutions can also play an important role in protecting children through the development of policies and procedures to create child-safe organisations (Boyd & Bromfield 2006; Irenyi et al. 2006).
## Supporting outcome 6

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<tr>
<td>6.1 Raise awareness of child sexual exploitation and abuse, including online exploitation</td>
<td>Implement cyber-safety initiatives including:  - education and filtering including search warning mechanisms (Commonwealth)  - <em>Who’s Talking to Your Kids</em> information produced by police (QLD)  Increase support for community-based strategies to raise awareness in children, families and the community about child sexual abuse, such as Braveheart’s White Balloon Day</td>
<td>Ongoing All jurisdictions</td>
<td>• Rate per 100,000 children aged 0–4, 5–9, 10–14, and 15–19 reported with sexually transmitted diseases  • Number of individuals and organisations prosecuted for sexually exploiting children (TBD)  • Number and rate of children with substantiations related to sexual abuse</td>
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<td>May–July 2009 Commonwealth</td>
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<td>Continue to introduce strategies to prevent sexual exploitation, such as:  - through a new statutory pathway, intervene earlier with young people who exhibit sexually abusive behaviour to help prevent ongoing and more serious sexual offences (VIC)  - Interagency Plan to tackle Child Sexual Assault in Aboriginal Communities (NSW)</td>
<td>Ongoing States &amp; Territories</td>
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<td>6.2 Enhance prevention strategies for child sexual abuse</td>
<td>Implement a national framework for inter-jurisdictional exchange of criminal history for people working with children</td>
<td>Trial to conclude December 2009 with Implementation to follow Through the COAG Exchange of Criminal History Information About People Working with Children Project Implementation Committee</td>
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<td>Investigate best practice therapeutic programs for children displaying sexually abusive behaviours, such as:  - collaboration between government agencies and therapeutic treatment service providers to build a state-wide therapeutic treatment service system to implement the relevant provisions of the <em>Children, Youth and Families Act 2005</em> (VIC)  - <em>New Street</em> program for adolescents aged 10–17 years who display sexually abusive behaviours (NSW)</td>
<td>From July 2009 States &amp; Territories with Commonwealth support for research</td>
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<tr>
<td><strong>6.3 Strengthen law enforcement and judicial processes in response to child sexual abuse and exploitation</strong></td>
<td>Extend work in the detection, investigation and prosecution of online sexual exploitation</td>
<td>By 2011-12 Commonwealth</td>
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<td><strong>6.4 Ensure survivors of sexual abuse have access to effective treatment and appropriate support</strong></td>
<td>Support workshops for adult survivors of sexual abuse, parents and spouses</td>
<td>2009 Commonwealth with Heartfelt House</td>
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<td>Review service delivery options and approaches for survivors to align with best practice such as WA’s expanded network of Child Sexual Abuse Therapeutic Services</td>
<td>Ongoing States &amp; Territories</td>
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Implementing the National Framework

The National Framework is a 12-year overarching strategic framework for reform (2009-2012), supported by rolling three-year action plans identifying specific actions, responsibilities and timeframes for implementation.

The task of ensuring the safety and wellbeing of all Australian children is a long and difficult one. The action plans provide a staged approach to achieving the necessary reforms identified within the National Framework. They also allow governments to address current and emerging priorities, as resources permit. The Australian, State and Territory governments and non-government agencies are committed to working together to develop actions under these triennial plans, implementing key actions and reporting on progress.

Governance arrangements

A focus on broader early intervention and prevention across a range of areas which impact on the safety and wellbeing of children requires a move away from the traditional ‘single agency’ approach for the ongoing management and monitoring of the National Framework. The National Framework will require integrated governance arrangements that cut across government boundaries and include the non-government sector in order to plan and implement actions.

The Community and Disability Services Ministers’ Conference is responsible for the implementation of the National Framework. It will report annually to the Council of Australian Governments on progress on the first years, action plan and provide further action plans for consideration.

In addition, a Ministerial Forum on Protecting Australia’s Children will be convened to bring together Ministers with responsibilities under the National Framework. This Ministerial Forum, hosted by the Community and Disability Services Ministers’ Conference, will also invite contributions from non-government representatives, such as State and Territory Children’s Commissioners and children and young people.

The Community and Disability Services Ministers’ Conference will continue to be supported by the officials’ forum - the Community and Disability Services Ministers’ Advisory Committee (CDSMAC) to manage the National Framework.

A tripartite National Framework Advisory Committee will be established to advise on the operation of the National Framework. This tripartite Committee will comprise CDSMAC officials with nominees from other sectors (such as health, education and justice) and non-government representatives (such as leading academics, practitioners and peak organisations). Children and young people are critical stakeholders who will need to be involved in this Committee through a relevant representative organisation.

Supporting the formal governance mechanisms will be a series of working groups, with members drawn from government and non-government organisations as appropriate. They will be asked to assist with the development and implementation of specific action areas or items.
Implementation Plan

With the release of the National Framework the Australian, State and Territory governments will work together to develop an Implementation Plan. The Implementation Plan will focus on the actions agreed to for the first three years and will outline their scope, resourcing and timing.

The Implementation Plan will be developed within three months and considered by the Community and Disability Services Ministerial Advisory Committee at its August meeting.

The Implementation Plan will be a key tool in measuring progress of the National Framework. All jurisdictions and stakeholders will be able to monitor progress against activities and milestones outlined in the Implementation Plan. A set of performance indicators will be developed as part of the Implementation Plan, providing another opportunity to monitor progress and outcomes. Reporting processes for the National Framework will provide an opportunity to streamline existing reporting processes to ensure greater levels of transparency.

As part of the Implementation Plan the options for a periodic information symposium will be explored.

Evaluation

At the conclusion of the first three year period (2012) the Community and Disability Services Ministers’ Conference will seek an evaluation of the National Framework. Central to this evaluation will be the collection and analysis of data against the outputs and performance indicators identified in the Implementation Plan, as well as the progress and performance against each of the attached State and Territory action items.

The evaluation process will also draw from data collected and analysed in associated portfolio areas, such as early childhood, housing and health.
References


References

Robertson, B. (2000). *The Aboriginal and Torres Strait Islander Women’s Task Force on Violence Report*. Brisbane, Australia: Queensland Department of Aboriginal and Torres Strait Islander Policy and Development.


Appendix A
Current initiatives and reforms

The process followed by child protection agencies to deal with concerns about children involves:

- receiving reports of concern from mandated reporters or members of the public (notifications)
- gathering information to determine if an investigation is necessary and conducting an assessment of the risk to the child and the needs of the child
- determining whether the report is substantiated (i.e. the child has been abused/neglected or is at-risk of harm)
- determining whether the safety concerns for the child can be dealt with through referral to a family support service, or whether the risk is so high that the child must be removed from the family and placed in care.

These actions are defined in legislation and policy. Certain legislative principles are common to all:

- The child’s best interests are paramount. Interests of the parent/s or carers cannot override this principle; nor can the Aboriginal placement principle.
- The Aboriginal placement principle requires that Aboriginal or Torres Strait Islander children who are removed from home will be placed with their own family, community or other Indigenous carer. This is achieved in 74 per cent of placements nationally.

In the last decade all State and Territory care and protection systems have undergone major reviews. In most, but not all case, reviews have been triggered by revelations of severe abuse and/or death of children in State care. There are a number of reforms which are common to all systems:

- the safety and wellbeing of children is a shared community responsibility
- collaborative interagency partnerships and, in some instances, priority service to children and young people in the care and protection system
- expanded role for non-government providers of family support and out-of-home care services
- strengthened requirements for the recruitment and training of foster and kinship carers
- charters of rights for children and young people in care
- children and families empowered to participate in decision making
- Children’s Commissioner and/or Children’s Guardian positions created to advocate for children within systems, monitor the performance of child protection agencies and, in some cases, monitor the performance of the out-of-home care system
- significantly increased investments in services available to vulnerable families and children at-risk
- specific services for Aboriginal and Torres Strait Islander clients established
• new service delivery models established so many children at-risk can be diverted from statutory intervention.  

Today, while many of the challenges have been tackled. A number remain, these include:

• reducing the incidence of abuse and neglect of children and young people across Australia
• working with Indigenous communities to address the complex causes of child abuse and neglect
• recruiting/retaining people with specialised skills demanded in government, non-government and carer workforces
• providing more therapeutic residential facilities for severely affected children and young people who require intensive, sustained interventions
• building local evidence of the extent of child abuse and neglect within Australia and what works to prevent it - for both Indigenous and non-Indigenous populations
• developing service standards so that any child or young person entering the child protection system, or care, receives quality care
• removing barriers to improved information sharing and comparable national data collections
• creating a strong and responsive network of services (universal, secondary and tertiary) that are accessible, inclusive and non-stigmatising
• improving the care options available and increasing the stability of placements
• building capacity in families, communities and services
• providing much more support in the transition to independent living for young people leaving care at age 18.

The National Framework for Protecting Australia’s Children will align with existing initiatives and reforms. Some of the current Australian, State and Territory key reforms and initiatives are described. Further mapping and alignment will take part throughout the life of the National Framework.

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5 Victoria led the way for other jurisdictions in this regard, when its research showed that 1 in 5 Victorian children would be reported to child protection authorities if the trends in notifications of recent years were allowed to continue (ChildFIRST program in Victoria).

6 In this context, it should be noted that neglect is by far the biggest causal factor for involvement in the child protection system for all children.
AUSTRALIAN CAPITAL TERRITORY

Agency functions

The functions of the ACT Department of Disability, Housing and Community Services cover care and protection of children at-risk of harm, youth justice, early intervention services, out-of-home care services, Indigenous policy and programs, adoption, children’s services, therapy services for children, disability services, women's policy, disaster recovery, multicultural policy and public housing (including services to homeless people).

Care and protection services are delivered from a centralised location which operates intake, assessment using a differential response model, substantiation and referral functions. Two regional Child and Family Centres offer midwifery baby health clinics, targeted playgroups, parenting skills development programs, and case management for vulnerable families. Outposted child protection officers, located in the two Child and Family Centres, work collaboratively with the government and non-government sector to provide early intervention services. The Department funds a number of home care agencies and sets standards and regulates their operations.

The Office for Children, Youth and Family Support (OCYFS) and the non-government sector provide an Integrated Family Support Project (IFSP). The IFSP is a joint initiative between the ACT Government, Australian Government and the non-government sector across the ACT targeting children under 8 years and their families who have multiple and emerging difficulties. The aim of the project is to divert families from the statutory system and prevent re-entry using a case coordination framework.

Major recent and planned reforms

- Children’s Plan Services
  - Early Intervention and Prevention Unit established
  - Established new Child and Family Centres to provide universal and targeted services
  - Established the Indigenous Integrated Service Delivery Program
  - In partnership with SIDS and Kids, developed easy to read messages and pamphlets on ‘safe sleeping’ have been developed
  - Therapy ACT

- Service development for children by
  - Establishing Early Learning Centres and Child and Family Centres
  - Child Protection Reform
  - Established the IMPACT Program to provide a coordinated service for pregnant women, their partners and their children under two years of age
  - Established the Integrated Family Support Project for families at-risk of entering the statutory system
  - Reformed Child Protection legislation
  - Reforming Out-of-home Care Program including a new framework which articulates contemporary service models
• Information exchange and established Care Teams.
• New Out-of-home Care Standards developed.
• A ‘Time to Fly’ leaving care kit developed.
• Legislative requirements for day care planning.
• Child Protection Protocols in cooperation with other government agencies.
• Sharing Responsibility: A Framework for Service Collaboration for the Care, Protection and Wellbeing of Children and Young People in the ACT outlines the responsibilities of the ACT Government and its approach to working together for the care and protection of children and young people in the Territory.
• Supervision Framework with Supervision Standards developed to support clinical staff in their roles as practitioners.
• A compliance framework that will include the development of a compliance auditing and quality assurance process with the development of compliance monitoring tools and applications.
  • A newly developed and implemented Case Management Framework to provide more integrated and collaborative responses within the government and non-government sector.
  • The development of a Neglect Policy to better support staff in identifying and dealing with this form of abuse.
  • Establish a vulnerable Families Project focussing on care co-ordination, referral pathways and information exchange.
• Protocols for the Interstate Transfer of Care and Protection Orders Protocol.
• A complex case review panel to provide a forum for care and protection caseworkers to present and discuss cases with significant complexity with a panel of professionals.

Reforms since 2000

A review of child protection services in the ACT in 2004 led to the Government adopting and implementing a 3 year reform program from August 2004, in which the primary goals were:

• to improve the quality standards for care and protection services and immediately expand services targeted at children and young people most at-risk of entering the care and protection system.
• to develop a continuum of early intervention and prevention services from birth to 18 years.

Practical measures to achieve these goals have included:

• DHCS’ second wave of overseas recruits to Care and Protection positions was undertaken in 2008 resulting in a full complement of staff being achieved in Care and Protection Services.
• strengthening accountability measures including the development of a complementary auditing and quality assurance process.
• establishing new and better partnerships between government and non-government agencies.
• expanding community education and awareness of child safety and wellbeing.
- improving training for foster carers
- developing specific responses to meet needs of Aboriginal and Torres Strait Islander children, including establishing a specific functional unit with the department
- establishing the Office of Commissioner for Children and Young People and promoting the participation of children and young people in decision making
- exchange of staff between ACT Health and DHCS
- introducing an interagency agreement for service provision to clients with high level, complex needs
- reviewing *Children and Young People legislation* in 2005 and again in 2008. The first review introduced the concept of child or young person at-risk of abuse and neglect; clarified who mandatory reporters are; protection and release of information; principles to safeguard culture and community connections for Indigenous children and young people. The second review led to the development of the new *Children and Young People Act 2008* and introduced significant reform to the law relating to children and young people in the ACT, particularly in the areas of care and protection including in-utero reporting, youth justice, the regulation of childcare services and employment.

**Reforms for the future**

- Legislation provides for new OOHC standards – these are currently being developed.
- Continuing with work to improve interactions between care and protection and the legal system, including the Court
- Case Management Framework supporting improved work practices
- Common Assessment Framework is being piloted and will provide a common method of assessment that can be used across all agencies
- Compliance Framework for the *Children and Young People Act 2008* is currently being developed.
Appendix A

NEW SOUTH WALES

Agency functions
The NSW Department of Community Services (DoCS) functions cover care and protection of children at-risk of harm, early intervention services, out-of-home care services, adoption, children’s services, disaster recovery, and services to homeless people. DoCS’ services are available through 7 regional offices and 86 community services centres across the state.

Major recent and planned reforms
Following the Special Commission of Inquiry into Child Protection Services in NSW, the NSW Government response, Keep Them Safe: a shared approach to child wellbeing 2009-2014 was released on 3 March 2009. Keep Them Safe is a five-year action plan that aims to build a stronger, more effective child protection system in NSW.

A key objective of Keep Them Safe is to create an integrated system that supports vulnerable children, young people and their families. This includes the establishment of new reporting and referral arrangements to allow families to access appropriate services from government agencies and non-government services without having to come in contact with the statutory child protection system. The establishment of alternative service pathways is a similar approach to that adopted by some other jurisdictions, including Victoria.

Key reforms contained within the NSW Government action plan include:

• Establishing Child Wellbeing Units in NSW Health, NSW Police, the Departments of Education and Training, Housing, Ageing, Disability and Home Care and Juvenile Justice, to advise mandatory reporters within these agencies on the new statutory reporting threshold of “risk of significant harm” and to assist in responding to matters which do not meet this criteria

• Expanded services and a focus on prevention and early intervention, including:
  • expanding the Brighter Futures early intervention program to support vulnerable families with children aged 0-8 by providing access to a range of services, including quality child care, case management, parenting program and home visiting. Consideration will also be given to extending Brighter Futures to 9-14 year olds, including priority access for Aboriginal children and their families, following examination of the evidence base
  • extending intensive family preservation services to support families whose children are at-risk of entering out-of-home care
  • continuing to trial Sustained Health Home Visiting, with further expansion to be considered in 2010, which employs specialist child and family health nurses to work intensively with high needs families in pregnancy and during the first two years of a child’s life
  • employing additional Home School Liaison Officers to work with families where there are concerns about non-attendance at school

• A new partnership with, and an enhanced role for, the non-government sector, including:
  • funding NGOs and/or local councils to establish new Regional Intake and Referral services. These organisations will work with the Child Wellbeing Units to improve access to services for children and families. Three initial Regional Intake and Referral services will be established in 2009
• enhancing the role of the NGO sector in the delivery of OOHC and the Brighter Futures early intervention program
• investing in capacity building and reform of funding arrangements. In particular, the Government will work with Aboriginal communities and organisations to support communities to address the unacceptable overrepresentation of Aboriginal children and young people in the child protection system. Priority work will be undertaken with Aboriginal organisations to build their capacity to play an enhanced role in the provision of out-of-home care and other services.

Reforms since 2000

The Children and Young Persons (Care and Protection) Act 1998 was implemented in stages from 2000, and reviewed in 2005-2006.

• *Brighter Futures* early intervention program, introduced in 2002, is a voluntary program providing targeted, tailored support to vulnerable families with children aged under nine years, or who are expecting a child

• *Aboriginal Intensive Family Based Service* is a unique strengths-based service targeting high risk children. The program provided support to 175 children in 2007-08

• *Families NSW* brings relevant government agencies together to provide support to families raising children up to 8 years of age. DoCS provided $5.2 million over four years to roll out the Triple P parenting course to all parents with children 3-8 years. First courses began in September 2008. By 2011, 1,200 health, welfare and education professionals will be accredited in use of this program

• *Preschool Investment and Reform Plan* $85 million additional funding for DoCS will provide expansion of the preschool program throughout the children’s services sector; 10,500 additional children will attend preschool for two days a week in the year before they start school

• *Aboriginal Maternal and Infant Health Strategy*, jointly funded by DoCS and NSW Health, was implemented across the State. The strategy is aimed at improving the health of Aboriginal mothers and their newborn babies by providing accessible, culturally appropriate maternity care programs for women and their families. Since its introduction in 2000, the strategy has achieved remarkable outcomes such as halving the rate of premature birth and perinatal mortality, improving breast-feeding and increasing access to antenatal care early in pregnancy

• *Collaboration* is promoted through the following interagency plans and processes
  • Joint Investigation Response Teams (JIRT) with DoCS, police and health, who investigate cases of child abuse that may constitute criminal offences. In 2007-08, 3,000 such cases were referred
  • a new policy trialled in 2008 to improve collaboration between DoCS and NSW Health, to support at-risk pregnant women. A joint evaluation is scheduled for 2009. Both agencies have funded statewide expansion of the *NSW Aboriginal Maternal and Infant Health strategy*
  • *NSW Interagency Guidelines for Child Protection Intervention 2006* (first introduced in 1991) were updated and evaluated
• *Interagency Plan To Tackle Child Sexual Assault In Aboriginal Communities 2006-2011* contains 88 actions to prevent child sexual assault in Aboriginal communities and improve the way services are planned, coordinated and delivered to victims and their families, with a budget of more than $52.9 million over four years.
Agency functions

The Department of Health and Families includes the Northern Territory Families and Children’s Division (NTFC), the responsible agency in the Northern Territory for child protection, out-of-home care, family and parenting support, support for individuals and families in crisis including those who are homeless or at-risk of homelessness, women’s policy, victims of domestic or family violence or sexual assault, youth services including youth diversion services, and adoption. Mandatory reporting is universal in the Northern Territory. This contrasts with all but one other jurisdiction, where only specified categories of employees are required by law to report child abuse.

The Care and Protection of Children Act 2007 provides the legal framework for care and protection services, screening for child related employment, employment of children, prevention of child deaths and regulation of children’s services, and establishes a Child Death Review Committee and the post of Children’s Commissioner. The Act requires decisions to be made in the best interests of the child, and describes the considerations that apply in making such a decision. The Act requires children to be treated with respect and to participate in decisions affecting them. Specific provisions relate to the treatment and placement of Aboriginal children. The Act provides for access to support for young people leaving care up to age 25.

Major recent and planned reforms

- Child Abuse Taskforce including Aboriginal Community Resource workers
- Co-located NTFC child protection workers in Indigenous Targeted Family Support Service organisations
- Mobile Response Teams able to be deployed as needed to relevant communities
- Remote Aboriginal Family and Community Workers
- Structured Decision Making tools and systems
- Secure Care initiatives for high-risk young people
- Linked up for Safe Children initiative to coordinate local solutions across the government and non-government sector using a place-based framework
- Family Group Conferencing with an emphasis on providing a culturally secure approach to developing plans for the wellbeing of children at-risk
- Child Protection research partnership with the Menzies School of Health Research
- A Practice Advisor initiative to support case work practice
- A network of Safe Houses established in key communities

Reforms since 2000

The child protection system in the NT has undergone significant change since 2003 when the Caring for Our Children reform agenda was announced. Two critical elements of this reform agenda were the introduction of new legislation and the development of different responses to vulnerable children and families through the implementation of a Differential Response Framework.
In 2006 the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (the Inquiry) was established by the Northern Territory Government. The Inquiry’s subsequent report (Anderson & Wild 2007) – the *Little Children are Sacred* report - supported legislative and systemic reforms in the NT as critical child protection measures. Report recommendations focused on the priority action areas including:

- education (getting children to school is vital; at school they are safe) and education campaigns to raise awareness of child sexual abuse and how to respond to it
- reducing alcohol consumption
- improving family support services
- empowering Aboriginal communities
- creating a position of Commissioner for Children and Young People

In response, the NT Government developed a generational plan of action (*Closing the Gap*) to combat Indigenous disadvantage, with funding of $286.43 million over 5 years for initiatives across child protection, family violence, policing, justice, alcohol and drugs, health, housing, education, jobs, and culture. Since 2007, the Australian Government Northern Territory Emergency Response (NTER) and the Northern Territory Government’s responses through *Closing the Gap* have contributed to the strength and direction of reforms in the child protection system.

Major provisions of the *Care and Protection of Children Act 2007* (CPCA) were introduced in late 2008. This legislation makes provision for the development of many new initiatives including:

- a Children’s Commissioner
- *Working with Children* checks for all people working in child-related employment
- mediation / family group conferencing
- child Safety Review Teams
- leaving Care support

In addition the CPCA provides the legislative basis for increased interagency collaboration in child protection by supporting the sharing of information between agencies and the development of different responses to child protection reports. The NT Differential Response Framework (the Framework) envisages low risk high needs families being referred to support agencies rather than being the subject of forensic child protection investigation. The Framework is being rolled out in a number of NT centres through the funding and establishing of Targeted Family Support Services (TFSS) to respond to the needs of these families.

The development of Aboriginal Child Protection and Family Support Services by Aboriginal agencies is a key focus in the NT’s reforms and in particular the Northern Territory Government has focused on supporting Aboriginal agencies to develop TFSSs. Additionally, Remote Aboriginal Family and Community Workers are being based in a number of major remote Aboriginal communities. NTFC is undertaking a place-based approach to the development and delivery of services for families in remote communities and is planning to engage with communities to ensure that new services meet the needs of the community and that NTFC funded services are linked up with services in the areas of child care and health.
Forensic responses have been strengthened through the establishment and ongoing
development of co-located NTFC/Police teams, mobile response teams, and increasing resources
within child protection offices including stronger risk management and decision making
frameworks for child protection and out-of-home care (OOHC) through the introduction of a
suite of assessment and decision making tools.

More therapeutic responses and a greater range of options for children in OOHC are being
developed through the provision of Specialist Care placements, therapeutic services to children in
care and the development of secure care options in line with the OOHC Strategic Plan.
QUEENSLAND

Agency functions
The Department of Communities includes Child Safety Services, which provides statutory child protection services delivered under the Child Protection Act 1999, foster and kinship care and adoption services and has 49 metropolitan and regional Child Safety Service Centres.

The Department of Communities includes Community Services, which has responsibility for delivering early intervention and family support services.

Major recent and planned reforms
• One Chance at Childhood initiative, a specialist program to secure safety and stability for babies and toddlers in the child protection system
• Establishment of Safe Houses in Aboriginal and Torres Strait Islander communities to provide on-community placement and support services for children and families subject to statutory child protection
• Establishment of Therapeutic Residential Services to provide an intensive therapeutic environment to support young people to recover from the impact of physical, psychological and emotional trauma and pain experienced from abuse and neglect
• Suspected Child Abuse and Neglect (SCAN) system to provide a multi-agency response to the protective needs of children within the tertiary child protection system
• Establishment of Early Years Centres providing a ‘one-stop-shop’ where early childhood education and care, family support and health services are available for families expecting a child or with children aged up to eight years
• Referral for Active Intervention Services for families at-risk of entering statutory child protection services
• Evolve Therapeutic and Behaviour Support Services for children with complex and extreme emotional and behavioural issues

Reforms since 2000
• The Queensland Government has undertaken significant reform of its tertiary child protection system in recent years. Children in care now have education and health plans and a range of new services to support the wellbeing of children in care.
• Foster carers are supported with increased allowances, enhanced foster carer training, an after hours carer helpline and a carer handbook setting out carer rights and entitlements.
• Referral for Active Intervention services provide intense family support for families of children at-risk of entering out-of-home care.
• Recognised Indigenous entities are funded to provide support and advice about child protection decisions and placements for Aboriginal and Torres Strait Islander children.
• The Child Safety Practice Manual, Structured Decision Making tools and the statewide Integrated Client Management System have enhanced the quality of child protection practice and the capacity of child protection staff to manage their cases.
• A range of specialist positions support quality practice, including court coordinators, recordkeeping officers, early childhood experts, family group meeting coordinators and therapeutic and behavioural support professionals.

• The Queensland child protection system is more accountable, overseen by the Commission for Children and Young People and Child Guardian and the external child death case review committee.

• Child protection officers today receive enhanced training, incentives and support to attract and retain staff, particularly in rural and remote areas.
SOUTH AUSTRALIA

Agency functions

The South Australia Department for Families and Communities (DFC) is responsible for child protection, family support, out-of-home care, young offenders, adoption, refugee children, support to families in poverty, and disaster recovery. Services are delivered through 18 district centres across three regions.

The safety and wellbeing of children is considered a shared community responsibility. Accordingly, government continues to work towards greater collaboration between government agencies (particularly health, education and police), with the non-government sector and with families.

Major Recent and Planned Reforms

- New targeted early intervention initiatives
- New family preservation and reunification initiatives;
- A new integrated child and family case management system
- New models for out-of-home care
- Reshaping the child protection system towards relationship based practice
- Children's Centres that bring together health, education, community and family services for families and their children aged 0-8 years
- Whole of government protocol for sharing information where a child is at-risk
- New responses to drug and alcohol related concerns for the care and protection of children
- The Keeping Them Safe – in Our Care strategy will continue in 2008-09 with more community based services to support families who are subject to child protection notifications, to stabilise the family situation and enhance parenting capacity, and to develop intensive family preservation services for families with children at high risk of entry to alternative care, and to return those children who are in alternative care to the safe care of their family.

Reforms since 2000

In 2002, the government commissioned Robyn Layton, QC, to conduct a Review of Child Protection in South Australia.

The Government responded to the recommendations of the Review with Keeping Them Safe: the South Australian Government’s child protection reform program. The reform agenda prioritises children’s safety and wellbeing and promotes greater collaboration between government agencies, with the non-government sector and with families. The program included amendments to the Children’s Protection Act 1993 (proclaimed in 2006) that were proclaimed in 2006 that:

- prioritise the care and protection of children as the first consideration in all planning and decision making
- provide a stronger commitment to make sure that children and their families have access to support services
- build community capacity to protect children through the establishment of child safe environments
- establish common standards across all sectors for criminal history checking
- extend mandatory reporting of suspected child abuse
- establish the Office of the Guardian for Children and Young Persons to promote the best interests of children under guardianship of the Minister
- establish the Council for the Care of Children to review the operations of legislation, and report to and advise the Minister on all matters affecting the safety of children
- establish the Child Death and Serious Injury Review Committee to review the circumstances and causes of deaths and serious injuries to children and make recommendations to Government.

In 2005 South Australia established *Rapid Response: Whole of Government Services – a Framework and Action Plan* with the aim of ensuring that children and young people under the guardianship of the Minister for Families and Communities receive the supports and services available to those with strong family networks through priority access to government funded services. Part of the focus of *Rapid Response* is the provision of transition planning from care, including the provision of post Guardianship supports and services.

In 2008 $192 million was committed over four years to the *Keeping Them Safe – In Our Care* strategy. It emphasises early intervention, early years services, whole child within family context, and ‘joined up’ government responses. Reforms through the *Stronger Families Safer Children* program emphasise strengthening families and keeping them together wherever possible; tackling problems and building capacity in families; providing stable, high-quality care; individualised and integrated care plans; taking better care of children with complex needs; training carers and keeping them informed; better remunerating carers; and helping grandparent carers access services for children.

Policies, procedures, practice frameworks and practice guidelines are undergoing considerable review and development across all aspects of the care and protection process to support the substantial reforms.

Aboriginal-specific initiatives include:
- embedding the Aboriginal Child Placement Principle in legislation and policy
- a dedicated Aboriginal service providing advice and assistance on abuse and neglect of Aboriginal children
- a specialist metropolitan-based team of Aboriginal service providers delivering targeted youth work services
- the *Aboriginal Culture and Identity Program* which supports preservation of family and cultural ties for Aboriginal children and young people who are under the Minister’s guardianship.

In April 2008 SA Parliament received the *Children in State Care Commission of Inquiry Report* (the *Mullighan report*) on abuse of children in care from Commissioner The Hon E.P. Mullighan QC. The Government responded initially with services for survivors of abuse and neglect and made compensation available to adult victims. Commissioner Mullighan also investigated allegations of child sexual abuse on the APY lands. The Government is progressing responses to Commissioner Mullighan’s recommendations including proposals for legislative reform.
TASMANIA

Agency functions

The responsibilities of the Department of Health and Human Services (DHHS) cover a broad range of services including both acute and primary health care as well as mental health and drug and alcohol services, and human services. Human Services comprise Housing Tasmania and Disability, Child, Youth and Family Services, which are delivered through four area offices. As part of a staged reform process commencing in 2009 some human services will be delivered by the non-government sector. Ongoing partnership arrangements between the Department and service providers will ensure that services are coordinated with a client focus and quality assured.

The Tasmanian Government both provides and funds a range of services to ensure that children and families are supported, particularly in the early years. These are delivered through the universal Child Health and Parenting Services (DHHS); the Department of Education (Launching into Learning); and an array of non-government organisations. Tasmania recognises the need to strengthen parenting capacity and family functioning, as well as the importance of early intervention and the need to monitor any potential for cumulative harm in family circumstances that are less than ideal.

As well as this, the *Children, Young Persons and Their Families Act 1997* mandates that all adults have a responsibility to report suspected abuse or neglect of a child; and certain “prescribed persons”, such as health sector staff, teachers, people who work with children, must report concerns or face a penalty. The legislation describes the safety and wellbeing of children as a shared community responsibility; has a focus on taking on the viewpoint of the child; and includes principles of the *best interests of the child* and *Aboriginal placement*.

This legislation is complemented by the *Safe at Home* Program, an integrated whole of Government response to family violence in Tasmania. *Safe at Home* is enabled by the provisions of the *Family Violence Act 2004*. In 2008 the Tasmanian Safe at Home Program was the National Winner of the Australian Crime and Prevention Award.

The Tasmanian Commissioner for Children examines legislation, policy and practices that affect the health, welfare, care, protection and development of all children to help ensure they operate in the best interests of the child. Children includes all children and young people under the age of 18 years.

A series of recent reviews revealed a system with limited capacity to respond to the needs of children, young people and families. Services were not reflecting current research findings about early brain development and the need for a focus on prevention and early intervention to alleviate the stress on the tertiary system. As a result, Tasmania wanted to adopt well researched, outcome-focused service models from other jurisdictions.

**Major recent and planned reforms**

- Establishing Community Gateway Services to provide a single community entry point in each area which will enable children and families to ask for support (and other professionals to refer them for support) through the Community Gateways without reference to the child protection system.
- Establishing integrated family support services in each of the four areas in Tasmania.
- Establishing 30 child and family centres across Tasmania, with construction on the first eight to begin in 2009.
 Reforming out-of-home care services and disability services including funding to have these services provided by the non-government sector.

• Staged implementation of a new Child Protection Information System (CPIS) from 2008. The new system has given Child Protection Services an increased capacity to manage the entry, allocation and approval of notifications and investigations.

• Integrating local services.

• Introducing the Tasmanian Child Protection Practice Framework based on New Zealand research and practice.

Reforms since 2000

The primary aims of Tasmania’s reforms have been to meet the needs of children, young people and their families; to identify and support children and young people at the highest risk of abuse or neglect; to be culturally responsive and strengths and evidence based; and to build a more responsive system through greater use of non-government family services.

Four regional service centres have been created to replace the centralised intake. Each service centre is required to develop a network of service supports building on existing resources (health services, schools, police etc.). Over time these service centres and networks will integrate with the Community Gateways providing a community intake point for children and young people at-risk. A co-located child protection worker will assist with this process.

The aim of the coordinated children and family services is to:

• focus on early intervention and prevention
• create system capacity to respond to needs of vulnerable families
• monitor cumulative harm
• provide therapeutic services where required
• use coordinated planning for intervention and integrated responses.

Because of the overall focus outlined above, Child Protection Services is able to target the more serious cases of abuse and neglect. Further, in 2008 Child Protection Services adopted a response model which reorientates staff into three teams: intake, response and case management. Intake has been decentralised to each area and intake teams work with senior child protection staff to determine which cases require a child protection response, while the response team is required to conduct an assessment of the risk to children in a way that is timely (completed within four weeks).

A five-year reform plan for out-of-home care services commenced in 2008 and includes:

• providing a greater range of placement options
• improving stability of placement for children and young people in care including the option of transfer of guardianship to an approved stable carer
• improving support to carers
• better coordination and matching of child to carer within the placement process
• a move in the future to recruitment, training and accrediting carers being undertaken by the non-government sector
• the development and implementation of individual care plans for each child or young person in care.
Agency functions

The Victorian Government has a progressive and ambitious reform agenda for Victorian child and family services. Developed in close partnership with Victorian community service organisations, the Every Child Every Chance reforms have focused on putting children and young people first, the goal being to ensure that vulnerable children and young people thrive, learn and grow and are respected and valued so that they can become effective adults. The reforms are underpinned by a commitment to best practice. They have been informed by contemporary national and international research and innovative approaches to strengthening vulnerable families, protecting children and young people and promoting vulnerable children’s healthy development, safety and wellbeing – learning that has been tailored to Victorian circumstances and needs.

Victoria’s approach recognises that all children need capable, nurturing parents and a caring child and family friendly community. The reforms emphasise the importance of supporting parents to play this role. Where parents experience stresses that impact on their care of children, Victoria’s first goal is always to work supportively with them to keep families together. If children cannot live safely at home, work is undertaken intensively with their parents to address problems, build resilience and enable a child to return home safely as quickly as possible. Where this is not possible, the goal is to ensure that children experience stable and high-quality alternative care. Victoria’s approach recognises that the protection of children cannot be separated from policies and programs to improve children’s lives as a whole.

Major recent and planned reforms

Enshrining children’s best interests at the heart of all decision making

- The Victorian legislation builds a shared responsibility for protecting children and young people, but also proactively promotes their development and longer term wellbeing. Harm needs to be better understood so as to encompass accumulated harm, as well as acute crisis, or a single serious incident. The new best interests principles provide a common framework for everyone working under the Victorian legislation.

Building an integrated service system that is more localised, better coordinated and is responsive to family needs

- The problems facing vulnerable families have become more complex in recent times. Substance abuse and family violence have become the most common characteristics of families in contact with child protection. Where children and young people are at-risk of harm, their families are often grappling with one or more issues from amongst long-term poverty, social exclusion, relationship breakdown, family violence, substance abuse, mental illness or disability. A one-size-fits-all approach will not work. Services need to be tailored to local conditions and needs.

- There is no evidence that relying on child protection as the primary service to protect vulnerable children and families makes a sufficient lasting difference. Victoria’s approach is based on building a flexible and graduated range of service responses. Major system reform is necessary to bring earlier intervention and child protection sectors together, and link them to early childhood services to form a coordinated system.

- From April 2007, Child FIRST (Child and Family Information Referral and Support Teams) were introduced to provide an identifiable entry point to services needed to support children, young...
people and families where there are concerns for the wellbeing of a child or young person. Child FIRST is now in place across all of Victoria, covering 24 catchments.

Reforms to assist Aboriginal children and families

- The recognition of the positive value of Aboriginal culture is reflected in the Best Interest Principles governing all decision making in Victoria
- The Victorian legislation permits the transfer of guardianship responsibilities from DHS to an Aboriginal Head of an Aboriginal organisation.
- Measures are underway to build the capacity of Aboriginal Community Controlled Organisations to provide child and family welfare services, including out-of-home care, for Aboriginal families.

Children in out-of-home care – improving children’s stability

- A critical theme of Victoria’s reforms is improving vulnerable children and young people’s stability in care and wellbeing, recognising scientific knowledge about the lasting impact of early experiences on the development of young children’s brains. This is reflected in a focus on stability planning to address how a child will receive continuous, stable care away from home and the use of specified time frames. Despite reducing the number of new entrants into out-of-home care, Victoria’s out-of-home care system is faced with a number of new and emerging challenges into the future.

A new response to children aged 10-15 exhibiting sexually abusive behaviour

- Recognition of the inability of the criminal justice system to provide a reliable pathway into treatment for young people who exhibit sexually abusive behaviour led to a new legislative basis for providing a therapeutic intervention earlier to help prevent ongoing and more serious sexual offences.

The Victorian reforms have so far contributed to a 7.2 per cent drop in substantiated abuse between 1999-00 and 2006-07 while substantiation rates have risen 143 per cent nationally.

Reforms since 2000

The continued progress of Victoria’s broad reforms includes:

- enshrining children and young people’s best interests at the heart of all decision making and service delivery
- encouraging the participation of children, young people and their families in the decision-making processes that affect their lives
- building a more integrated service system across the universal, secondary and tertiary tiers of child, youth and family services – a service system that is localised, better coordinated and that is responsive to family needs
- boosting earlier intervention and prevention through the use of community-based intake, assessment and referral when families first show signs of difficulty, and targeting family support services at the most vulnerable groups and communities
- improving children’s stability, especially in the critical early childhood years
- strengthening the cultural responsiveness of services so that community services are inclusive of children and young people from Aboriginal and other cultural backgrounds
- keeping Aboriginal children and young people better connected to their culture and community when in care
- ensuring that all child, youth and family services are accountable and of high quality.
WESTERN AUSTRALIA

Agency functions

The Department for Child Protection’s mission is to provide for the protection of and care for children and young people, and to support at-risk individuals and families in resolving crises. The Department has the central role in providing for the protection and care of children and young people throughout Western Australia, which is best achieved in partnership with other Government agencies and the community services sector.

Section 21(1)a of the Children and Community Services Act 2004 describes the functions of the Chief Executive Officer of the Department for Child Protection as including to consider and initiate, or assist in, the provision of social services to children, other individuals, families and communities. Directing and encouraging children and families to engage in social services to best address their problems is one of the primary objects of the legislation.

As part of, and in addition to, its statutory functions, the Department for Child Protection provides core service funding to the community services sector to respond to the issues and challenges faced by vulnerable children, families and individuals. This partnership enables a wide range of services and programs to be delivered throughout the State.

The 2007 Ford Review examined the key functions and systems of the former Department for Community Development, resulting in a significant focus on child protection reform in Western Australia. The Ford Review made 79 recommendations to address deficits in the child protection system, and each has been addressed through a comprehensive reform program.

Following the Ford Review, the following three service areas were defined by the Department for Child Protection:

1. Supporting children and young people in the CEO’s care.
2. Protecting children and young people from abuse.
3. Supporting individuals and families at-risk or in crisis.

These areas reflect the priority that the Department has placed on its protection and care responsibilities through the direct provision of tertiary services. It is important to recognise as well that it also has responsibility in supporting individuals and families at-risk or in crisis through the delivery or contracting of secondary services.

The Department works across government and the community services sector to prevent child abuse and neglect. This is achieved through interagency collaboration and promoting joint responsibility with key stakeholders for responding to concerns about children’s safety and wellbeing.

Major recent reforms

The Department is adopting and implementing the Signs of Safety framework as the basis of consistent, evidence-based child protection practice across all Departmental child protection services. Signs of Safety seeks to create a more constructive culture around child protection organisation and practice. Central to this approach is the use of specific practice tools and processes where child protection and other professionals and family members can engage to address situations of child abuse and neglect.

Child protection practice policy and field worker guidelines are being streamlined and revised to reduce unnecessary processes and be more accessible and relevant for front line practitioners.
On 1 January 2009, mandatory reporting of child sexual abuse by teachers, doctors, nurses, midwives and police officers came into effect.

The Department’s Foster Care Partnership was developed in partnership with the Foster Care Association. It encompasses a partnership model and associated practice guidelines. The model is centred first on the child, and second, highlights the critical role of the foster family team in providing daily protection and nurture to the foster child. The third element of the model is the surrounding, encompassing role of the Department care team supporting the foster placement.

The introduction of health and education plans for children in care is underway. All children who enter care will be screened for physical, developmental and educational difficulties. Once their needs have been assessed, a plan to address these needs will be put into place and monitored on a regular basis.

A Strategic Framework and State Plan for Supporting Individuals and Families At-risk is being developed, to bring together the significant range of secondary services that the Department and other government agencies directly provide or fund through the community services sector. A framework that spans current and future directions will help to improve the planning and provision of services, and remain responsive to the community’s needs.

A family and domestic violence co-location model places Senior Field Workers (Family and Domestic Violence) with the Police Service to improve screening, information sharing and expedite responses.

A range of initiatives to improve the safety and wellbeing of Aboriginal children and young people in the child protection system are being implemented. They include the creation of Consultants’ Aboriginal Services to assist caseworkers to work more effectively with Aboriginal families, and integrating Aboriginal perspectives through the Department’s learning framework.

Educational resources and guidelines to promote information sharing between as provided for under S23 of the Children and Community Services Act 2004 are being introduced together with a simple model for local Interagency Child Safety Teams.

Reforms since 2000

Organisational arrangements

- The Children and Community Services Act 2004 has been enacted.
- A new portfolio advisory structure has been established comprising:
  - Ministerial Advisory Council on Child Protection
  - Child Safety Directors Group (interagency)
  - Community Sector Advisory Group
  - CREATE Advisory Group (young people)
  - Aboriginal Reference Group
- The State Government appointed the first Commissioner for Children and Young People.

Aboriginal services

- Initiatives to strengthen responses to Aboriginal families and communities have been implemented, including securing an ongoing commitment to the Strong Families interagency case management program, Community Child Protection Workers in remote areas, Youth and Family Engagement Workers and the Best Beginnings early childhood intervention program.
• A multi-agency approach to dealing with sexual abuse in remote Aboriginal communities has been implemented.

**Care standards**

• Processes to investigate and respond to allegations of abuse in care have been implemented.
• The *Better Care Better Services* (Standards for Children and Young People in Protection and Care) have been implemented by the newly established Standards Monitoring Unit.

**Interagency developments**

• The childFIRST Assessment and Interview Team has been expanded, and provides a joint response between the Department for Child Protection and the WA Police.
• A tripartite protocol has been signed by the Departments of Health, Child Protection and Police regarding the reporting of sexually transmitted infections in children.

**Workforce**

• A comprehensive workforce development plan has been developed to comprising attraction and retention strategies, role and position redesign, and enhanced quality assurance systems.
Appendix B

MEMORANDUM OF UNDERSTANDING

FOR A NATIONAL EXCHANGE OF CRIMINAL HISTORY INFORMATION

FOR PEOPLE WORKING WITH CHILDREN

Date: 26 November 2009

Parties:
The Commonwealth of Australia ("Commonwealth")
The State of New South Wales ("NSW")
The State of Victoria ("Victoria")
The State of Queensland ("Queensland")
The State of Western Australia ("Western Australia")
The State of South Australia ("South Australia")
The State of Tasmania ("Tasmania")
The Northern Territory of Australia ("Northern Territory")
The Australian Capital Territory ("ACT")

Recitals:

A. Safeguarding children from sexual, physical and other harm is a key social responsibility and priority of Australian governments. Assessing the criminal history of people working with children or seeking to work with children is an important component of the overall strategy for protecting the safety and wellbeing of children.

B. The criminal history information considered by Australian child-related employment screening units is typically extensive when sourced intrajurisdictionally but limited when sourced from other jurisdictions. Virtually only unspent convictions are shared routinely between jurisdictions for child related employment screening. Given the population’s increasing mobility across state and territory borders, this inconsistency has the potential to compromise the integrity of child related employment screening.

C. On 29 November 2008, the Council of Australian Governments ("COAG") agreed to establish an inter-jurisdictional exchange of criminal history information for people working with children ("the exchange"), to better protect children. COAG also endorsed a set of implementation actions, the establishment of a project implementation committee (which is chaired by Queensland’s Department of the Premier and Cabinet) and an implementation plan. This followed COAG’s agreement in principle on 13 April 2007 to a framework for such an exchange.
D. First Ministers agreed to remove any legislative and administrative restrictions 
(such as spent convictions legislation) to the routine and formal sharing of the 
following information interjurisdictionally:

(a) an expanded range of criminal history information, extending beyond the 
convictions currently shared, to:

(i) spent convictions;
(ii) pending charges; and
(iii) except for Victoria, non-conviction charges, including acquittals and 
withdrawn charges; and

(b) if requested by an interstate child related employment screening unit, further 
information held by a police service about to clarify the circumstances of the 
offence or alleged offence, such as whether the offence involved a child.

E. Providing the expanded range of criminal history information and the follow-up 
circumstances information interjurisdictionally will benefit child related 
employment screening units by better informing their decisions about the risk of 
harm to children.

F. COAG acknowledges the sensitive nature of criminal history information and the 
potential of its provision to affect adversely individuals’ rights to rehabilitation, 
privacy, paid employment and the freedom to participate in their community as 
volunteers. The rights implications are particularly acute when the criminal history 
information is an acquittal, or untested information, such as pending or withdrawn 
charges, or relates to offences allegedly committed by the person when they were 
a juvenile.

G. Accordingly, COAG has stipulated that, in order to participate in the exchange, 
child related employment screening units must conform with strict conditions on 
the receipt and use of the expanded range of criminal history shared information. 
These participation requirements are referred to in clause 4.11 of this memorandum.

H. Jurisdictions nominating child related employment screening units to participate in 
the exchange from its commencement have documented how the screening units 
comply with the participation requirements, and have provided these compliance 
checklists with other jurisdictions’ representatives on the project implementation 
committee for consideration.

I. Currently, child-related employment screening varies between jurisdictions, both 
in relation to the scope and type of information taken into account when screening, 
and the types of employment for which screening is required. Further, New South 
Wales, Victoria, Queensland, Western Australia and the Northern Territory have 
statutory schemes for the centralised screening of persons who work with, or seek 
to work with children. South Australia, Tasmania and the Australian Capital 
Territory use administrative schemes or policies to undertake child-related 
employment screening and are moving towards statutory schemes.

J. The exchange will increase the range of criminal history information shared 
between jurisdictions but does not require uniformity in jurisdictions’ approaches 
to criminal history screening for child related employment.
K. Nor is the exchange intended to displace the existing arrangements that apply to police services’ provision of criminal history information for employment screening, conducted through CrimTrac’s National Police Check Service.

Operative provisions:

The Parties agree as follows:

1. Objective

1.1. This memorandum sets out arrangements for the commencement period of a national exchange of criminal history information for people working with children, to better protect children from sexual, physical and emotional harm.

2. Definitions

2.1. In this memorandum of understanding, unless a contrary intention appears:

“Child” means a person less than 18 years of age.

“Child related employment screening” means using information about a person in a way that is authorised or required under a law or administrative scheme or policy of a jurisdiction that relates to assessing whether a person poses a risk of harm to children.

“Commencement period” of the exchange means the period covering:

(a) the first twelve months of operation of the exchange from the date of the commencement of the exchange (“the exchange’s initial 12 months”); and

(b) the time in which the project implementation committee prepares the evaluation report; and

(c) the additional time in which the parties prepare and sign the proposed intergovernmental agreement on permanent arrangements for the exchange referred to in Part 10.

“Conviction” means any recorded or un-recorded conviction or finding of guilt for a criminal offence or acceptance of a plea of guilty by a court (whether the person was dealt with as an adult or a child). A conviction includes a conviction for which a pardon has been granted. Depending on context, conviction can also include an outcome of a mental health proceeding in relation to a criminal offence.

“Criminal offence” means an offence punishable by law as defined in each jurisdiction.

“CrimTrac” means the CrimTrac Agency, an Executive Agency established under section 65 of the Public Service Act 1999 (Cth) (ABN 171 93 904 699).

“Exchange” as a verb means exchange interjurisdictionally.
“Held” by jurisdictions’ police services includes held by CrimTrac on behalf of jurisdictions’ police services.

“Interstate” means “interjurisdictional”.

“Jurisdiction” means the Government jurisdiction of any of the parties, State, Territory or Commonwealth.

“National Names Index” is the central index of information supplied by police services and maintained by CrimTrac that identifies whether a particular individual is recorded in the relevant police records of any jurisdiction as a person of interest. While the primary purpose of the Index is to assist policing, the Index is also the database against which National Police Check Service checks are run.

“Non-conviction charge” means, whether a person was charged as an adult or a child, a charge: that has been withdrawn; that has been the subject of a nole prosequi, a no true bill or a submission of no evidence to offer; that led to a conviction that was quashed on appeal; or upon which a person was acquitted or disposed of by a court otherwise than by way of conviction.

“Pending charge” means a current charge for a criminal offence that has not yet been finalised (whether the person is being dealt with as an adult or a child).

“Police service” of a jurisdiction includes the Australian Federal Police for the Australian Capital Territory.

“Project implementation committee” means the COAG working group, consisting of representatives of First Ministers’ departments or their nominees from police services or child related employment screening units, established by COAG on 29 November 2008 to prepare for the exchange, oversee and evaluate the operation of the exchange during its commencement period, and provide a report to COAG on its evaluation.

“Spent conviction” means a conviction which statute deems (after a rehabilitation period) no longer part of the person’s criminal history and which the person need not disclose.

“Supply”:

(a) criminal history information or circumstances information (to a participating interstate screening unit) means using best endeavours to locate, retrieve and provide the information; and

(b) criminal history information (to a participating interstate screening unit) includes supply of the criminal history information to that unit via CrimTrac or the police service of that unit’s jurisdiction.

“Working”, with children, includes volunteering.

Other terms are defined in the body of the memorandum.
3. **Interpretation**

3.1. This memorandum:
   3.1.1. is not legally binding; and
   3.1.2. records the intentions of the parties, and their police services and participating screening units, and CrimTrac, to abide by the arrangements set out in the memorandum.

3.2. This memorandum does not require or permit something that is not lawfully permitted.

3.3. No provision of the memorandum requires the production of a criminal history record in any particular instance.

3.4. Use, or non-use, of any particular information received under this exchange is at the discretion of the recipient, in line with applicable legislation and policies.

3.5. Unless a contrary intention appears, the parties do not intend this memorandum to displace existing arrangements relating to the National Police Check Service referred to in clause 4.14.

**Victoria and non-conviction charges**

3.6. The parties acknowledge that Victoria will not exchange non-conviction charges or information relating to Victorian non-conviction charges under the exchange. Accordingly:
   3.6.1. Victoria, need not remove any barriers to its police service supplying non-conviction charges under the exchange;
   3.6.2. Victoria’s police service need not supply Victorian non-conviction charges or information relating to Victorian non-conviction charges interjurisdictionally under the exchange; and
   3.6.3. other police services need not, but may, supply non-conviction charges to Victoria. (Victoria advises its police service will vet interstate criminal history information to remove interstate non-conviction charges before the information is forwarded to Victoria’s participating screening units).

4. **The exchange**

4.1. The parties agree to establish a national exchange of criminal history information for people working with children ("the exchange").

**The information to be exchanged**

4.2. The parties agree that they will continue to exchange convictions held by jurisdictions’ police services.

4.3. The parties agree that they will also exchange the following criminal history information held by jurisdictions’ police services ("the expanded criminal
history information”):

4.3.1. spent convictions;
4.3.2. pending charges; and
4.3.3. except for Victoria (see clause 3.6), non-conviction charges.

4.4. The parties agree that they will exchange, if available, further information (“circumstances information”) held by jurisdictions’ police services—typically in prosecution briefs or statements of material facts—about the circumstances of an offence or alleged offence that might not be clear from the bare record of the offence or alleged offence, such as:

4.4.1. when the offence was committed or was alleged to have been committed;
4.4.2. the age of the offender or alleged offender;
4.4.3. the age of the victim of the offence or alleged offence;
4.4.4. whether the offence or alleged offence involved, might have involved or was intended to involve a child or children;
4.4.5. the relationship, if any, between the offender or alleged offender and any child involved in the offence or alleged offence;
4.4.6. the circumstances and nature of the behaviours constituting or involved with the offence or alleged offence; and
4.4.7. other factors relevant to a decision about whether a person poses a risk of harm to children.

4.5. This memorandum does not:

4.5.1. displace existing processes for obtaining information for child-related employment screening; or
4.5.2. subject existing processes for obtaining information for child-related employment screening to the new fees to be charged under clause 4.15.5 and Schedule 4.

The expanded criminal history information and the National Names Index

4.6. Parties note that not all police services upload all categories of the expanded criminal history information to the National Names Index.

4.7. The parties:

4.7.1. note that it is desirable to the integrity of child related employment screening undertaken pursuant to the exchange that all police services upload all categories of the expanded criminal history information; and
4.7.2. encourage police services, except the Victorian police service in relation to non-conviction charges, to use their best endeavours, if it is not prohibitively expensive to do so, to upload all categories of the expanded criminal history information to the National Names Index, and do so in a timely manner.
Legislative and administrative arrangements

4.8. The parties have made or agree to make the legislative and administrative changes necessary to facilitate the supply of information under the exchange.

4.9. The parties have made or agree to make the legislative and administrative changes necessary to facilitate the receipt of information under the exchange.

4.10. The parties have made or agree to make the legislative and administrative changes necessary to ensure their participating screening units comply with the participation requirements.

Participating screening units

4.11. Given the sensitivity of the expanded criminal history information, parties:

4.11.1. agree that, to participate in the exchange, child related employment screening units should meet the conditions on the receipt, use, storage and destruction of the expanded criminal history information contained in Schedule 1 to the memorandum (the “participation requirements”); and

4.11.2. affirm that each child related employment screening unit they have nominated for inclusion in Schedule 2 meets the participation requirements or will meet the participation requirements before the unit makes its first request for criminal history information under the exchange.

4.12. The child related employment screening units listed in Schedule 2 to the memorandum and child related employment screening units added to Schedule 2 in the future under Part 7 (the “participating screening units”):

4.12.1. are authorised by the parties to participate in the exchange;

4.12.2. may request and receive the expanded criminal history information and circumstances information under the exchange; and

4.12.3. will continue to comply with the participation requirements for the duration of the memorandum or until the participating screening unit notifies CrimTrac and police services of any decision under clause 8.7 to no longer participate in the exchange.

4.13. The requirements in this memorandum on a party to supply information apply regardless of whether the party has a child related employment screening participating in the exchange.
How the information is to be exchanged

Existing arrangements - National Police Check Service

4.14. Currently:

4.14.1. police services and CrimTrac provide a National Police Check Service ("NPCS") to a range of entities, including the participating screening units and police services acting on participating screening units' behalf;

4.14.2. entities, including participating screening units, have entered into contractual arrangements with CrimTrac to access NPCS or have entered into other arrangements with police services or CrimTrac to access NPCS;

4.14.3. the contractual or other arrangements with CrimTrac and police services—and participating screening units' existing legislative and administrative arrangements—variously require or provide for participating screening units to do various things, such as ensuring the unit:

   (i) has collected sufficient details to establish the identity of the applicant before the unit makes a request of CrimTrac for a NPCS check ("NPCS check");

   (ii) has obtained appropriate consent from the applicant to the NPCS check and to disclosure of criminal history information to the unit or other organisations as applicable;

   (iii) makes the request of CrimTrac or its jurisdiction's police service for a NPCS check by specifying the purpose of the check; and

   (iv) pays the applicable CrimTrac charge and any police service charge for a NPCS check;

   (v) complies with any relevant Commonwealth, State and Territory legislation, including privacy, freedom of information or human rights legislation;

   (vi) manages and protects the criminal history information and confidential information appropriately, and

   (vii) where applicable, complies with police service and CrimTrac monitoring and auditing arrangements and reports security breaches to the relevant police services and CrimTrac;

4.14.4. when a participating screening unit makes a request of CrimTrac or its jurisdiction’s police service for a NPCS check, police services supply criminal history information to the participating screening unit, subject to the spent convictions or other non-disclosure legislation and information release policies of the jurisdiction of the supplying police service; and

4.14.5. typically, this means that the criminal history information supplied to participating screening units is extensive when provided from within the unit's jurisdiction (and will commonly include convictions, spent convictions, pending charges and non-conviction charges from within
the jurisdiction) but is limited to conviction information when provided from outside the unit’s jurisdiction.

The proposed arrangements

4.15. Under the exchange:

4.15.1. the arrangements set out in clause 4.14 will continue to apply;

4.15.2. when a participating screening unit makes a request of CrimTrac or of its jurisdiction’s police service for a check, police services, including police services outside the unit’s jurisdiction, will supply the expanded criminal history information to the unit;

4.15.3. a participating screening unit will treat the expanded criminal history information received from police services outside the unit’s jurisdiction ("interstate expanded criminal history information") in accordance with the participation requirements;

4.15.4. a participating screening unit that has received an interstate conviction or interstate expanded criminal history information may ask the police service of another jurisdiction (an "interstate police service") for circumstances information relating to the conviction or to the expanded criminal history information;

4.15.5. a request made by a participating screening unit of an interstate police service for circumstances information:

(i) will be in a form, agreed to by the unit and the police service (including any form agreed nationally between police services and participating screening units), that indicates the purpose of the request and provides sufficient information identifying the person and their relevant charge or conviction;

(ii) will, upon receipt of the information, be the subject of the fee for the service set out in Part 1 of Schedule 4 to the memorandum (even if the police service, despite its best endeavours, is unable to locate, retrieve or supply the circumstances information), unless the fee is waived by the police service or replaced by an alternative fee agreed to by the unit and the police service; and

(iii) will be the subject of the billing guidelines set out in Part 2 of Schedule 4 to the memorandum or other billing arrangements agreed by the unit and the police service; and

4.15.6. when a participating screening unit makes a request for circumstances information to an interstate police service, the police service will supply the circumstances information, if available, to the unit in a form agreed to by the unit and the police service.
Collecting information to assist the evaluation of the exchange under Part 9

4.16. From the start of the fourth month of the exchange until the end of the exchange’s initial 12 months, each participating screening unit will collect standard statistical and other information pertaining to the scope, efficacy and cost of the exchange.

4.17. Before the start of the fourth month of the exchange, the project implementation committee (in liaison with participating screening units) will provide participating screening units with the list of the standard information to be collected, including, if the committee considers it desirable, a standardised template to support consistent collection of the information.

5. Avoiding duplication of criminal history screening within jurisdictions and within particular screening units

Avoiding duplication within jurisdictions

5.1. This Part is intended to avoid unnecessary duplication and cost in criminal history screening within screening units or across a jurisdiction’s screening units (for example, by avoiding the making of requests for criminal history information that does not exist) arising because of the exchange.

5.2. For this Part, “third party government entity” means a government department, agency or statutory body that is permitted or required to screen the criminal history of a person that has been the subject of criminal history screening by a participating screening unit previously. (For example, the third party government entity is permitted or required to screen the person in relation to the person’s general employment suitability or probity, whereas the participating screening unit screened the person initially in relation to the specific consideration of whether the person posed a risk of harm to children.)

5.3. With the consent of the person involved, nothing in this memorandum, including the restrictions on the use and disclosure of interstate expanded criminal history information contained in the participation requirements, prohibits a participating screening unit from:

5.3.1. indicating to a third party government entity whether criminal history information exists in relation to a person, provided:

(i) the participating screening unit does not disclose the person’s actual criminal history; and

(ii) the participating screening unit advises the third party government entity that no adverse inference about the person’s criminal history or suitability for employment should be drawn from an indication that a person has or may have a criminal history; or

5.3.2. forwarding to a third party government entity a person’s criminal history information, provided:

(i) the participating screening unit has contractual arrangements with
CrimTrac, or other arrangements with CrimTrac and police services, for forwarding the information to the third party government entity; and

(ii) the criminal history that is forwarded does not include interstate expanded criminal history information.

Dual function participating screening units

5.4. The parties note that participation requirement (e) of Schedule 1 to this memorandum prohibits participating screening units that undertake screening with a general employment suitability or probity screening element as well as a child safety screening element (such as the participating teacher registration and accreditation authorities; “dual function participating screening units”) from using interstate expanded criminal history information for general employment suitability or probity screening.

Identifying expanded criminal history information

5.5. The parties acknowledge that a participating screening unit that has contractual arrangements with CrimTrac, or other arrangements with CrimTrac and police services, for forwarding criminal history information to a third party government entity (see clause 5.3.2) needs to be able to identify whether interstate criminal history information is interstate expanded criminal history information, to ensure the unit does not forward interstate expanded criminal history information.

5.6. The parties acknowledge that a dual function participating screening unit (see clause 5.4) also needs to be able to identify whether interstate criminal history information is interstate expanded criminal history information, to ensure the unit does not use interstate expanded criminal history information for general employment suitability or probity screening.

5.7. However, a participating screening unit will be unable to identify whether criminal history information supplied under the exchange (in particular, an interstate conviction) is interstate expanded criminal history information (in particular, a spent conviction) unless the police service supplying the information provides it or marks it in a way that identifies to the screening unit that the information is expanded criminal history information.

5.8. Accordingly, the parties consider it desirable that police services provide, and CrimTrac facilitate the provision of, criminal history information to the participating screening units referred to in clauses 5.5 and 5.6 in a manner that identifies whether interstate criminal history information (in particular, convictions) is interstate expanded criminal history information (in particular, spent convictions) as soon as possible or within two months of the exchange’s commencement.
6. **Funding arrangements**

6.1. Jurisdictions or their participating screening units will fund any costs arising from the participation of the screening units in the exchange.

6.2. Jurisdictions or their police services will fund any costs arising from the provision by the police services of the expanded criminal history information under the exchange.

6.3. Police services will supply circumstances information under the exchange subject to the fee for service provided for in clause 4.15.5 and Schedule 4 of the memorandum.

7. **Future participating screening units**

7.1. A party may nominate a child related employment screening unit of the jurisdiction to be a participating screening unit.

7.2. If a party wishes to do so during the commencement period of the exchange, the party may do so by advising the project implementation committee in writing of its nomination, demonstrating how the screening units meets, or will meet, the participation requirements and providing any further information in support of its nomination that the committee reasonably requests.

7.3. If it receives such a nomination, the project implementation committee will provide the nomination and the committee’s consideration of it, to COAG Senior Officials, at the next available meeting of COAG Senior Officials if practicable, for Senior Officials’ consideration.

7.4. If COAG Senior Officials agree to the party’s nomination, the following things will happen as soon as possible:

7.4.1. the unit will be added to Schedule 2 to the memorandum as a participating screening unit;

7.4.2. the party will take whatever legislative and administrative action is necessary to remove any barriers to the unit receiving the expanded criminal history information and circumstances information from interstate police services;

7.4.3. the party will take whatever legislative and administrative action is necessary for the unit to comply with the participation requirements;

7.4.4. all other parties will take whatever legislative and administrative action is necessary to remove any barriers to their jurisdictions’ police services supplying the expanded criminal history information and circumstances information to the unit;

7.4.5. when the unit considers it is in a position to participate in the exchange, the unit will advise CrimTrac and interstate police services in writing of its readiness; and

7.4.6. subsequently, interstate police services will supply the expanded
criminal history information and circumstances information to the unit.

7.5. The parties agree that the proposed intergovernmental agreement on permanent arrangements for the exchange referred to in Part 10 will set out revised provisions for how parties will agree to nominations of future participating screening units on a permanent basis.

8. General

Commencement

8.1. This memorandum commences when executed by all parties.

8.2. The exchange commences on Monday, 30 November 2009, provided that the memorandum has been executed by all parties.

8.3. However, if upon commencement a jurisdiction has not yet commenced legislation intended to remove any barriers to its police service supplying information under the exchange, or if the jurisdiction's police service considers it is not yet in a position administratively to supply the information:

8.3.1. the jurisdiction’s police service will not supply the information; and

8.3.2. interstate police services need not supply the expanded criminal history information or circumstances information to the jurisdiction’s participating screening units.

8.4. Also, if upon commencement a jurisdiction has not commenced legislation that is intended to remove any barriers to a participating screening unit receiving information under the exchange or meeting the participation requirements, or if a participating screening unit considers it is not yet in a position administratively to receive the expanded criminal history information or circumstances information:

8.4.1. the jurisdiction’s participating screening unit:

(i) upon commencement, will notify CrimTrac and interstate police services in writing that it is not yet in a position to receive the expanded criminal history information;

(ii) will not purport to make a request for information under the exchange;

(iii) will use its best endeavours to be in a position to receive the expanded criminal history information as soon as possible; and

(iv) when it is in a position to receive the expanded criminal history information, will notify CrimTrac and interstate police services in writing of that fact; and

8.4.2. interstate police services will not supply the expanded criminal history information or circumstances information to the unit until the unit notifies CrimTrac and interstate police services it is in a position to receive the information.
Variation or amendments

8.5. This memorandum may be varied, amended or terminated with the written consent of all parties.

Withdrawal

8.6. A party may withdraw from this memorandum by giving at least two month’s notice in writing to the other parties stating the date on which the withdrawal will be effective.

8.7. A participating screening unit, after consulting its relevant party, may decide at any time that the screening unit will no longer participate in the exchange and, if so, the screening unit will notify CrimTrac and police services in writing of the decision, and its relevant party will notify the other parties in writing of the decision.

8.8. If a party withdraws from this memorandum, the memorandum will continue in force in relation to the remaining parties.

Duration

8.9. The memorandum and the exchange will be in effect for the duration of the commencement period.

Monitoring and dispute resolution

8.10. During the commencement period:

8.10.1. the project implementation committee will monitor and facilitate the operation of the exchange generally, and, specifically, as it relates to participating screening units; and

8.10.2. the National Police Check Service Operations Advisory Committee ("NOAC"), consisting of the heads of police services’ criminal history information units, will monitor and facilitate the operation of the exchange as it relates to police services.

8.11. Where an issue arises among or between participating screening units or police services or CrimTrac (together, "agencies" for this clause) in relation to any matter covered in the memorandum, the agencies involved will discuss and attempt to resolve the issue. Where the agencies are unable to resolve the issue, one of the agencies involved may refer the issue to the project implementation committee. Where the project implementation committee is unable to resolve the issue, and if the committee considers it appropriate, it may refer the issue to COAG Senior Officials and, ultimately, COAG for resolution.

8.12. The parties agree that it is desirable that the proposed intergovernmental agreement on permanent arrangements for the exchange referred to in Part 10 should set out revised provisions for monitoring and facilitating the operation of the exchange and dispute resolution.
9. Evaluation

9.1. Within three months of the conclusion of the exchange’s initial 12 months, the project implementation committee will:

9.1.1. evaluate the scope, efficacy and cost of the exchange during the exchange’s initial 12 months; and

9.1.2. prepare for COAG’s consideration a report on the project implementation committee’s evaluation.

9.2. In undertaking the evaluation and preparing the report, the project implementation will consider such matters as:

9.2.1. the extent to which participating screening units requested criminal history information;

9.2.2. in response to the requests, the extent to which the various categories of expanded criminal history information is estimated to have been supplied from interstate police services in response, and the utility of the information to participation screening unit’s decision making about whether a person poses a risk of harm to children;

9.2.3. the extent to which participating screening units requested circumstances information and, to the extent the data is available, the reasons for the requests;

9.2.4. in response to the requests, the extent to which circumstances information relating to the various categories of expanded criminal history information was supplied from interstate police services, and the utility of the information to participation screening unit’s decision making about whether a person poses a risk of harm to children;

9.2.5. the costs of the exchange to police services supplying, and participating screening units receiving, the expanded criminal history information and circumstances information;

9.2.6. the appropriateness of the system of fees for circumstances information and whether alternative, more equitable and efficient funding arrangements for the provision of circumstances information interjurisdictionally exist;

9.2.7. how any other aspects of the exchange’s operation could be improved;

9.2.8. permanent arrangements for governance, monitoring the operation of the exchange and dispute resolution;

9.2.9. the appropriateness of continued ministerial oversight of the exchange by COAG and whether alternative ministerial oversight options are preferable;

9.2.10. specifically, the statistical and other information collected by participating screening units under clause 4.16, and any statistical and other information received in responses to requests of CrimTrac and police services for information relating to the operation of the exchange or to the operation of employment screening generally; and
9.2.11. any other matter:

(i) suggested by the contents of this memorandum;

(ii) suggested by the contents of the October 2008 Scoping Study and Implementation Plan prepared for COAG by the COAG working group on the exchange; or

(iii) that the project implementation committee considers relevant.

9.3. The report will either:

9.3.1. be accompanied by a draft of the proposed intergovernmental agreement on permanent arrangements for the exchange referred to in Part 10; or

9.3.2. make recommendations about desirable content of the proposed intergovernmental agreement, and be written in a manner that would inform the preparation of the proposed intergovernmental agreement.

10. Proposed intergovernmental agreement on permanent arrangements

10.1. It is the intention of the parties that upon receipt of the evaluation report the parties will prepare an intergovernmental agreement, for signature of First Ministers at COAG, that will replace this memorandum and provide for arrangements for the operation of the exchange on a permanent basis (the “proposed intergovernmental agreement on permanent arrangements for the exchange”).
The participation requirements

The requirements with which participating screening units must comply to participate in the exchange are as follows.

(a.) The participating screening unit has a legislative basis for screening of persons working or seeking to work with children, which specifically enables consideration of information available through the exchange.

(b.) The participating screening unit must use the expanded interstate criminal history information only for the purposes of child-related employment screening.

(c.) The participating screening unit is prohibited from—and, where appropriate, subject to penalty for—disclosing the interstate expanded criminal history information beyond the screening unit or to persons not performing functions relevant to criminal record employment screening for child related work. However, disclosure of the expanded criminal history information to tribunals, courts or authorities undertaking reviews of decisions of the participating screening unit for the purpose of facilitating a review is an acceptable disclosure.

(d.) Notwithstanding participation requirements (b) and (c) above, it is acknowledged that, in exceptional circumstances, the participating screening unit may be under statutory obligations to use or disclose the interstate expanded criminal history information for the protection of a particular child or class of children, as part of a legislated child protection function. Such statutory obligations and disclosure pursuant to them are consistent with this memorandum.

(e.) If a participating screening unit undertakes screening with both (i) a child safety screening element and (ii) a general employment suitability or probity screening element (many teacher registration and accreditation authorities fit this category), there is appropriate legislation or business rules in place to ensure that the interstate expanded criminal history information is used only to screen risks to the safety of children, and not for general employment suitability or probity screening.

(f.) The participating screening unit has a risk assessment and decision-making framework pertaining to child-related employment screening that is: (i) evidence-based, to the extent possible in light of the requirements of the governing legislation; and (ii) documented, and supported by business rules and tools.

(g.) The participating screening unit has appropriately skilled staff to make assessments about risks to children's safety suggested by applicants' criminal histories. " Appropriately skilled" includes having appropriate qualifications, experience or standing to make the assessment.
(h.) The participating screening unit obtains the written consent of the individual which records that the individual understands that the employment screening will involve the provision of the expanded criminal history information, including information from other jurisdictions and information about the circumstances of the convictions or charges. For this purpose, the project implementation committee has settled the model principles that participating screening units’ consent forms will reflect. The model principles are contained in Schedule 3 to the memorandum.

(i.) The participating screening unit has a scheme that reflects the principles of natural justice. In particular, where there is an intention to make an adverse decision about an individual on the basis of criminal history information received through the exchange, the screening unit, tribunal or authority is required by legislation or policy to:
- disclose the criminal history information to the individual;
- allow the individual a reasonable opportunity to be heard; and
- consider the individual’s response before finalising the decision.

However, where a jurisdiction has determined that certain information will result in an individual’s automatic exclusion from child-related employment, the right to be heard may be limited to a challenge to the accuracy of the records.

(j.) The participating screening unit must comply with Commonwealth, State and Territory privacy* and human rights legislation where relevant.

(k.) The participating screening unit must comply with records management legislation within their jurisdictions that determines information management, storage, retention and destruction requirements.

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* The Information Privacy Principles under the Commonwealth’s Privacy Act 1988 cover: the manner and purpose of collection of personal information (Principle 1); solicitation of personal information from individual concerned or generally (2 and 3); storage and security of personal information (4); information relating to records kept by record-keeper (5); access to records containing personal information (6); alteration of records containing personal information (7); record-keeper to check accuracy etc of personal information before use (8); personal information to be used only for relevant purposes (9); limits on use of personal information (10); and limits on disclosure of personal information (11). Other jurisdictions’ privacy schemes replicate or reflect these principles.
Schedule 2

Participating screening units

The child related employment screening units† that will participate in the exchange are:

(a) the Commission for Children and Young People constituted by the Commission for Children and Young People Act 1998 (NSW);

(b) an approved screening agency under the Commission for Children and Young People Act 1998 (NSW);

(c) the Secretary to the Department of Justice as mentioned in the Working with Children Act 2005 (Vic);

(e) the chief executive officer as mentioned in the Working with Children (Criminal Record Checking) Act 2004 (WA);

(f) the Screening Authority established under the Care and Protection of Children Act (NT), section 196;

(g) the Commission for Children and Young People and Child Guardian constituted by the Commission for Children and Young People and Child Guardian Act 2000 (Qld);

(h) the Queensland College of Teachers as mentioned in the Education (Queensland College of Teachers) Act 2005 (Qld); and

(i) any child related employment screening units that the parties, under Part 7 of this memorandum, agree may participate in the exchange in the future and that the parties add to this schedule.

† For the purposes of this memorandum, a mere change in the name of a unit listed above does not affect the unit’s continued participation in the exchange.
Model consent principles

The following model consent principles were agreed by the project implementation committee in September 2009 as the model principles that participating screening units' consent forms will reflect. Participating screening units may tailor the wording as appropriate to their situation.

The following principles must be included in the consent model:
1. A declaration that the name provided is true and correct;
2. All names and aliases have been disclosed;
3. The applicant has read the contents of any instructions and/or guidelines associated with the application;
4. The applicant provides consent to the screening unit to obtain from the police, courts, prosecuting authority or other authorised agency and for the police, courts, prosecuting authority or other authorised agency to disclose to the screening units ANY information for the purposes of assessing the applicants' suitability to work with children;
5. A description of the type of information which may be obtained;

The following model consent is provided as a guide to wording that suitably captures the above principles:

I......(Full Name of Applicant).......declare:
- I am the applicant named in this form. All information and identification documents provided for this application are true and correct;
- I have not omitted any names or aliases that I use or have used in the past;
- I have read the contents of this form, and any application guidelines/instructions provided;
- I understand that providing false or misleading information may be an offence / or may result in a decision to reject my application;
- I consent to (insert name of screening authority) obtaining ANY information from any police, court, prosecuting authority or other authorised agency and for the police, courts, prosecuting authority or other authorised agency to disclose ANY information, for the purposes of assessing my suitability to work with children;
- The information obtained includes but is not limited to details of convictions and pending or non conviction charges or circumstances information relating to offences committed or allegedly committed by me, regardless of when and where the offence or alleged offence occurred.

The following is provided as a guide to the wording of additional clauses which are optional if relevant to the particular screening agency:
- I acknowledge that any information obtained as part of the check may be used by Australian police agencies for law enforcement purposes; including the investigation of any outstanding criminal offences where the sharing of information is permissible within the laws of that State/Territory;
- In consideration of carrying out my request, I hereby release and agree to fully indemnify officers of the CrimTrac Agency, all Australian police agencies and the
Commonwealth, States and Territories of Australia, its servants and agents against all actions, suits, proceedings, causes of actions, costs, claims and demands whatsoever which may be brought or made against it or them by me or by any body or person by reason of or arising out of the release of such Information;

- I hereby consent to ongoing checks of the records held by the police, courts, prosecuting authorities and other authorised agencies relative to me from time to time whilst my Working with Children Check remains in force. While I understand that I am at liberty to withdraw my consent for ongoing checking at any time I also understand that I will not be able to continue in my working with children role as a result of withdrawal of this consent.
Schedule 4

Circumstances information - Fees payable and billing guidelines

Schedule 4, Part 1 – Fees payable for circumstances information

Police services have assessed their costs of locating, retrieving and sending circumstances information and, based on those costs, have set the fees for supplying circumstances information to participating screening units (only payable by interstate participating screening units) as follows:

- $37 if the information is held by the AFP (in relation to Australian Capital Territory or Commonwealth offences or alleged offences);
- $30 if the information is held by NSW police;
- $42 if held by Victoria police;
- $36 if held by Western Australian police;
- $25 if held by South Australian police;
- $28 if held by Northern Territory police, higher if retrieval takes more than 30 minutes;
- $36 if held by Tasmanian police; and
- in relation to circumstances information held by Queensland police, the fee for an interstate participating screening unit is the same as the fee set by the screening unit’s respective police service for the interstate supply of circumstances information.

Police services advise that GST is not applicable to the fees.

Schedule 4, Part 2 – Billing guidelines for circumstances information

Unless the relevant participating screening unit and interstate police service agree to alternative arrangements or agree to modify these guidelines, the following three guidelines apply to police services billing of participating screening units for supplying circumstances information:

A. The supplying police service will invoice the requesting interstate participating screening unit for circumstances information, if any, supplied during the previous calendar month.

B. The fee will apply to circumstances information relating to each offence or alleged offence, unless the relevant police prosecution brief covers more than one offence or alleged offence for which circumstances information is sought, in which case one fee will apply.

C. Disputes about charging or billing will be settled between the supplying police service and the requesting interstate participating screening unit.
The Parties have confirmed their commitment to this agreement as follows:

Signed for and on behalf of the Commonwealth of Australia by

Mr Terry Moran
Secretary
Department of the Prime Minister and Cabinet
26 November 2009

Signed for and on behalf of the State of New South Wales by

Mr John Lee
Director General
Department of Premier and Cabinet (NSW)
26 November 2009

Signed for and on behalf of the State of Queensland by

Mr Ken Smith
Director General
Department of the Premier and Cabinet (Qld)
26 November 2009

Signed for and on behalf of the State of South Australia by

Mr Chris Eccles
Chief Executive
Department of the Premier and Cabinet (SA)
26 November 2009

Signed for and on behalf of the Australian Capital Territory by

Mr Andrew Cappie-Wood
Chief Executive
Chief Minister’s Department
26 November 2009

Signed for and on behalf of the State of Victoria by

Ms Helen Silver
Secretary
Department of Premier and Cabinet (Vic)
26 November 2009

Signed for and on behalf of the State of Western Australia by

Mr Peter Conran
Director General
Department of the Premier and Cabinet (WA)
26 November 2009

Signed for and on behalf of the State of Tasmania by

Mr Rhys Edwards
Secretary
Department of Premier and Cabinet (Tas)
26 November 2009

Signed for and on behalf of the State of Northern Territory by

Mr Mike Burgess
Chief Executive
Department of the Chief Minister
26 November 2009
Review of the operation of Subdivision A of Division 6 of Part VIIC of the *Crimes Act 1914*

Final report

September 2011
1. Introduction

2. Background
   History of the amendments
   Working with children criminal history provisions — Subdivision A of Division 6 of Part VII C of the Crimes Act

3. Conduct of the review
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4. The utility of information provided under Subdivision A
   Screening agency views
   Data

5. Safeguards

6. Complaints

7. Operational issues
   CrimTrac
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8. Views on the operation of Subdivision A
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9. Discussion

Appendix A – Responses received by the review
Appendix B – Compliance with safeguards
1. Introduction

1.1 Part VII C of the Crimes Act 1914 (Cth) (the Crimes Act) governs the disclosure and non-disclosure of Commonwealth pardons, quashed convictions and spent convictions. In March 2010, the Crimes Amendment (Working With Children—Criminal History) Act 2010 (Cth) amended Part VII C to insert new Subdivision A into Division 6 of that Part.

1.2 Subdivision A allows information about pardoned, quashed or spent convictions to be disclosed to and taken into account by prescribed persons or bodies for the purpose of assessing whether a person is suitable for work with children. This serves as an exception to the general rule that such information is not to be disclosed or taken into account.

1.3 Section 85ZZGG of the Crimes Act requires the Minister for Justice to initiate two reviews of the operation of Subdivision A:

**85ZZGG Reviews of operation of this Subdivision**

(1) The Minister must cause 2 reviews of the operation of this Subdivision to be conducted.

(2) The first review must:
(a) start not later than 30 June 2011; and
(b) be completed within 3 months.

(3) The 2nd review must:
(a) start not later than 30 June 2013; and
(b) be completed within 3 months.

(4) The Minister must cause a written report about each review to be prepared.

(5) The Minister must cause a copy of each report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

1.4 The first review commenced on 30 June 2011 and was completed on 30 September 2011. A report of the review’s findings is below.

2. Background

**History of the amendments**

2.1 The amendments made by the Crimes Amendment (Working With Children—Criminal History) Act 2010 (Cth) (the Working with Children Act) were developed in response to a 2008 Council of Australian Governments (COAG) decision. In November 2008, COAG agreed to develop an inter-jurisdictional exchange of ‘expanded’ criminal history information for people working with children. ‘Expanded’ criminal history information includes details
about pardoned, quashed and spent convictions. Such information was not routinely shared across State and Territory borders prior to the agreement.

2.2 The decision to share expanded criminal history information was made to ensure that an individual’s full criminal history is taken into consideration when determining their suitability for work with children. In 2001, the Australian Institute of Criminology’s report *Child sexual abuse: offender characteristics and modus operandi* noted that incarcerated sexual offenders are more likely to have previous convictions for non-sexual offences than for sexual offences. In addition, information from law enforcement agencies had previously indicated that charges relating to offences against children are often withdrawn as a decision is made to protect the child victim from the stress and trauma of giving evidence, undergoing cross-examination and waiting for committal and trial.

2.3 The COAG agreement was implemented by means of a Memorandum of Understanding (MOU) between the Commonwealth, States and Territories.¹ The MOU establishes a ‘national exchange of criminal history information’ through which jurisdictions are to share expanded criminal history information held by jurisdictions’ police services. This scheme is referred to as the Exchange of Criminal History Information for People Working with Children (ECHIPWC).

2.4 The MOU specifies arrangements for how this information is to be exchanged, as well as participation requirements for the screening agencies that receive the information. Screening agencies are organisations that assess whether someone is suitable for working with children. These assessments are conducted upon a request being made by an employer seeking to employ someone in child-related work.

2.5 The MOU also provides for the exchange of ‘additional information’ held by jurisdictions’ police services about the circumstances of particular convictions, to the extent that such information is available. Additional information may include the ages of the victim and the offender at the time of the offence, whether the offence involved children, the relationship between the offender and any child involved and other relevant information.

2.6 Clause 4.8 of the MOU calls on participating parties to make any legislative and administrative changes necessary to facilitate the supply of information under the exchange. The Working with Children Act was the means by which the Commonwealth implemented these changes.

2.7 The Attorney-General’s Department notes that, pursuant to Part 9 of the MOU, an evaluation of the exchange’s operation has taken place following an initial 12-month trial period.

Working with children criminal history provisions — Subdivision A of Division 6 of Part VII C of the Crimes Act

2.8 Subdivision A is located in Division 6 of Part VIIC of the Crimes Act.

2.9 Part VIIC governs when Commonwealth convictions can be considered to be pardoned, quashed or spent. It also creates general rules regarding the circumstances in which a person is no longer required to disclose his or her convictions, as well as the circumstances in which others cannot disclose or take into account those convictions.

2.10 Division 6 creates exclusions to the general rules in Part VIIC. These exclusions enable other people to disclose information about pardoned, quashed and spent convictions, or take them into account without a person’s consent in particular circumstances.

2.11 Prior to the passage of the Working with Children Act, former paragraphs 85ZZH(e) and (f) in Division 6 provided that spent convictions could be disclosed where:

(e) a person or body who employs or otherwise engages other persons in relation to the care, instruction or supervision of minors, for the purpose of finding out whether a person who is being assessed by the person or body for that employment or engagement has been convicted of a designated offence;

(f) a person or body who otherwise makes available care, instruction or supervision services for minors, for the purpose of finding out whether a person who is being assessed by the person or body in connection with those services has been convicted of a designated offence;

2.12 Information about pardoned and quashed convictions was generally prohibited from being disclosed.

2.13 The Working with Children Act repealed the above paragraphs and introduced new Subdivision A to deal with the disclosure of Commonwealth convictions for people seeking to work with children. Subdivision A operates to:

- Provide for new exclusions which allow the disclosure of information:
  - about a person’s pardoned, quashed and spent convictions
  - to or by a prescribed person or body permitted or required by or under a prescribed law to obtain and deal with information about persons who work, or seek to work, with children, and
  - for the purpose of obtaining or dealing with such information in accordance with the prescribed law.

- Define ‘child’ and ‘work’ for the purposes of the new exclusions.
• Specify criteria that persons or bodies must meet before they can be prescribed to enable them to obtain and deal with Commonwealth criminal history information. These criteria reflect the requirements of the COAG agreement and include compliance with applicable privacy, human rights and records management legislation, natural justice principles and implementation of risk assessment frameworks.

• Require the Minister for Justice to cause two reviews of the operation of the new provisions to be conducted after 12 months and after 3 years of operation.

2.14 The practical effect of Subdivision A is that information about Commonwealth pardoned, quashed and spent convictions can now be disclosed to screening agencies that conduct Working with Children Checks when requests are made for a person’s criminal history information. The disclosure process is facilitated by the Australian Federal Police and CrimTrac (see part 7 below for further information).

2.15 Criminal history information may only be disclosed to screening agencies that have been prescribed by the Crimes Regulations 1990 (Cth) (the Crimes Regulations). Under section 85ZZGE of the Crimes Act, before an agency can be prescribed the Minister must be satisfied that it:

• is required or permitted under a Commonwealth, State or Territory law to deal with information about people working with children
• complies with applicable privacy, human rights and records management laws
• complies with principles of natural justice, and
• has a risk assessment framework in place and appropriately qualified staff.

2.16 There are currently 10 screening agencies prescribed by the Crimes Regulations.²

3. Conduct of the review

3.1 On 30 June 2011, the Minister for Justice, the Hon Brendan O’Connor MP, wrote to prescribed screening agencies, Government agencies and a range of other organisations to gather information and views about the operation of Subdivision A. Responses were requested by 11 August 2011.

3.2 Responses were received from all prescribed screening agencies and 16 other bodies. A list of agencies and bodies that provided responses is at Appendix A.

² Crimes Regulations, reg 7A.
**Parameters of the review**

3.3 The object of Subdivision A is to help protect children from sexual, physical and emotional harm. In conducting the review, the Attorney-General’s Department sought to establish whether the availability of information about Commonwealth pardoned, quashed and spent convictions has helped to achieve this objective by improving screening agencies’ decision-making when assessing people’s suitability for working with children.

3.4 To ensure that information disclosed under Subdivision A is being used and treated appropriately, the Attorney-General’s Department also sought to establish whether the safeguards in section 85ZZGE of the Crimes Act continue to be complied with by screening agencies, as well as whether any complaints or other issues have arisen as a result of Subdivision A’s operation.

**Information sought**

3.5 Prescribed screening agencies were asked the following questions:

- Has access to criminal history information about a person’s spent, pardoned and quashed Commonwealth convictions enhanced your agency’s decision-making when determining whether individuals are suitable for working with children? If yes, how and in what ways?

  It would be particularly useful if you could provide information or data about the following:
  
  - the number of instances in which information about a person’s pardoned, quashed or spent Commonwealth convictions has led to a finding that someone is not suitable for working with children
  - the number of checks conducted that have taken into account information about a person’s pardoned, quashed or spent Commonwealth convictions
  - the types of Commonwealth conviction that are being disclosed to your agency, or
  - any other information which you consider relevant.

- Does your organisation continue to comply with the safeguards listed in section 85ZZGE of the Crimes Act?

- Are you aware of any complaints about the use or handling of information provided under Subdivision A?

- Are there any additional issues which you wish to discuss in relation to this matter?

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3 Crimes Act, s 85ZZGA.
3.6 The Office of the Australian Information Commissioner and State and Territory Privacy and Information Commissioners were asked whether any complaints have been received in relation to the disclosure of Commonwealth pardoned, quashed and spent convictions.

3.7 The Australian Federal Police and CrimTrac were asked to provide information on operational aspects of the provisions.

3.8 Other bodies were invited to share any views on the operation of the provisions.

4. The utility of information provided under Subdivision A

4.1 As noted above, screening agencies were asked whether access to information about spent, pardoned and quashed Commonwealth convictions has enhanced their decision-making when assessing a person’s suitability to work with children.

Screening agency views

4.2 All screening agencies expressed the view that information provided under Subdivision A has improved their ability to assess risks to children, particularly in light of its role in the broader ECHIPWC scheme. Having access to more extensive information about a person’s criminal history allows a more thorough assessment to be made about that person’s suitability and has increased screening agencies’ confidence in their decisions.

4.3 Several screening agencies noted that access to information about pardoned, quashed and spent convictions from within their own jurisdictions has been available for some time. Having access to such information from other jurisdictions has improved the consistency of checks by providing this background regardless of where offences are committed in Australia.

Data

4.4 Screening agencies were able to provide some data about the Commonwealth criminal history information they receive. However, there is currently no requirement to collect data and the data provided generally did not cover the full range of information sought by the review. Several screening agencies indicated that data about the quantity and nature of convictions disclosed to them is not collected or stored in an easily accessible manner. Collecting and compiling such information was not feasible due to the costs and labour involved.

4.5 For further discussion of this issue and recommendations about future approaches to data collection, see paragraphs 9.8 to 9.10. The data provided by screening agencies is outlined below.
New South Wales screening agencies

4.6 The NSW Commission for Children and Young People provided a coordinated response on behalf of all prescribed screening agencies in NSW.

4.7 The Commission advised that information disclosed under the ECHIPWC arrangements has been relied on in several cases to determine that a person could not work with children. The Commission did not provide details about the jurisdictions from which this information originated, or the extent to which information provided under Subdivision A may have informed these decisions.

4.8 The Commission noted that the names of some screening agencies have changed following the change of government in NSW earlier this year. The Attorney-General’s Department will update regulation 7A of the Crimes Regulations accordingly.

Department of Justice (Vic)

4.9 The Department of Justice (Vic) advised that information provided under Subdivision A has assisted in assessing the suitability of one applicant. The information related to a spent conviction and resulted in the applicant being denied permission to engage in child-related work.

4.10 The Department has not assessed a person’s suitability based on pardoned or quashed convictions.

4.11 The types of offences being disclosed to the Department primarily involve possession or transmission of child pornography, or censorship offences.

Commission for Children and Young People and Child Guardian (Qld)

4.12 The Commission for Children and Young People and Child Guardian (Qld) advised that there have been no instances to date of a person being denied a ‘blue card’ on the basis of information about Commonwealth pardoned, quashed and spent convictions. Issuance of a ‘blue card’ determines whether a person, with the exception of police officers and registered teachers, can work with children in certain service environments in Queensland.

4.13 There have been numerous returns of Commonwealth convictions information of this nature and 12 requests for additional information (see paragraph 2.5 above) relating to those convictions have been made.

4.14 While the majority of offences returned have been minor, the Commission provided the following list of examples of the types of Commonwealth pardoned, quashed and spent convictions which have been disclosed to them and for which further information was requested as part of the application of the Commission’s risk assessment framework, noting that some of the offences listed were State offences that have a federal aspect as defined by section 3AA of the Crimes Act:

- knowingly concerned in importing a prohibited import
• negligent acts causing grievous bodily harm
• intentionally inflicting grievous bodily harm
• common assault
• negligent driving
• possession and administration of steroids
• using a carriage service to menace, harass or cause offence
• knowingly concerned in kidnapping
• attempting to pervert the course of justice
• importation offences
• trafficking offences
• indecent exposure
• indecent manner
• threatened act of indecency
• unlawfully confining a person
• carnal knowledge
• possession, supply, cultivation of cannabis
• fraud offences, such as obtaining a financial advantage, where the matter was heard interstate and therefore would not appear on a Queensland criminal history, and
• theft.

4.15 The Commission noted that, in its risk assessment process, examples of offences which may adversely affect a person’s eligibility include sex offences, assault offences, drug offences and serious property offences. Examples of offences which are not considered to adversely affect a person’s eligibility include fraud, traffic offences and minor property offences.

4.16 Even if an offence is of a type that raises concerns about a person’s eligibility to work with children, the application of the Commission’s risk assessment framework and consideration of additional information (including submissions from the applicant and relevant referees) and context about the offence can lead to a finding that a person is nevertheless eligible to work with children. This process involves consideration of the following: the type, number and seriousness of convictions or charges; the recentness of convictions or charges; the relevance of convictions or charges to child-related activities; the veracity of relevant evidence; evidence of identifiable attempts to change behaviour or address triggers for initial offending; and any other identified risk or protective factors.
Queensland College of Teachers (Qld)

4.17 The Queensland College of Teachers advised that it has conducted 212 checks which took into account information provided under the ECHIPWC arrangements. It has not found any people unsuitable to work with children on the basis of this information.

4.18 The types of offences disclosed to the College of Teachers have included public nuisance, stealing, fraud, traffic offences and a small number of child-related offences. As noted in relation to the Commission for Children and Young People and Child Guardian, risk assessment frameworks are applied to all offences to determine whether or not they render a person unsuitable for work with children. Additional information and context about the offences are taken into account where appropriate.

Department for Child Protection (WA)

4.19 The Department for Child Protection (WA) advised that approximately 18% of applicants for a Working with Children Check have some kind of criminal record. Of that 18%, about 80% have ‘matches’ for Western Australian offences and about 2% have matches for Commonwealth offences. The Department noted that one match in relation to a particular individual can cover multiple charges or convictions.

4.20 Seven requests have been made for additional information about Commonwealth criminal convictions.

Screening Authority (NT)

4.21 The Screening Authority (NT) provided qualitative comments expressing support for the information sharing arrangements but did not provide quantitative information.

5. Safeguards

5.1 Before a person or body can be prescribed to receive Commonwealth criminal history information under Subdivision A, the Minister must be satisfied that the person or body:

- is required or permitted under a Commonwealth, State or Territory law to deal with information about people working with children
- complies with applicable privacy, human rights and records management laws
- complies with principles of natural justice, and
- has risk assessment frameworks in place and appropriately qualified staff.

5.2 Responses received from screening agencies indicate that they continue to meet the requirements established by these safeguards. Further information provided by screening agencies about their compliance with safeguards is included at Appendix B.
5.3 All prescribed screening agencies are State or Territory bodies that operate within regulatory frameworks governing the conduct of Working with Children Checks in their respective jurisdictions.

6. Complaints

6.1 Under section 85ZZA of the Crimes Act, a person may complain to the Australian Information Commissioner about potential non-compliance with the provisions governing the disclosure of information about pardoned, quashed and spent convictions. The Office of the Australian Information Commissioner advised that it has not received any complaints about the operation of Subdivision A.

6.2 The NSW and Victorian Privacy Commissioners, the Privacy Committee of South Australia and the Office of the Information Commissioner (NT) advised that they have not received any complaints relevant to Subdivision A. The Office of the Victorian Privacy Commissioner noted that any concerns about the use of Commonwealth convictions information would be referred to the Office of the Australian Information Commissioner, as State and Territory privacy commissioners do not oversee matters relating to Commonwealth criminal history information.

6.3 The response of the Queensland Privacy Commissioner stated that there have been no applications to the Office of the Information Commissioner Queensland relating to the Queensland Commissioner for Children and Young People and Child Guardian’s use of spent conviction information. The response did not indicate whether complaints have arisen in relation to other types of convictions information.

6.4 No response was received from privacy bodies in other States and Territories.

6.5 Prescribed screening agencies were also unaware of any formal complaints. The Northern Territory Screening Authority indicated that a number of informal verbal and written complaints have been made by people who are surprised at the availability to the Authority of expanded criminal history information. The Authority advised that these people have usually had previous assessments that did not take into account such information. The Authority advised that people who have made complaints generally accept the new arrangements once the legislative changes are explained to them.

6.6 The Attorney-General’s Department notes that the Law Council of Australia’s response to the review advised that the Law Society Northern Territory is aware of some individuals who are seeking reviews of decisions following negative assessments.
7. Operational issues

7.1 The Australian Federal Police (AFP) and CrimTrac were asked to provide information about any operational issues relating to Subdivision A.

CrimTrac

7.2 CrimTrac manages the National Police Checking Service Support System, which automates large parts of the process by which screening agencies seek and obtain criminal history information. CrimTrac is not involved in the decision-making with regard to the release of information, but facilitates the dissemination of the criminal history information which screening agencies are required to use as part of their decision-making process.

7.3 CrimTrac’s response highlighted that a criminal history record check is a ‘point in time’, name-based check against information held by the police agencies. As a consequence of this, the accuracy of the check depends on the timely flow of information between the justice system, police agencies and CrimTrac.

7.4 CrimTrac commented on the desirability of model spent convictions legislation that applies nationally. The existence of multiple spent convictions legislation nationwide and the lack of uniform working with children legislation results in practical complexities in the provision of criminal history information. The Attorney-General’s Department notes that the Standing Committee of Attorneys-General developed and released the Model Spent Convictions Bill in November 2009 to address this issue, but the Bill has not been implemented by all jurisdictions.

Australian Federal Police

7.5 The AFP manages the disclosure of Commonwealth criminal history information in response to requests made through CrimTrac or police services in other jurisdictions. The AFP determines whether a person’s criminal history information can be disclosed under relevant laws such as Part VIIC of the Crimes Act and also responds to requests from screening agencies for additional information about particular convictions.

7.6 The AFP’s response noted that, when providing results to screening agencies under Subdivision A, it includes a caveat stating that the information can only be used for ECHIPWC purposes and cannot be disclosed beyond the prescribed screening unit. This reflects the legislative restrictions that apply to screening agencies in relation to the disclosure of such information.

7.7 The AFP also noted that it can only provide information under Subdivision A to agencies prescribed by the Crimes Regulations, and that efforts should be made to ensure that the list of prescribed agencies is kept up to date.
7.8 The following table shows the number of requests for additional criminal history information made to the AFP by screening agencies.\(^4\)

<table>
<thead>
<tr>
<th>Year</th>
<th>NSW</th>
<th>Vic</th>
<th>Qld</th>
<th>WA</th>
<th>NT</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>6</td>
<td>12</td>
<td>12</td>
<td>6</td>
<td>0</td>
<td>36</td>
</tr>
<tr>
<td>2011</td>
<td>2</td>
<td>3</td>
<td>12</td>
<td>2</td>
<td>0</td>
<td>23</td>
</tr>
</tbody>
</table>

7.9 The AFP noted that responding to requests for additional criminal history information can be time and resource intensive, particularly where such information only exists in hard copy.

7.10 In some cases, screening agencies undertake assessments on behalf of employers to determine a person’s general suitability for employment, in addition to the person’s suitability for working with children. Employment suitability assessments may also take into account a person’s criminal history information, but cannot consider information about pardoned, quashed and spent convictions. This currently places an administrative burden on police services by requiring them to undertake two checks, one which provides ECHIPWC information and one which provides only standard criminal history information. The AFP advised that it is working with CrimTrac and police services to facilitate a single check which manages the different levels of disclosure that apply.

7.11 The AFP indicated that, in the 2009-10 financial year, it received 648 requests from Commonwealth agencies for police checks relating to working with children. 319 requests were received in the 2010-11 financial year. The number of checks requested by Commonwealth agencies may have decreased since the introduction of Subdivision A due to those agencies submitting such requests through State and Territory screening agencies.

7.12 A number of complaints have been made to the AFP about the disclosure of criminal history information, but these complaints are generally based on a misunderstanding of Part VIIC of the Crimes Act and the new disclosure arrangements introduced by Subdivision A.

\(^4\) Figures from 2010 begin from 17 April 2010, the date on which regulation 7A of the Crimes Regulations commenced. Figures from 2011 were current at 11 August 2011.
8. Views on the operation of Subdivision A

8.1 Responses clearly recognised the importance of protecting children from harm, but expressed divergent views on several issues related to Subdivision A.

Support

8.2 All screening agencies expressed support for the continued operation of Subdivision A and indicated that the information which it makes available has improved their assessments. Responses from the Salvation Army Australia Eastern Territory and the National Children’s and Youth Law Centre expressed support for the scheme while acknowledging the importance of issues relating to a person’s right to privacy, rehabilitation and employment.

8.3 The Salvation Army Australia Eastern Territory emphasised the importance of ensuring that differences in legislation between the Commonwealth, States and Territories do not lead to varying degrees of quality and thoroughness in the conduct of Working with Children Checks across Australia.

Concerns and issues

8.4 During the Senate Legal and Constitutional Affairs Committee’s inquiry into the Crimes Amendment (Working with Children—Criminal History) Bill 2009 (the Senate inquiry), concerns were expressed about several aspects of Subdivision A’s provisions. These included concerns about the disclosure of information about pardoned and quashed convictions, the disclosure of convictions relating to any type of offence, the absence of a definition of ‘working with children’ and the effectiveness of the safeguards.

8.5 Responses received by the review indicated that these continue to be areas of concern.

Disclosure of information about pardoned and quashed convictions

8.6 Several responses considered the disclosure of information about pardoned and quashed convictions to interfere with a person’s right to exoneration.

8.7 The Law Council of Australia (Law Council) stated that:

… there should be no exception to the principle that if a person has been pardoned or their conviction has been quashed, they are entitled to the full benefit of that decision. Any exception would mean that a person’s guilt cannot be expunged even if the process of securing the conviction was flawed.

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8.8 The Australian Youth Affairs Coalition noted that, while disclosing such information may help protect children in some cases, young people could be prejudicially affected later in life by these provisions when seeking employment.

8.9 This concern was also raised during the Senate inquiry by the Queensland Council for Civil Liberties and the Queensland Law Society.

8.10 The Attorney-General’s Department’s submission to the Senate inquiry noted that the fact that a person’s conviction has been pardoned or quashed does not necessarily make the facts and circumstances of that person’s conduct irrelevant to an assessment of the risk that the person poses to children if employed in child-related work. A person’s conviction may be quashed for reasons that do not negate the credibility of the evidence on which the conviction was based.

8.11 While screening agencies expressed the view that their assessments have benefitted from the availability of more complete criminal history information, responses did not indicate the extent to which pardoned and quashed convictions specifically may have contributed to this. Commonwealth convictions appear to make up a small percentage of information received by screening agencies and pardoned and quashed Commonwealth convictions constitute an even smaller portion of that information.

8.12 Further time and more extensive statistical information is required to assess the degree to which information about pardoned and quashed convictions is of assistance to screening agencies. This will be an important issue for consideration during the 2013 review of Subdivision A.

**Relevance of some types of conviction to a person’s suitability for work with children**

8.13 Subdivision A allows for the disclosure of convictions relating to any type of offence. The Law Council and the Office of the Australian Information Commissioner questioned whether information about all types of offences committed by a person is necessarily relevant to assessing that person’s suitability to work with children.

8.14 As noted in the Attorney-General’s Department’s submission to the Senate inquiry, details about the nature and circumstances of an offence may be relevant to assessing a person’s suitability to work with children, regardless of the type of offence. For example, a person’s commission of a Commonwealth drug trafficking offence could be considered relevant even though it is not directly related to children.

8.15 Screening agencies have indicated that the availability of more complete information about a person’s criminal history allows a more thorough assessment of that person to be made. Screening agencies do not treat all convictions as grounds on which to issue a negative finding in relation to a particular person and having knowledge about all types of offence committed by a person increases screening agencies’ confidence in the correctness of
their decisions. The Attorney-General’s Department considers it preferable to continue to make information about all types of Commonwealth convictions available to screening units.

Screening agency compliance with privacy laws

8.16 The Office of Australian Information Commissioner and other privacy bodies noted the desirability of screening agencies being subject to applicable privacy laws. The Office of the Australian Information Commissioner reiterated a previous recommendation to the Senate inquiry which suggested that section 85ZZGE of the Crimes Act be amended to require the Minister to be satisfied that a person or body is ‘subject to applicable Commonwealth, State or Territory privacy laws’ before they are prescribed in the Crimes Regulations.

8.17 The Crimes Act currently states that a person or body may only be prescribed if the Minister is satisfied that the person or body complies with applicable Commonwealth, State or Territory laws relating to privacy. The Attorney-General’s Department considers that this achieves the effect of ensuring that the prescription of persons or bodies is contingent on their activities being governed by applicable privacy legislation.

Practical operation of safeguards

8.18 Some responses expressed the view that it is unclear how the section 85ZZGE safeguards apply in practice or are implemented.

8.19 Appendix B contains information about screening agencies’ compliance with safeguards. Screening agencies cannot be prescribed unless the Minister is satisfied that they comply with the safeguards. The Minister could also remove a screening agency from the list of prescribed persons or bodies by virtue of this discretion.

8.20 The Law Council noted concerns expressed by the Law Society Northern Territory about the ability of the Northern Territory’s privacy requirements to operate effectively in very small communities. The Attorney-General’s Department will consider this issue further in the context of the 2013 review.

Definition of ‘working with children’

8.21 Subdivision A does not define the circumstances in which a person is considered to work with children. Some responses suggested that it would be desirable to include such a definition.

8.22 The circumstances in which a person is considered to work with children are currently supplied by relevant legislation in each jurisdiction that receives information under Subdivision A. It would not be possible to define this term for the purposes of Subdivision A without leading to potential conflicts with State and Territory legislation due to the variation between jurisdictions.
**Prescribing additional screening agencies**

8.23 The Office of the Australian Information Commissioner suggested that, if the Crimes Regulations are amended in the future to prescribe new screening agencies, the explanatory statements should note relevant requirements relating to privacy, as well as the requirement that screening units may only use criminal history information disclosed under Subdivision A to assess a person’s suitability to work with children.

8.24 The Attorney-General’s Department agrees with this suggestion and will include such information if new persons or bodies are prescribed in the future.

**9. Discussion**

9.1 Subdivision A has been in operation since March 2010. Information currently available offers useful insight into how the provisions are working, but provides only a preliminary view. Screening agencies and other bodies were able to provide information about their practical experiences with the provisions, as well as complaints and compliance with relevant safeguards. However, there is a low level of statistical information available about the Commonwealth criminal history information being provided to screening agencies. The Attorney-General’s Department anticipates that the 2013 review will yield a more detailed picture of the provisions’ operation, particularly if efforts are made to improve the collection of data relating to the operation of the provisions.

9.2 At present, there is only one confirmed instance in which a person has been denied permission to work with children on the basis of Commonwealth criminal history information shared under Subdivision A. Commonwealth criminal history information appears to make up a small percentage of information received by screening agencies. As noted above, information from the Department for Child Protection (WA) indicates that, of the 18% of applicants for a Working with Children Check in that jurisdiction that have some kind of criminal record, only 2% have matches for Commonwealth offences. Given the smaller range of criminal offences at the Commonwealth level generally when compared to other jurisdictions, this is not an unexpected finding.

9.3 Screening agencies universally expressed the view that information shared under Subdivision A provides valuable additional background when making an assessment and has improved their decision-making. On this basis, the Attorney-General’s Department considers that Subdivision A, which facilitates the Commonwealth’s participation in ECHIPWC, is operating to achieve its aim of helping to protect children by allowing more informed assessments to be made.

9.4 No formal complaints about the operation of Subdivision A have been received by the Office of the Australian Information Commissioner. State and Territory privacy bodies that responded to the review and prescribed screening agencies are also unaware of any formal complaints.
9.5 Information from screening agencies indicates that they continue to comply with relevant safeguards. These safeguards help ensure that information provided under Subdivision A is only disclosed where there is a legislative requirement to do so, and is treated in accordance with relevant privacy laws. In addition, the safeguards help ensure that avenues exist for reviewing screening agencies’ decisions and that those decisions are made in accordance with relevant frameworks for assessing a person’s suitability for work with children.

9.6 The Attorney-General’s Department acknowledges the range of concerns that have been expressed about Subdivision A. Although information received by the review does not suggest that the provisions have had an unjust impact on people seeking to work with children, further monitoring is required to establish with greater certainty whether or not any issues are arising.

9.7 The Attorney-General’s Department considers that Subdivision A is operating effectively to help protect children from sexual, physical and emotional harm. The information sharing which it enables is improving the ability of screening agencies to assess a person’s suitability for work with children. Relevant Commonwealth, State and Territory bodies are not aware of any formal complaints about the operation of the scheme that would suggest problems with the ways in which information is being disclosed, taken into account or managed. Information from prescribed screening agencies indicates that they continue to comply with relevant safeguards.

9.8 A second review of the operation of Subdivision A is required to commence by 30 June 2013. To ensure that that review is fully informed and comprehensive, it is important that relevant agencies collect as much data as possible about the criminal history information being disclosed.

9.9 The Attorney-General’s Department recommends that:

- complete information about the number of Commonwealth convictions disclosed to screening agencies under Subdivision A be collected and retained, as well as information about whether those convictions were pardoned, quashed or spent and the types of offences to which they relate, and

- information be collected and retained about the outcomes of assessments involving Commonwealth criminal history information, in particular instances in which a person is issued with a negative assessment on the basis of that information.

9.10 The collection of such information will be the subject of further discussions between the Attorney-General’s Department, the Australian Federal Police and screening agencies.
Appendix A – Responses received by the review

Screening agencies

NSW Commission for Children and Young People
Department of Education and Training (NSW)
Department of Health (NSW)
Communities NSW
Catholic Commission for Employment Relations (NSW)
Department of Justice (Vic)
Commissioner for Children and Young People and Child Guardian (Qld)
Queensland College of Teachers
Department for Child Protection (WA)
Screening Authority (NT)

Note: The NSW Commission for Children and Young People provided a coordinated response on behalf of all prescribed screening agencies in NSW.

Other

Minister for Families, Housing, Community Services and Indigenous Affairs
Office of the Australian Information Commissioner
Australian Federal Police
CrimTrac
Attorney General of Western Australia
Commissioner for Children Tasmania
Law Council of Australia
Law Society of NSW
Office of the Privacy Commissioner New South Wales
Office of the Victorian Privacy Commissioner
Office of the Information Commissioner Queensland
Privacy Committee of South Australia
Public Law Policy Group, Justice and Community Safety Directorate, Australian Capital Territory
Salvation Army Australia Eastern Territory
National Children’s and Youth Law Centre
Australian Youth Affairs Coalition
Appendix B – Compliance with safeguards

New South Wales

NSW Commission for Children and Young People
Department of Education and Training
Department of Health
Communities NSW
Catholic Commission for Employment Relations

Safeguard 1

The person or body is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children.

NSW screening agencies are required or permitted to deal with information about persons who work, or seek to work, with children by the Commission for Children and Young People Act 1998 (NSW) (CCYP Act).

Under the Act, it is the duty of an employer to conduct a background check before employing a person in child related employment (s 37(2)). The employer may engage either the Commission or an approved screening agency to conduct this background checking (s 37(4)).

One of the Commission’s functions is to conduct background checking on behalf of employers for whom the Commission has agreed to conduct any such checking (s 36(c)). Background checking includes a check for any relevant criminal record (s 34(a)). Section 33(1) of the CCYP Act defines relevant criminal records to be considered in the Working with Children Check to include records created outside NSW. It also defines an ‘approved screening agency’ to be the Commission or an employer or employer-related body approved by the Minister.

The following screening agencies have been approved for the purposes of the Act: Department of Education and Communities, Office of Communities, Department of Health, Catholic Commission for Employment Relations. The Commonwealth Attorney-General’s Department notes that the list of prescribed NSW screening agencies in regulation 7A of the Crimes Regulations 1990 (Cth) will be updated to reflect the new names of some agencies following the recent change of government in NSW.

Safeguard 2

The person or body complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management.

The Privacy and Personal Information Protection Act 1998 (NSW) applies to NSW screening agencies. The principles in the Act relate to collecting, storing, using, accessing and disclosing personal information.
Unauthorized disclosure or dishonest collection of information in connection with background checking is an offence (CCYP Act, s 48B). The maximum penalty for this offence is 50 penalty units or six months imprisonment.

Under section 35 of the CCYP Act, The Minister must publish Guidelines relating to standards and procedures for background checking. These Guidelines must contain procedures and standards for confidentiality.

Under the NSW Working with Children Check Employer Guidelines, all NSW public sector agencies are required to treat personal information in accordance with the principles in the Privacy and Personal Information Protection Act 1998, subject to applicable exemptions.

**Safeguard 3**

The person or body complies with the principles of natural justice.

Under sections 33H and 33I of the CCYP Act, certain people prohibited from child-related employment may seek merits review of their prohibited status in the Administrative Decisions Tribunal.

The tribunal hearing involves disclosure of criminal history information to the individual, an opportunity for the individual to be heard and an analysis of the individual’s response.

Appeals on questions of law can be made to the NSW Supreme Court (CCYP Act, s 33M(5)(b)).

**Safeguard 4**

The person or body has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.

Under the NSW Working with Children Check Employer Guidelines, the following relevant criminal records are assessed in a Working with Children Check:

1. A criminal record of a person with respect to a charge or conviction for:
   - any sexual offence (including but not limited to, sexual assault, acts of indecency, child pornography, child prostitution and carnal knowledge)
   - any assault, ill treatment, neglect of, or psychological harm to, a child
   - any registrable offence, and
   - offences of attempting, or of conspiracy or incitement, to commit the above offences that:
     - if committed in New South Wales would have been punishable by penal servitude or imprisonment for 12 months or more, or
- if committed elsewhere would have been punishable by penal servitude or imprisonment for 12 months or more if committed in New South Wales.

2. All matters irrespective of whether they are otherwise considered spent and all relevant offences committed as a juvenile.

3. Charges which:

- may have not been heard or finalised by a court,
- are proven but have not led to a conviction, or
- have been dismissed, withdrawn or discharged by a court.

A relevant criminal record does not include an offence:

- that was a serious sex offence when committed if the conduct constituting the offence has ceased to be an offence in NSW, or
- that involved sexual activity or an act of indecency if the conduct occurred in a public place and it would not have been an offence in NSW if it did not occur in a public place.

When estimating risk, NSW screening units refer to ‘A Workplace and Applicant Risk Estimate’ (AWARE), a structured decision making tool. This tool is documented and supported by the Guidelines for Operating AWARE.

All Role Statements require risk assessors to have relevant qualifications and experience. The NSW Working with Children Check Employer Guidelines also require relevant screening unit staff to participate in Commission training and development.
Victoria
Secretary to the Department of Justice

Safeguard 1
The person or body is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children.

The Secretary to the Department of Justice is authorised to assess and reassess applications from people wanting to work with children under sections 11 and 21 of the Working with Children Act 2005 (Vic) (WWC Act).

The Secretary may delegate any power under the WWC Act (s 43). An instrument of delegation is maintained and describes those powers of the Secretary delegated to relevant officers within the Department of Justice.

The checking process and assessment work is primarily conducted by officers within the Working with Children Check Unit. The Working with Children Check Unit was created as an administrative unit in 2005.

Safeguard 2
The person or body complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management.

The Working with Children Check Unit complies with the following Victorian legislation:

- Information Privacy Act 2000
- Public Sector Management Act 1992
- Public Records Act 1973

The Information Privacy Act applies to all personal information obtained in administering the WWC Act. Personal information must be dealt with in accordance with the Information Privacy Principles set out in Schedule 1 to the Act.

Under the WWC Act, it is an offence for a person to give to any other person any information acquired from, or in the carrying out of, a working with children check, unless an exception applied (s 40(1)). The maximum penalty for this offence is 60 penalty units.
**Safeguard 3**
The person or body complies with the principles of natural justice.

Natural justice is afforded to individuals at the application decision-making stage through to the right to apply for review by the Victorian Civil and Administrative Tribunal (VCAT). Applicants to whom the Secretary proposes to refuse a working with children check are informed of their right to apply for a review and are invited to make a submission within a set period (at least 28 days) (s16 (1)).

If a negative notice is subsequently issued, the Secretary is required to give the applicant written notice stating the reasons for the decision and informing the applicant of the right to apply to the VCAT to have the decision reviewed (s 17(4)). An applicant may apply to the VCAT for review of the decision (s 26). Part 3 of the *Victorian Civil and Administrative Tribunal Act 1998* sets out the original and review jurisdictions of the VCAT.

**Safeguard 4**
The person or body has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.

The WWC Act establishes a process to assist in determining whether a person is suitable to engage in child-related work (s 8).

A Triage Panel consisting of senior officers performs an initial risk assessment function in cases where a relevant offence or charge is identified. Where additional information is required, the Triage Panel identifies the possible source(s) of this information.

Section 13(2) and 14(3) of the WWC Act set out the factors to be taken into account in determining applications where the Secretary has discretion, including:

- the nature and gravity of the conduct and its relevance to child-related work
- the period of time since the applicant engaged in the conduct
- the sentence imposed
- the ages of the applicant and victim
- the applicant’s behaviour since the conduct, and
- the likelihood of future threat to a child caused by the applicant.

This framework, combined with the offences categorised in sections 12 to 14 and 17(1A) of the WWC Act, is linked to risk. Policies and assessment guidelines within the Working with Children Check Unit reflect this framework. Involvement in the assessment process is limited to experienced, high-level officers within the Department of Justice. The Secretary has the ultimate power to assess and reassess applications.
Queensland
Commissioner for Children and Young People and Child Guardian

Safeguard 1
The person or body is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children.

Under the *Commission for Children and Young People Act 2000* (Qld) (CCPCG Act), one of the Commissioner’s functions is to screen persons employed, or proposed to be employed, in certain child-related employment.

Safeguard 2
The person or body complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management.

It is an offence for an authorised person to disclose or give access to documents about criminal history information obtained through their work at the Commission (CCPCG Act, s 384(4)). The maximum penalty for this offence is 100 penalty units or two years imprisonment.

Under section 345 of the CCYPG Act, the Commissioner must not use information obtained under Chapter 8 about a person’s criminal history other than for screening purposes or for a report to the Minister under section 395(3)(b) of the CCYPG Act.


Safeguard 3
The person or body complies with the principles of natural justice.

The Commission, before issuing a negative notice and before a final determination is made (where the decision is a discretionary rather than a mandatory negative notice), must advise the person that the Commissioner is proposing to issue a negative notice and must invite submissions from that person (CCPCG Act, s 229). A person (other than a disqualified person) may apply to the Queensland Civil and Administrative Tribunal for review of the Commissioner’s decision to issue a negative notice or to refuse an application to cancel a negative notice (CCPCG Act, s 354).

A person who has been issued a current negative notice (and who is not a relevant disqualified person) may apply to the Commissioner to cancel the notice if two years has
elapsed since the notice was issued (CCYP CG Act, s 236). This provision effectively allows the Commissioner to reconsider a person’s suitability for child-related employment, having regard to the amount of time elapsed since the offence or alleged offence occurred and whether the person’s circumstances have changed in such a way that they would no longer be considered a risk to children.

The Commissioner may cancel a positive or negative notice and substitute another notice if the Commissioner is satisfied that the decision on the application for the first notice was based on wrong or incomplete information (CCYP CG Act, sections 237 and 238) and, based on the correct or complete information, the Commissioner should then issue the new notice (either positive or negative). If the new notice is a negative notice and the decision is a discretionary one, the Commissioner must first invite the person to make a submission about the information in the possession of the Commission, including the circumstances surrounding their criminal history. The Commissioner must then consider any submission made by the person before making a final decision.

The Commission must produce guidelines about dealing with information obtained under Chapter 8 of the CCYPG Act to ensure that: natural justice is afforded to the persons about whom the information is obtained (s346); only relevant information is used in making employment screening decisions; and employment screening decisions based on that information are made consistently. The Commissioner must give a copy of these guidelines to a person on request.

Individuals who have been convicted of a disqualifying offence such as a child-related sex offence or murder of a child are disqualified from making applications for a blue card. However, a disqualified person can instead make an application for an ‘eligibility declaration’ to enable them to make a blue card application. There are certain circumstances in which the Commissioner is prohibited from granting an eligibility declaration. In all other cases, the Commissioner must assess whether or not to grant an eligibility declaration and must comply with s 229 of the CCYPG Act as outlined above. Section 186 enables the Commissioner to revoke a decision to refuse an eligibility declaration if the Commissioner is satisfied the decision was based on wrong or incomplete information.

**Safeguard 4**

The person or body has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.

In Chapter 8 of the CCYPG Act, Divisions 2 and 9 of Part 4 and Division 8 of Part 5 set out how the Commissioner must deal with child-related employment applications and matters that should be taken into account in the assessment process.

Sections 180, 221, 222, 223, 224, 225, 283, 284 and 285 provide criteria for when the Commissioner must issue a positive notice, negative notice, eligibility declaration, positive exemption notice and negative exemption notice about a person who applies for an
assessment. A positive notice, positive exemption notice and eligibility declaration indicate an application is approved. A negative notice, negative exemption notice, and eligibility declaration refusal indicate an application is refused.

Section 226, 227 and 228 outline the discretionary matters that are to be taken into account by the Commissioner when making decisions about issuing notices. If the Commissioner is aware that a person has been convicted of, or charged with, an offence, the Commissioner must have regard to whether the commission of an offence by the person:

- was a conviction or charge,
- whether the offence is a serious offence and if so whether it is a disqualifying offence,
- when the offence was committed or alleged to have been committed,
- the nature of the offence and its relevance to employment that involves or may involve children,
- the penalty imposed by the court,
- information provided by the Director of Public Prosecutions or Corrective Services,
- information relating to the person’s mental health, and
- anything else relating to the commission or alleged commission of the offence that the Commissioner reasonably considers to be relevant to the assessment of the person.

The Commission has issued Guidelines which explain the assessment process and decision-making framework established by the Act. The Guidelines are available to the public on the Commission’s website. The Guidelines set out what information is considered in a working with children check, including any conviction for an offence, any charge for an offence, and investigative information provided by the Queensland Police Service in relation to disqualifying offences where a charge was not laid because the child was unwilling or unable to proceed.

The Guidelines provide that, in general, the test to be applied to the assessment process is determined by the type of assessable information relating to the applicant of which the Commission is aware. The Commissioner and Assistant Commissioner may delegate powers under the CCYPCG Act to appropriately qualified staff (s 399).

‘Appropriately qualified staff’ includes staff that have qualifications, experience or appropriate standing to exercise the power. An example of standing is a staff member’s classification in the public service. In addition, the Commission’s staff are required to participate in training and development programs to enhance their skill levels. The Commission has been screening child-related employment applications since 2000 and has developed significant staff expertise in risk assessment.

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Queensland

Queensland College of Teachers

Safeguard 1

The person or body is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children.

The Queensland College of Teachers is required or permitted by the Education (Queensland College of Teachers) Act 2005 (Qld) (the QCT Act) to obtain and deal with information about persons who work, or seek to work, with children.

Under the QCT Act, a person must be a suitable person to teach in Queensland (s 11). In considering whether a person is suitable, the Queensland College of Teachers must have regard to an applicant’s criminal history (s 11(1)(a)).

The Queensland College of Teachers must ask the Commissioner of Police for a written report about the criminal history of an applicant for registration or permission to teach (s 15). Information may also be requested about an approved teacher’s continuing suitability to teach, which may include criminal history provided by the Commissioner (s 65(1)).

Safeguard 2

The person or body complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management.


The Queensland College of Teachers is required to develop and implement guidelines about dealing with relevant personal information, including a persons’ criminal history (QCT Act, s 284). The Guidelines aim to ensure that there is a consistent understanding of what constitutes relevant personal information, the people with whom this information may be shared, what the information can be used for and how it is to be stored and handled.

Safeguard 3

The person or body complies with the principles of natural justice.

Before using criminal history information to decide whether a person is suitable to teach, the Queensland College of Teachers is required to disclose the information to the relevant individual and allow the person a reasonable opportunity to make representations about the information (s 16).
If the Queensland College of Teachers determines a person is not suitable to teach, it must provide the person with an information notice about the decision. The person may seek internal review of the decision (s 210).

After considering the material and reasons for the original decision and any other relevant material, the QCT Internal Review Committee must recommend to the Board of the QCT whether to confirm, amend or substitute the original decision. The Board of the QCT must then make a review decision (s 212). Should a person be dissatisfied with the review decision, they may apply to the Queensland Civil and Administration Tribunal for external review (s 215).

Under the QCT Act, the Queensland College of Teachers is required to develop and implement guidelines for dealing with relevant personal information for the purpose of ensuring that natural justice is observed in relation to a person to whom the information relates.

**Safeguard 4**
The person or body has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.

Sections 11 to 12A of the QCT Act provide the basis of the QCT risk assessment framework for deciding whether a person is suitable to teach, including whether the person is suitable to work in a child-related field.

Subsection 11(3) Act provides that the following matters must be considered:

- when the offence was committed, is alleged to have been committed or may possibly have been committed
- the nature of the offence and its relevance to the duties of a teacher, and
- anything else the College considers relevant to deciding whether the person is suitable to teach.

This legislative framework includes consideration of certain categorised offences in the *Commission for Children and Young People Act 2000* (Qld) that are linked to risk. Part 2.1.2 of the QCT Guidelines for Dealing with Relevant Personal Information outlines that only relevant information is used for deciding whether a person is suitable to teach. Relevant personal information is defined under section 282 of the Act.

The Queensland College of Teachers (and before that the Board of Teacher Registration) has been undertaking criminal history checks in respect to teacher registration since November 1997. Since January 2006, the College has developed significant staff and board member expertise and skill in the assessment of a person’s suitability to work in child-related employment.
**Western Australia**

Chief Executive Officer of the Department for Child Protection

**Safeguard 1**

The person or body is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children.

The Chief Executive Officer of the Department for Child Protection is required or permitted by the *Working with Children (Criminal Record Checking) Act 2004* (WWC Act) to obtain and deal with information about persons who work, or seek to work, with children.

The WWC Act provides procedures for checking the criminal record of people who carry out or propose to carry out child-related work.

Under section 34(3)(b) of the WWC Act, the CEO may ask a criminal records agency for, and obtain details of, information about an applicant’s criminal history.

**Safeguard 2**

The person or body complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management.

A person must not, directly or indirectly, disclose or make use of information obtained in performance of functions under the WWC Act (s39). The maximum penalty for this offence is a fine of $24,000 and two years imprisonment.


The Department of Child Protection also complies with its contract with CrimTrac which governs record management.

**Safeguard 3**

The person or body complies with the principles of natural justice.

Before deciding to issue a negative notice, an applicant must be advised of the negative notice proposal and the criminal history received about them. The applicant is invited to make a submission about why a notice should not be issued. 28 days is allowed for the receipt of this submission (WWC Act, s 13). Decisions are reviewable by the State Administrative Tribunal (WWC Act, s 26). A person is to be notified in writing of their
ability to apply to the State Administrative Tribunal for a review of the decision to issue a negative notice (WWC Act, s 12).

A person, who has been issued a current negative notice may also apply to the CEO to cancel the notice (WWC Act, s 19) if:

- it is 3 years after the negative notice was issued, or
- the negative notice was issued on the basis of a charge that did not result in a conviction, or
- the conviction was quashed since the negative notice was issued.

This provision allows the CEO to reconsider whether the person’s circumstances have changed in such a way that he/she would no longer be considered an unacceptable risk of harm to children.

A person can apply to the State Administrative Tribunal for review of the decision if an application for cancellation of negative notice is refused (WWC Act, s 19(10)).

**Safeguard 4**

The person or body has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.

Section 12 of the WWC Act provides the framework for the assessment of convictions, charges, scheduled and unscheduled offences, including matters that should be taken into account in the assessment process.

Section 12 includes the following considerations:

- the best interests of children
- when the offence was committed or is alleged to have been committed
- the age of the applicant when the offence was committed or is alleged to have been committed
- the nature of the offence and any relevance it has to child-related work
- any information given by the applicant in, or in relation to the application, and
- anything else that the CEO reasonably considers relevant to the decision.

Policies, assessment guidelines and work processes are built on this framework, including accessing of available research and expertise. Screening assessments are conducted by senior staff members who have relevant expertise and experience. The screening staff include legal officers and persons holding social work, psychology and similar tertiary qualifications. A panel of expert advisers may also be consulted if necessary.
Northern Territory
Screening Authority (SAFE NT)

**Safeguard 1**

The person or body is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children.

The Screening Authority is required or permitted by the *Care and Protection of Children Act* (NT) (the CPC Act) to obtain and deal with information about persons who work, or seek to work, with children.

The CPC Act’s purpose is to ensure individuals posing an unacceptable risk of harm or exploitation to children are prevented from contacting children through their employment (s 184).

The NT Screening Authority is established by section 196(1) of the CPC Act and is known as SAFE NT.

The Commissioner of Police and anyone else may give the Authority any information about the criminal history of a candidate (CPC Act, 190(1(a)).

**Safeguard 2**

The person or body complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management.

A person commits an offence if they disclose to someone, or do something that results in the disclosure of, information acquired under the CPC Act (s195).

The Information Act (NT) sets out Information Privacy Principles (IPPs) for the collecting and handling of personal information by public sector organisations (section 65 of and Schedule 2 to the Act). Public sector organisations include the police force of the NT and a person holding an office or position under an Act. SAFE NT is a public sector organisation and must comply with the IPPs.

A public sector organisation must not use or disclose personal information about an individual for a purpose other than the primary purpose for collecting it unless an exception applies.

A public sector organisation interferes with a person’s privacy if the organisation contravenes an IPP (Information Act, s 67). A complaint about this interference may be made to the Information Commissioner (Information Act, s 104).
**Safeguard 3**

The person or body complies with the principles of natural justice.

Under section 189 of the CPC Act, if a candidate has been convicted of an offence, or has a criminal history that is prescribed by regulation, the Authority must not issue a clearance notice to the candidate and must, as soon as practicable, give notice of the Authority's decision to the candidate and the applicant for the clearance notice (if the applicant is not the candidate).

However, in cases where this provision does not apply, the Administrative Guidelines outline that a person under consideration by the Screening Authority is to be contacted in writing and informed of the criminal history information that may result in a negative outcome.

Applicants have a minimum of 14 days to respond with further information, professional or personal testimonials and reports, and other challenges to the accuracy of the information before the Authority, or issues of mitigation that may be applied to the process of assessment of risk. Applicants may also apply for extension to the 14 day period of response.

The Commonwealth Attorney-General’s Department notes that a decision not to issue a notice, to revoke a notice or to specify conditions for a notice is reviewable under section 194 of the CPC Act by the Local Court, which may affirm, vary, set aside or replace the decision.

**Safeguard 4**

The person or body has risk assessment frameworks and appropriately skilled staff to assess risks to children’s safety.

The CEO may make administrative guidelines governing the making of decisions by the Authority (CPC Act, s 191).

Section 191 sets out matters that should be taken into account when deciding whether to issue a clearance notice to a person. These include:

- the whole of a person’s criminal history
- in relation to any offence the person has committed:
  - the nature and gravity of the offence
  - the relevance of the offence to any child-related employment
  - the age of the victim when the offence was committed
  - the time that has elapsed since the commission of the offence
• in relation to any alleged commission of an offence by the person:
  - the risk of harm or exploitation to children posed by the person in view of the
    allegation and other related circumstances (including any patterns of the
    person's behaviour), and
  - any other matters the Authority may reasonably take into account in the
    circumstances.

The NT risk assessment and decision making framework is based on the model used by the
Department for Child Protection (WA) and is outlined in the Administrative Guidelines.

An inter-agency working group, comprising legal and policy officers of the Department of
Justice, NT Police, Department of Health and Families, Department of Education and Office
of the Commissioner of Public Employment has been tasked to oversee further refinement of
the regulations and Administrative Guidelines, pending final policy direction from relevant
Ministers.

NT Police, Fire and Emergency Services has appropriately skilled staff, and will seek
ongoing training and assistance from acknowledged academics, professionals and other
persons experienced in assessment of risks to children’s safety where required. This includes
sharing of experiences and research materials where possible with other screening authorities
in Australia and elsewhere.
Creating Safe Environments For Children - Organisations, Employees and Volunteers

National Framework
Creating Safe Environments For Children - Organisations, Employees and Volunteers

NATIONAL VISION
Children will be safe and protected from harm when they are in the care of community services organisations or involved with their services and programs.

OVERARCHING PRINCIPLES
- Centrality of the rights, interests and safety of children
- Respect for variation between jurisdictions
- Focus upon capacity building
- Respect for natural justice and procedural fairness
- Appreciation of the complexity and cultural diversity of community services

GUIDELINES FOR BUILDING THE CAPACITY OF CHILD-SAFE ORGANISATIONS

EVIDENCE-BASED GUIDE FOR RISK ASSESSMENT AND DECISION-MAKING WHEN UNDERTAKING BACKGROUND CHECKING

GUIDELINES FOR EXCLUSION OF PERSONS FROM EMPLOYMENT/ VOLUNTEERING IN CHILD-RELATED AREAS

GUIDELINES FOR INFORMATION SHARING ACROSS JURISDICTIONS

NATIONAL FRAMEWORK
2005

PRIORITIES FOR ACTION - NATIONAL SCHEDULES

CONSULTATION, IMPLEMENTATION AND REVIEW

FRAMEWORK REVIEW
Foreword

‘Creating Safe Environments for Children - organisations, employees and volunteers’ expresses commitment from Community and Disability Services Ministers to a national approach for increasing the safety of children in their dealings with community services organisations.

Ministers are unanimous about the need to work collaboratively and to provide national guidance in the interests of creating safe environments for children in community services.

This National Framework is a milestone in taking a more comprehensive national approach to creating child-safe organisations, whilst acknowledging the broad scope of community services and respecting variations between jurisdictions.

The Framework has been developed through collaboration between all jurisdictions and in cooperation with law enforcement, justice and education portfolios which share a commitment to the safety of children.

National Vision

Preventing harm to children when they are in the care of community services organisations, or involved with their services and programs, is part of a broader vision of optimising children’s wellbeing and development.

The overarching aim of this Framework is to provide a more comprehensive and cohesive national approach to strengthening the capacity of organisations and systems to increase child safety.

Context

It is now well accepted that the protection of children from harm is a public responsibility and not simply the private responsibility of parents.

It is therefore imperative that public policy covers all areas where children may be at risk, including their dealings with wider society, organisations and institutions.

Organisations have a moral and legal responsibility to ensure that children in their care are safe, and community services organisations have additional obligations because of the particular vulnerability of many children in their care or utilising their services.

A range of stakeholders have specific concerns and shared interests in such an undertaking: children, young people and their families; Government Ministers; government and non-government employers; current and prospective employees and volunteers; and the wider community.

This Framework attempts to address common concerns of stakeholders in the interests of children across Australia.
Scope

Effectively building the capacity of organisations to provide safe environments for children requires a preventative, strategic and participatory approach, including laws, policies, procedures and organisational practices which minimise the risk of abuse occurring.

‘Creating Safe Environments for Children’ acknowledges that maintaining child-safe environments extends beyond pre employment screening. Some of the strategies are focused upon the whole organisation and its governance, whilst others are more directly concerned with individuals and groups of employees and volunteers.

The national commitment to creating and maintaining child-safe environments encompasses:

- Building capacity for child-safe organisations;
- Background checking for employees and volunteers;
- Information sharing between States and Territories;
- Implementation and review of progress.

Priority attention will be given to developing national Schedules in the following areas:

- Guidelines for building the capacity of child-safe organisations;
- An evidence-based guide for risk assessment and decision-making when undertaking background checking;
- Guidelines for exclusion of persons from employment/volunteering in child-related areas;
- Guidelines for information sharing across jurisdictions.

A Strategic Approach to Implementation

‘Creating Safe Environments for Children’ will be progressively implemented through the adoption of guidelines provided by the national Schedules. The Schedules will outline objectives and provide guidance for realising the national commitments at the local level. Progressive development and implementation of the Schedules will allow jurisdictions to achieve more immediate outcomes whilst working towards longer-term goals.

Responsibility for implementation of the Framework resides with each of the States and Territories enabling jurisdictions to adopt an approach to implementation which reflects their local circumstances. This acknowledges that the safety of organisations will be built up over time in the context of existing priorities and State and Territory needs.

Appropriate strategies for developing commitment and accountability will be determined by each State and Territory through engaging community services and related sectors.

Consistent with best practice in public policy, the Framework will be reviewed to take account of changes and emerging needs.

Principles

The following principles reflect the characteristics of this national approach to creating safe environments for children.

- Centrality of the rights, interests and safety of children
  The rights, interests and safety of children are the focus of a framework for child-safe environments.

- Respect for variation between jurisdictions
  Differences between community services jurisdictions are acknowledged and respected, and jurisdictions are encouraged to develop systems and structures in keeping with local needs.

- Focus upon capacity building
  Building the capacity of organisations to be child-safe is central to the broader goal of developing and sustaining child-safe environments.

- Respect for natural justice and procedural fairness
  The requirement to act fairly in relation to all persons will be observed in the systems and processes developed to increase the safety of children.

- Appreciation of the complexity and cultural diversity of community services
  The wide range of community services, their cultural diversity and unique needs are acknowledged and respected.

Definitional Explanation

For the purposes of this National Framework the United Nations Convention on the Rights of the Child is used as a guide and the following meanings apply:

“Harm” means physical, sexual, emotional or psychological abuse and neglect of children.

Reference to “a child” or “children” is inclusive of children and young people up to the age of 18 years. This definition is applicable irrespective of age thresholds which might apply in other child-related areas.

It is acknowledged that the scope of agencies included within the meaning of “community services” varies across the jurisdictions. This National Framework is intended to apply to all those government and non-government organisations which are considered part of the community services sector within a particular jurisdiction.
National Schedules for Creating Child-Safe Environments

Guidelines for Building the Capacity of Child-Safe Organisations

Objective: to identify nationally agreed characteristics of a child-safe organisation and promote best practice which takes account of the diverse range of community services.

Building capacity for child-safe organisations means developing a culture that promotes child safety through a developmental process which effectively links with the commitment of an organisation to quality improvement.

This Schedule will guide organisational development and offer reference points against which organisations can assess their child-safe capacity.

Capacity Building initiatives are grouped according to key elements which include:

- Governance and Culture;
- Human Resources Management;
- Participation and Empowerment of Children;
- Education and Training;
- Systems to ensure Adaptation, Innovation and Continuous Improvement.

The Schedule acknowledges that building the capacity of organisations is a dynamic process involving a range of strategies, aspects of which are sequential. This is the ‘building’ component of ‘capacity building’.

The connecting theme is the identification of practices which have been found effective in establishing, maintaining and strengthening the child-safe capacity of organisations.

Evidence-Based Guide for Risk Assessment and Decision-Making when undertaking Background Checking

Objective: to inform decision-making about acceptance or exclusion of persons in areas of child-related employment/volunteering.

The development of an evidence-based guide for risk assessment is based on the premise that protecting children from harm requires informed decision-making about whether certain persons pose a risk to children. Natural justice and procedural fairness also demand that there is a rationale for excluding persons from child-related employment, and good governance requires that organisations are clear about the foundations for decision-making.

There is an apparent need for an evidence-based guide for risk assessment and structured decision-making when undertaking background checking. Where persons are not excluded from child-related employment/volunteering there may still be a need for risk assessment.

Guidelines for Exclusion of Persons from Employment / Volunteering in Child-Related Areas

Objective: to establish standards concerning the exclusion of certain persons from child-related employment/volunteering based on the premise that certain criminal offences or patterns of offences create an unacceptably high level of risk to children.

There is concern that where persons may be excluded from child-related employment/volunteering in one State or Territory or particular organisations within a jurisdiction, they may gravitate towards other jurisdictions and agencies with less stringent screening provisions.

Achieving a level of national coherence in relation to the offences which may lead to automatic exclusion from child-related employment/volunteering will be guided, but not restricted, by reference to the offences which may result in persons becoming registrable persons according to State or Territory legislation.

Review and Appeal processes that provide for natural justice and procedural fairness will be developed and managed within each jurisdiction.

Guidelines for Information Sharing across Jurisdictions

Objective: to progress the development of a coherent national approach to the seeking and release of information for the purposes of screening potential employees and volunteers in child-related areas.

This Schedule will identify areas in which collaboration and coordination in the exchange of information can occur. Priority will be given to the importance of the necessary information to protect children being available to those who need to know, taking into account legal and privacy issues.

The release and use of criminal history and other information is sensitive from legal, justice and administrative perspectives. It is also necessary to address concerns that limited assurance can be gained from screening which relies upon criminal convictions alone when assessing risk of harm to children.

Within the community services sector further work is needed to establish mechanisms for sharing of information nationally between agencies concerned with the protection of children. The importance of such sharing of information is echoed in the cross-jurisdiction information sharing issues within the National Plan for Foster Children, Young People and their Carers.

Next Steps ....

Reflecting the commitment to progressive implementation, the National Framework Schedules will be released as they are developed in collaboration between jurisdictions. The centrality of building the capacity of organisations to be child-safe will be acknowledged in the priority release of the Schedule: ‘Guidelines for Building the Capacity of Child-Safe Organisations’.

This National Framework will need to be reviewed as understanding grows and new challenges emerge, and over time additional Schedules may need to be developed. Responses to these issues will be kept under review through ongoing communication and consultation within jurisdictions and nationally.

‘Creating Safe Environments for Children - organisations, employees and volunteers’ provides an important foundation for a more coherent and cohesive national approach to creating child-safe community services in all Australian communities.
Overview

Objective: to identify nationally agreed characteristics of a child-safe organisation and promote best practice which takes account of the diverse range of community services.

A Schedule for building the capacity of organisations to maintain child-safe environments is part of a developmental process which effectively links with a commitment to quality improvement. This means that organisations can remain engaged with these guidelines rather than view child safety as a set of expectations to be met once and forever.

Elements within this Schedule can be understood as benchmarks which organisations will seek to achieve and reference points against which organisations can assess their child-safe capacity. The strategies are not exhaustive but represent nationally agreed good practice to guide organisational development. The connecting theme is the identification of practices which have been found effective in establishing, maintaining and strengthening the child-safe capacity of organisations.

The Schedule takes into account the scope of community services, encompassing large government organisations and non government organisations with substantial infrastructure; organisations which rely upon volunteers for their survival; and private (for profit) providers. The governance of some organisations resides with management committees and advisory bodies whose members are volunteers and therefore included within the scope of the Schedule.

The Schedule does not state precisely what organisations should do to protect children in every situation or prescribe a series of procedures which must be followed. The precise strategies and methods (‘the how to’) which organisations adopt are likely to be service specific, reflecting variations in the nature of activities, organisational structure and resources, and differences between jurisdictions.

Community services organisations work with children who are vulnerable in many different ways. Their vulnerable status as children may be compounded because they are an Australian Aboriginal or Torres Strait Islander, have a disability, or have experienced homelessness or abuse. Other circumstances or experiences may be significant although less visible. As part of building capacity for child safety, organisations need to take account of the nature of vulnerability experienced by children who come into contact with their service.

The responsibility for implementation of this Schedule resides with each of the States and Territories and will rely upon guidance and strategies which take account of local circumstances. Implementation approaches will be tailored to build upon existing initiatives and respond to identified needs and priorities within the community services sector in each jurisdiction.

Foundation practices and strategies are identified in the Schedule, acknowledging that capacity for a child-safe organisation is built up over time. Enhanced practices and strategies will be influenced by risk assessment and other factors specific to an organisation or jurisdiction.

The intention is to encourage and support organisations to engage in a process of continuous improvement towards enhanced levels of child safety. The quality assurance and quality improvement methods which governments adopt will be determined with consideration to existing programs and mechanisms for ensuring that organisations are aware of, and able to fulfil, their responsibilities.
Capacity Building initiatives are grouped according to the following key elements:

- **Systems to ensure Adaptation, Innovation and Continuous Improvement**
- **Governance and Culture**
  - A Child-Safe Policy
  - Risk Management
  - A Code of Conduct
  - Privacy and Data Protection
- **Participation and Empowerment of Children**
  - Enabling and Promoting the Participation of Children
  - Inclusive and Empowering Language
  - Strategies to reduce the potential for undiscovered or ongoing harm

These elements acknowledge that building the capacity of organisations is a dynamic process involving a range of strategies, aspects of which are sequential. This is the ‘building’ component of ‘capacity building’.

**Organisations demonstrate their commitment to creating and maintaining child-safe environments through adopting the following policies, procedures, practices and strategies.**

1. **Systems to ensure Adaptation, Innovation and Continuous Improvement**

Organisations must remain vigilant and responsive to new challenges in order to maintain a child-safe environment. This commitment to child safety is expressed in an ongoing cycle of assessment, action and reflection. Child-safe organisations regularly review, update and refine policies and practices to assess their effectiveness, and strive for excellence. These processes require openness to external influence and accountability, and commitment to quality assurance and improvement practices.

A broad application of duty of care requires that the importance of child-safe practices is acknowledged within government organisations; in the government allocation of public funds associated with delegation of service provision; in issuing licences for provision of particular services; and in other forms of funding agreement.

Guidelines and expectations for organisations will be influenced by the nature of the work undertaken and will be negotiated with State and Territory funding bodies. Provisions could include the adoption of a Child-Safe Policy; a Code of Conduct; screening of employees, volunteers and advisory committee members; and job descriptions/duty statements for all positions.

The goal is to ensure that accountability for maintaining child-safe practices and systems is understood and accepted at all levels of organisations and within systems. A culture of awareness will become embedded in the life of a child-safe organisation, so that policies and practices continue to be implemented and reviewed even though staffing may change over time1.

2. **Governance and Culture**

2.1 **A Child-Safe Policy**

A Child-Safe Policy stating the organisation’s commitment to child-safety and the actions that will be taken to meet this commitment is a central part of the policy and practice base of organisations working with children. It reflects the organisation’s values and assists in maintaining commitment to child-safety when there are organisational changes.

An effective Child-Safe Policy articulates principles and provides the foundation for procedures and decision-making on child protection matters. The policy states the duty of all those employed by, or involved with, the organisation to prevent harm to children with whom they have contact1. Employees and volunteers are required to comply with reporting obligations concerning suspected or discovered abuse, and guidelines provide a reminder of the duty to prevent abuse. Roles and responsibilities for ensuring implementation and accountability are identified in a Child-Safe Policy.

A Child-Safe Policy can be expected to refer to a range of specific provisions: child protection awareness training for employees and volunteers; processes for reporting and managing concerns/incidents; disciplinary processes and grievance procedures; guidelines for physical contact between adults and children and outside hours contact with children and their families; standards for adult/child ratios; cyber safe guidelines; and the provision of support and guidance for employees, volunteers, children and their families when concerns are expressed about harm to a child. In some circumstances a Child-Safe Policy may require attention to situations where a child may harm another child.

Although certain provisions may not be applicable in some organisations a Child-Safe Policy should not be overlooked because specific circumstances have not arisen recently or are infrequent.

It is vital that a Child-Safe Policy is accessible and understood by employees and volunteers; children, parents and caregivers; members of advisory bodies; and other stakeholders. The policy should be developed in consultation with stakeholders to ensure that it makes sense to the organisation’s circumstances, and can be implemented.

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2 In the context of the National Framework for Creating Safe Environments for Children harm means physical, sexual, emotional or psychological, abuse and neglect of children. Reference to “a child” or “children” is inclusive of children and young people up to the age of 18 years.
2.2 Risk Management

Risk management has been defined by the Standards Association of Australia as: the culture, processes and structures that are directed towards realizing potential opportunities whilst managing adverse effects. In the context of creating safe environments for children, risk management means identifying, assessing and taking steps to minimise the risks of harm to children because of the action of an employee, volunteer, or another child.

Risk management includes planning the work of the organisation to reduce or minimise situations where children may be abused. It involves assessing all aspects of the organisation and looking at the ‘what ifs’ within the work of the organisation. Risk management approaches are influenced by a range of factors specific to the organisation including the size, location, funding arrangements, staffing, structure and focus of activity.

The sensitive and complex nature of the work often undertaken with vulnerable persons means that community services can be high risk environments. Effective risk management strategies need to be transparent, well understood and diverse, to take account of the increased level of risk associated with the specific nature of some activities and the vulnerability of particular groups.

Child-safe organisations adopt a structured approach to risk management which demonstrates the process for reaching decisions about whether to accept or not accept certain risks.

2.3 A Code of Conduct

A Code of Conduct for child-safe organisations promotes positive work practices and establishes boundaries concerning acceptable and unacceptable behaviour in relation to children with whom the organisation has contact. The Code will also take account of the fact that community services is not a narrowly defined or predictable area of work.

An effective Code of Conduct provides guidance about the behaviour, relationships, attitudes and responsibilities expected of employees and volunteers, and outlines the process that will be followed if the Code is not observed.

A child-safe organisation is inclusive in developing its Code of Conduct and openly communicates the Code to employees and volunteers; children, parents and caregivers; and members of the public.

2.4 Privacy and Data Protection

Child-safe organisations are fully aware of their privacy obligations, and respect the privacy rights of children as well as those people who provide information. Due to the sensitive nature of personal information, child-safe organisations establish policies and procedures that provide safeguards regarding the collection, use and disclosure of such information. Organisations using sensitive and/or confidential information must protect against the compromise of this information by putting in place protective security measures.

3. Participation and Empowerment of Children

It is firmly established that a central dynamic of the abuse of children is the exploitation of power in order to gain submission or silence. There are particular power relationships inherent in community services organisations where there may be close relationships between children and adults in positions of trust and authority. Practices focused upon empowerment and participation of children and organisational structures and systems which encourage children to be listened to are key aspects of building capacity for child-safe organisations, and demonstrate commitment to creating a child-friendly organisational culture.

3.1 Enabling and Promoting the Participation of Children

Child-safe organisations seriously consider children’s views and develop a culture where the knowledge, experience and contribution of children influences policies, practices and service delivery. In child-safe organisations opportunities are created for children to take on leadership roles, and they participate in planning, policy development and decision-making. The commitment of child-safe organisations to continuous improvement can be enhanced through engaging children in the review of policies and practices, and systems improvement.

3.2 Inclusive and Empowering Language

In child-safe organisations the Code of Conduct, complaints management policies and other relevant policy documents reflect a commitment to child safety, and are expressed in language which takes account of cultural differences and is not alienating for children.

Involvement of children in developing these policies is part of the empowerment process and will assist in ensuring the language used is inclusive and empowering.

3.3 Strategies to reduce the potential for undiscovered or ongoing harm

Child-safe organisations ensure that children have opportunities to share their concerns in safe ways and their value base acknowledges the validity of child focused and inclusive complaints processes.

The suite of empowerment strategies for child-safe organisations includes ensuring children are aware of the organisation’s commitment to child safety; providing protective behaviours training adapted to the needs of children in particularly vulnerable situations; and encouraging children to speak out. Child-safe organisations develop strategies to communicate and engage with all children who are involved with their services and programs, including those who have particular needs. Providing information about the availability of independent advocacy or persons with whom children may discuss concerns about their treatment or experience is part of the empowerment process.

Consulting children and seeking their views about their safety in dealing with organisations can appropriately inform the development of harm prevention strategies.

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4. Human Resources Management

4.1 Recruitment and Selection Practices acknowledge the importance of Child Safety

The recruitment and selection of employees and volunteers should signal in a public way that community services organisations will take all necessary steps towards maximising the safety of children. Child-safe organisations adopt recruitment and selection processes intended to deter unsuitable persons from attempting to secure paid or voluntary positions.

An explicit statement of commitment to child safety in all advertising promotes the organisation as striving to be child-safe and can deter people who do not share the commitment or may pose a risk to children.6

Job advertisements for child-safe organisations clearly state the commitment to child safety and information packages for potential applicants include an organisation’s Child-Safe Policy, Code of Conduct, and screening and complaints/grievance procedures. The written statement of appointment to a position may also make reference to what is expected in terms of commitment and responsibility for child safety.

Child-safe organisations can be expected to adopt multiple selection techniques for prospective employees and volunteers. Although the conduct of criminal history checks is integral to establishing the fitness and propriety of persons, it is only one of a range of measures. Confirmation of identity, and verification of qualifications and professional registration where applicable, are important preliminary steps in recruitment and selection.

Interview processes highlighting the priority of child safety; work history reports; and thorough reference checks which ask specific questions about the applicant’s suitability for working with vulnerable populations, can deliver factual information and provide a sense of the values and attitudes of candidates. Organisations must also avoid unfair or unlawful discrimination and interview questions should relate to selection criteria developed from job descriptions. Demonstrated commitment to maintaining a child-safe organisation may therefore need to be included in selection criteria.

4.2 Job Descriptions / Duty Statements

Comprehensive job descriptions/duty statements provide employees and volunteers with a clear understanding of what is expected of them, their responsibilities and accountability.

Child-safe organisations provide job descriptions/duty statements that minimise confusion. Regular review of job descriptions/duty statements is an important feature of ongoing performance management. Informal organisations can also make a commitment to child safety by introducing ways of describing and monitoring tasks and responsibilities.

In complex and unpredictable environments it is impossible to encompass all eventualities, and this needs to be accounted for within job descriptions/duty statements.

4.3 Staff Support, Supervision and Performance Management

Staff support, supervision, orientation and induction, apart from being integral to good human service management, are opportunities to minimise the risk of abuse as they reveal information about values, attitudes, expectations and workplace practices that may otherwise remain hidden.

Ongoing education of staff in child-safe practices, as outlined in the following section concerning ‘Education and Training’, is an integral part of providing staff support and maintaining performance in accordance with an organisation’s commitment to child safety.

It is legitimate for review and planning of work to address working and personal relationships between employees and volunteers and the children with whom they have contact. This can be understood as part of an organisational culture that places a high priority upon the quality of the relationships with children.

4.4 Complaints Management and Disciplinary Proceedings

Child-safe organisations establish guidelines for listening to children and dealing with concerns or complaints about behaviour towards a child, and disclosure or discovery of abuse. An incident/concern reporting and management arrangement should make it clear that a child can approach any person in the organisation to express concerns about their treatment and they will be taken seriously. It should also inform employees and volunteers about whom they can approach to express concerns.

An outline of the range of responses available to the organisation and steps that may be taken in relation to a concern/complaint may offer reassurance to a person considering reporting a concern. Documentation of the processes for managing reports/incidents will also facilitate ongoing evaluation and modification.

Complaints processes and disciplinary proceedings must ensure procedural fairness and natural justice for a person suspected of abusing a child. It is therefore essential that organisations make sound and clear distinctions between complaints management processes and disciplinary proceedings. This is a complex area where organisations will benefit from independent expert human resources and legal advice.

Complaints management and disciplinary procedures should be included in an organisation’s ongoing review of policies and procedures as part of the commitment to continuous improvement.

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5. Education and Training

5.1 Awareness and Understanding of Child Abuse and Organisational Responsibilities

Informing and educating employees (including managers, supervisors and policy makers), volunteers, children and their families is fundamental to creating a child-safe organisation. Risk management and other preventative strategies rely upon people understanding how child abuse can occur within organisations, knowing what to look for, and accepting a sense of responsibility for the wellbeing of children. Organisations committed to the safety of children adopt a combination of induction training and refresher training to maintain an aware organisational culture.

Employees and volunteers require education about the dynamics and indicators of child abuse, and opportunities to safely explore opinions and values and deal with their feelings about child abuse. Additional components of information provision and training include responding to children who disclose; risk management; policies, procedures and reporting arrangements within the organisation; and legal reporting obligations.

5.2 Support for Organisations in Building, Maintaining and Strengthening Child-Safe Capacity

Appropriate resourcing will be required for education and training, and initiatives to create and maintain safe organisational environments. Each State and Territory and the Australian Government will determine the nature and extent of resourcing required in the context of existing supports and local needs.

Options for assisting organisations to adopt the practices and strategies contained in this Schedule include workshops for ongoing staff training and development; web-based resources; provision of templates for Codes of Conduct and Child-Safe Policies; and the development of specialised resources on child-safe environments for children and their caregivers, employees and volunteers. Links may also be established with initiatives developed by national peak bodies for child protection.

It is the responsibility of States and Territories to develop guidelines with regard to compliance and accountability for maintaining child-safe organisations. Governments may choose from a range of implementation options including provision of information; education; licensing arrangements; auditing; regulation; and legislative provisions. The processes for implementation will be tailored to offer agencies guidance and support, and demonstrate an ongoing commitment to maintaining child-safe environments.

In Summary

This Schedule of Guidelines for Building the Capacity of Child-Safe Organisations is intended to guide organisations in fulfilling their duty of care to children. The intention is to enable flexibility and encourage organisations to commence work in priority areas to strengthen their ‘child-safe capacity’.

For some organisations, particularly those governed by legislation and/or licensing requirements, the Schedule may reflect practices they have already introduced and may provide a useful check-list against which they can assess their current performance. For other organisations the Schedule provides a framework for introducing policies and practices which demonstrate commitment to the broader endeavour of creating child-safe community services across Australia.

Acknowledgment: The development of these Guidelines has been directly informed by the national work of the Child Wise ‘Choose with Care’ program in assisting organisations to develop specific strategies to increase child safety.
Selected References and Resources


Australian Foster Care Association, http://www.fostercare.org.au


CREATE Foundation, http://www.create.org.au


Play By The Rules, http://www.playbytherules.net.au

Raising Children Network, http://www.raisingchildren.net.au

Secretariat of National Aboriginal and Islander Child Care (SNAICC) http://www.snaicc.asn.au/


Overview

**Objective: to inform decision-making about acceptance or exclusion of persons in areas of child-related employment/volunteering.**

Background checking and risk assessment during the recruitment of employees and volunteers is one important measure within the suite of policies and practices for developing a child-safe organisation. Community services organisations need to make recruitment decisions which take account of the possibility that children may be harmed whilst in their care or involved with the services or programs they provide. The development of guidance in this area is based on the paramount consideration for the wellbeing of children and their protection from harm. Providing this protection requires informed decision-making about whether certain persons pose a risk to children.

Effective background checking and risk assessment requires evaluating information concerning potential employees and volunteers to assist in selecting appropriate persons for working in child-related areas. Natural justice and procedural fairness demand that there is a rationale for excluding persons from child-related employment/volunteering. Equally, organisations must be accountable for the decisions they make, and good governance requires that there are policies and guidelines which provide clear foundations for decision-making.

The overriding purpose of this Schedule is to offer guidance to those involved in background checking of employees and volunteers, and to contribute to the further development and refinement of relevant legislation, policy and practice across Australia. The Schedule is not intended to provide a step-by-step guide to risk assessment and decision-making or to prescribe particular assessment processes and tools. It does express national agreement about broad principles, guidelines and key elements to promote risk assessment and decision-making that is ethical, rigorous, consistent and evidence-based.

The guidelines are informed by national and international research and reports and reference to the systems for background checking and risk assessment which already exist within some jurisdictions. They are framed in response to questions which encompass central aspects of assessment when undertaking background checking.

Each State and Territory will determine its legislative or policy approach to minimising the likelihood that a person who may pose a risk of harm to children will be engaged in child-related work in an organisation. These guidelines will assist in that process and can be drawn upon in ways which complement existing legislation and policy. The responsibility for application of the guidelines at the local level resides with each of the States and Territories.

The Schedule does not assume that the range of information used for background checking and risk assessment purposes will be the same in each jurisdiction. It also acknowledges that the language of risk may not be uniformly used and some jurisdictions may refer to “assessment” or “appraisal” of a person’s criminal history. Although the language may vary, assessment of the potential for harm to a child is the primary consideration.

This Schedule is the second in the series of national Schedules which express the commitments of the *Creating Safe Environments for Children* National Framework agreed upon by Community and Disability Services Ministers in July 2005. It should be read in conjunction with the first Schedule: *Guidelines for Building the Capacity of Child-Safe Organisations* to assist organisations in taking a broad multi-faceted approach to creating child-safe environments.
1. Background Checking and Risk Assessment – Meaning and Principles

1.1 What do we mean by background checking and risk assessment?

**Background checking** in the context of working with children involves obtaining information about potential employees and volunteers, on the basis that the information is deemed relevant to working in a child-related area. The information gathered may include details concerning previous employment and relevant experience; verification of qualifications and professional registration; criminal history information; thorough reference checks; and work history reports.

**Risk assessment** in this context refers to a process of evaluating the information received to reach a decision about the risk of harm a person may pose to children.

It is important to understand the distinctions and the relationship between risk assessment and suitability assessment. Suitability assessment may refer to a wide range of factors including attitude to physical discipline and acknowledgement of children’s developmental status and needs. A person may be deemed ‘not suitable’ to work with children without automatically implying that the person poses a risk of harm to children.

Different jurisdictions adopt different systems for undertaking risk assessment when checking the background of potential employees and volunteers, and community services organisations must be aware of particular requirements within the State or Territory where they operate. A central body may undertake the risk assessment and decide whether a person is permitted to be employed/volunteer in a child-related area. Alternatively, a shared decision-making model may be adopted, where risk assessment is undertaken by a centralised agency, and the final decision as to whether or not a person should be employed or engaged as volunteer is made by each organisation. Elsewhere, individual organisations may be solely responsible for background checking, risk assessment and decision-making concerning appointment of employees/volunteers. There may be variations within each of these systems over time as part of the process of continuous improvement.

The critical issue, irrespective of the model adopted, is to ensure decision-making concerning whether or not to engage a potential employee or volunteer is rigorous, defensible and transparent. The overriding purpose of all models is to minimise the risk of harm to children in their dealings with community services organisations.

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1.2 What is the role of risk assessment in background checking?

The duty of care of an organisation includes the obligation to provide a safe environment and to protect individuals from harm which can result from the actions of employees or volunteers. Risk assessment when background checking employees and volunteers is part of fulfilling the duty of an organisation to act diligently and prudently to prevent actions and behaviour that would be harmful to children. A basic rationale for background checking and risk assessment is that previous behaviour is often an indicator of future behaviour.

Risk assessment models in general attempt to identify the likelihood of particular adverse events occurring and provide a framework for considering information and promoting consistent decision-making.

In assessing the risk an individual may pose to children in the workplace, a structured approach is appropriate. In the human services more generally, research has suggested advantages of structured risk assessment rather than reliance upon unstructured judgement. These benefits include:

- decisions are able to be made in relation to standardised points of reference that minimise subjective decision-making;
- structured approaches are more reliable and valid than using professional judgement alone;
- the assumptions on which the risk assessment model are based are clearly set out, and may be tested;
- structured decision-making provides an open way of dealing with information and enables the person affected to put forward information and to correct information; and
- public awareness of the existence of structured risk assessment models both acts as a deterrent to possible offenders and reflects the values and culture of the organisation.

Although risk assessment is not a precise science, it is widely accepted that predicting child abuse through a formal risk assessment model is more accurate than leaving it to chance.

1.3 What principles should guide risk assessment?

Responsible risk assessment seeks to ensure decision-making that is ethical, evidence-based and defensible. This requires following a logical and systematic process.

Principles which should govern risk assessment include:

- the paramount consideration is the wellbeing of children and their protection from harm;
- risk assessment will be conducted by persons who are appropriately trained and properly supported;
- risk assessment will be recognised as one of a range of organisational strategies to protect children;
risk assessment will be evidence-based, where evidence exists;
• in all situations risk assessment decisions will be ethical and defensible;
• assessment and decision-making processes will be efficient and timely;
• assessment and decision-making processes will follow principles of natural justice and procedural fairness;
• the risk assessment procedure will be transparent, documented, and consistently applied;
• risk assessment processes will be accompanied by provisions for review and appeal against a decision; and
• the privacy of people will be strictly protected, and sensitive and personal information will be protected from inappropriate disclosure.

2. What is Required for Competent Risk Assessment and Decision-making?

It is generally agreed that a mix of knowledge, skills and abilities is needed in any environment where risk assessment takes place. Analytical and investigative skills, a capacity for structured questioning and decision-making, and understanding of the settings in which child-related employment/volunteering takes place, are all important. Where possible, there is merit in assessments being based upon multidisciplinary knowledge from corrective services, child protection, psychology and the law. Persons responsible for risk assessment may possess this expertise, or it may be gained through consultative arrangements.

Competent risk assessment and decision-making can become embedded in organisations by establishing ongoing training, development and support systems, within a team environment free from influences which are not part of the risk assessment process. It is also important that persons responsible for risk assessment are competent in the application of natural justice principles and procedures.

Depending upon the points at which risk may be assessed, a hierarchy of skills may be needed in accordance with the implications of the decision-making. Where a prohibited employment scheme exists, and there is provision for a person to seek a review of their status, a higher level of assessment expertise is necessary because the risks to children posed by prohibited persons are considered higher. A higher level of skill is also required where there are particular complexities associated with the criminal history or other background information concerning an individual.

3. Who Should Undergo a Background Check and Risk Assessment?

There are legislative and policy differences between jurisdictions in relation to who is required to undergo a background check and the circumstances in which a risk assessment is required. As mentioned above, it is important for community services organisations to be clear about the particular requirements in their State or Territory.

There is general agreement that background checking and risk assessment are appropriate where people are working with children in a direct and unsupervised capacity, in work that is considered to be child-related. Most jurisdictions specify those areas of work considered to be child-related and there is some variation. Volunteers working in a range of child-related areas are also frequently included in background checking and risk assessment. In some jurisdictions people who are employed/volunteering may need to undergo a background check and risk assessment where they have indirect contact with children; there is access to information about children; or they are members of boards or management committees.

4. What is Assessed?

Risk assessment should be based on information which has been tested, validated or assessed in some way, either through the courts, policing systems, disciplinary panels or other formal processes. Rigorous processes concerning verification of information and documentation of the verification and decision-making process, are critically important to the integrity of decision-making and ensuring there is an avenue for review and appeal. This requirement is fundamental to principles of natural justice and procedural fairness, in addition to being part of ensuring any assessment is based upon reliable information.

Organisations undertaking background checking and risk assessment need to pay due regard to State/Territory based legislation and policy, which may govern the particular criminal offences or charges which can be taken into account; require that particular factors are considered; or prevent the availability of certain information. The Human Rights and Equal Opportunity Commission (HREOC) has also produced useful practical guidance on how to prevent criminal record discrimination in the workplace. It is understood that there is no discrimination if an applicant is not successful in obtaining a job or promotion because they cannot fulfil the essential aspects (inherent requirements) of a particular job. In some community based organisations the precise requirements of positions are not always clearly articulated. It is therefore of particular importance for child-safe organisations to declare their commitment to maximising the safety of children, and the ‘essential requirement’ for employees and volunteers to share this commitment.

It is important that any approach to risk assessment is regularly reviewed and evaluated, to take account of the emerging research and professional knowledge base in the area of assessing risk posed to children in organisational environments.
4.1 Factors associated with the criminal history of an individual

A person’s criminal history is deemed to provide a reasonable basis on which determinations can be made concerning possible future behaviours. Although there are variations between States and Territories with regard to background checking systems, there is some consistency in relation to the type of criminal offences which are identified as posing a potential likelihood of harm to children. Some offences may be taken into account in risk assessment, although they do not target children directly, because they indicate a pattern of behaviour that raises concern for the safety of children.

In order to inform an evidence-based assessment the kinds of questions that could be asked include:

- What is the nature, gravity and circumstances (where known) of the offence or charges and how is this relevant to child-related employment/volunteering?
- How long is it since an alleged offence occurred?
- What was the age of the victim of the offending behaviour?
- What was the age difference between the person and any victim?
- How serious is the applicant’s criminal history based upon all the information available (for example, whether there is a pattern of offending)?
- Have the applicant’s circumstances changed since an offence was committed?
- What is the attitude of the applicant to their previous offending behaviour, and what relevant information can be provided by the applicant?
- What are the findings of any assessment reports following attendance at treatment or intervention programs?
- Has the offence been decriminalised in Australia or was it an offence overseas but not in Australia?

It is important to note that the above list does not provide a prescription for risk assessment. It is intended to draw attention to a range of considerations which should not be overlooked.

The HREOC guidelines concerning discrimination in employment on the basis of criminal record make the following point:

The more information available to the employer, the greater the likelihood that an employer can exercise reasonable judgment in assessing the connection between the criminal record and the inherent requirements of the job.

It is also important to make clear that the focus of background checking is upon identifying factors which may pose a risk to children in child-related work settings. People should not be discouraged from applying for a position or volunteering their services because they believe that criminal history unrelated to any risk to children will automatically preclude them from being accepted.

4.2 Additional relevant background information

Research and experience has shown that it may be only when information from a number of sources has been put together that it becomes clear that a risk of harm exists. In some States and Territories background checks may include additional information beyond criminal history. This information may include employment/disciplinary proceedings; proceedings of professional bodies; child protection records; notification that the person is disqualified as an out of home/foster carer; and apprehended violence orders. Where a higher than usual duty of care exists, such as in out of home/foster care and residential settings, or where persons will be working with particularly high risk populations, it may be appropriate to include a broader scope of information in background checking.

4.3 Situational factors

Individual and situational characteristics interact to increase or minimise the risk of inappropriate behaviour, and both need to be taken into account. Organisational and situational characteristics, the vulnerability of specific population groups, and the proposed nature of contact with children may be considered in legislation and/or the development of risk assessment frameworks.

Organisational and situational characteristics, the vulnerability of specific population groups, and the proposed nature of contact with children may be considered in legislation and/or the development of risk assessment frameworks.

Specific factors which may be taken into account include:

- the age of the children (chronological and developmental) with whom the person will be working/volunteering;
- whether the individual will work with children with a disability or particular vulnerability (for example, children who have been abused previously);
- whether the individual will work alone or as part of a team;
- the level and quality of direct supervision;
- the duties undertaken (for example, personal care of children);
- the location of the work (for example, a residential/home based setting); and
- whether the individual will work with children from culturally and linguistically diverse backgrounds who may have experienced different cultural contexts for certain types of behaviour.
Building the Capacity of Child-Safe Organisations emphasise the need for ongoing risk management in organisations. Consultation and engagement with the communities during implementation will be a key factor in ensuring the requirements are met. It is also important to ensure as far as possible that the processes used acknowledge the particular challenges the communities may confront.

In considering the application of background checking and risk assessment among emerging cultural and linguistically diverse communities, opportunities are determined by what is necessary to protect children and unintended consequences are avoided. That may pose a risk to children. Whatever the approach to risk assessment, it is important that any restrictions upon employment of the relatively high incidence of criminal convictions, to make it clear that the focus of background checking is upon identifying factors that may pose a risk to children. Whatever the approach to risk assessment, it is important that any restrictions upon employment opportunities are determined by what is necessary to protect children and unintended consequences are avoided.

In considering the application of background checking and risk assessment among emerging cultural and linguistically diverse communities, it is also important to ensure as far as possible that the processes used acknowledge the particular challenges the communities may confront. Consultation and engagement with the communities during implementation will be a key factor in ensuring the requirements are met.

Engagement with local communities is vital to enable the adoption of practices which can make a difference at the local level.

5. How can Background Checking and Risk Assessment be responsive to Culture, particularly Indigenous Culture?

Additional practical challenges may occur when undertaking background checking and applying these guidelines in Indigenous communities. These challenges include: limited forms of formal identification; people who have been known by, and legitimately use, a variety of names; variations in spelling of names; and relatively high transience. Remote area organisations confront particular challenges such as scarce and sparsely dispersed populations; a comparatively higher proportion of people with criminal histories; communication limitations; and high rates of staff turnover.

Whilst acknowledging the paramount importance of the safety and wellbeing of children, engagement of local communities is essential to translate this guidance into appropriate local practices. Sensitivity is required when introducing formal structures in culturally diverse communities, in an attempt to ensure the community is provided with options for implementing the requirements. Engagement with local communities is vital to enable the adoption of practices which can make a difference at the local level.

It is particularly important in an environment where disadvantaged children may miss out on social or developmental activities because of the relatively high incidence of criminal convictions, to make it clear that the focus of background checking is upon identifying factors that may pose a risk to children. Whatever the approach to risk assessment, it is important that any restrictions upon employment opportunities are determined by what is necessary to protect children and unintended consequences are avoided.

In considering the application of background checking and risk assessment among emerging cultural and linguistically diverse communities, it is also important to ensure as far as possible that the processes used acknowledge the particular challenges the communities may confront. Consultation and engagement with the communities during implementation will be a key factor in ensuring the requirements are met.

6. Natural Justice and Procedural Fairness

In the context of employee/volunteer screening, natural justice can be understood to mean that assessment decisions are balanced, fair and just, and that persons have an opportunity to have input into the decision-making process as well as an opportunity to have the decision independently reviewed. It also means that people have a right to know about any information that is held about them and could be used to declare them ineligible to be employed/volunteer in a child-related area.

A person may be afforded natural justice by being:

- given the opportunity to provide information regarding his or her criminal history, or other information and references, and for this information to be considered;
- informed of any proposed decision to be made about them;
- provided with the rationale for the proposed decision; and
- given the right to have a final assessment decision reviewed by an independent body.

Criminal histories, outcomes of the disciplinary proceedings of professional registration bodies, and other information that may be taken into account during background checking include sensitive personal information. This information must be treated with respect for the privacy of all individuals. Accompanying any risk assessment process, appropriate safeguards must be provided concerning the collection, retention, use and disclosure of personal information.

People being assessed should be informed about what will happen to any information they provide and who will have access to the information. Each child-safe organisation must be fully aware of their privacy obligations and must take all reasonable steps to ensure they comply with the privacy regime that applies to them.

In Summary

This Schedule of guidelines for risk assessment and decision making when undertaking background checking is a central strategy within the public policy framework for creating safe environments for children in community services across Australia.

Even the most careful recruitment and selection processes do not provide a guarantee of identifying all those persons who may pose a risk to children. However, rigorous recruitment and selection practices create a high threshold for engaging in child-related work, which can deter persons who may pose a risk of harm to children. Continuous improvement directed towards providing robust risk assessment and decision-making will encourage research and ongoing evaluation of existing practices and will draw upon emerging knowledge.

Background checking and risk assessment are vital first steps in minimising the risk of harm to children in their dealings with organisations. Coupled with ongoing assessment and risk management, these measures make a significant contribution towards maintaining child-safe environments.
End Notes

1. In the context of the Creating Safe Environments for Children National Framework, harm means physical, sexual, emotional or psychological abuse, and neglect of children.


5. In most jurisdictions there is legislation that prohibits certain persons from employment/volunteering in child-related areas.


Selected References


Overview

Objective: to progress the development of a coherent national approach to the seeking and release of information for the purposes of screening potential employees and volunteers in child-related areas.

In the context of the Creating Safe Environments for Children National Framework the purpose of information sharing across State and Territory borders is to inform assessment and decision-making during the recruitment of employees and volunteers in child-related areas. It must be emphasised at the outset that optimum exchange of information across jurisdictions for the purpose of screening employees and volunteers does not replace the need for ongoing risk management in organisations and supervision and support of persons working in child-related areas. This is consistent with the importance placed upon provisions for protecting children from harm outlined in the previous two Schedules: Guidelines for Building the Capacity of Child-Safe Organisations and An Evidence-based Guide to Risk Assessment and Decision-making when Undertaking Background Checking.

Providing strong foundations for decisions concerning the acceptance or exclusion of prospective employees and volunteers supports the goal of minimising the risk of harm to children in their dealings with community services organisations. The sharing of relevant and reliable information between the States and Territories can be vital to ensuring the necessary information to protect children is available to those who need to know.

The effective protection of children requires that there are systems in place which are reflective of an increasingly mobile population and not restricted by jurisdictional boundaries. The mobility of Australia’s workforce means that one jurisdiction may possess information which is highly relevant to the screening of a prospective employee or volunteer in a child-related area and ought to be made available to any other jurisdiction where that person seeks to work with children.

This Schedule is focused upon the cross-jurisdiction sharing of information related to criminal records, and information relevant to the assessment of prospective out-of-home carers for licensing or registration purposes. It is not intended for the Schedule to encompass the sharing of information relevant to the broader dimensions of child protection or residential care systems.

The release and use of criminal history and other information pertaining to an individual is sensitive from both justice and administrative perspectives, and must take into account issues of individual privacy. Information should only be exchanged in the context of robust systems for managing the available information, and rigorous assessment of what is appropriate and relevant for the purpose of protecting children.

It must also be acknowledged that limited assurance can be gained from screening of employees and volunteers which relies upon criminal convictions alone when assessing risk of harm to children. This Schedule seeks to address existing gaps between the level of information able to be accessed within a jurisdiction and that able to be accessed across jurisdictions.

As expressed in the overarching objective, these guidelines are intended to contribute towards a broader endeavour of developing a more coherent national approach to the seeking and release of information for the purposes of screening persons working in child-related areas. A Council of Australian Governments Working Group has been formed to progress inter-jurisdictional agreements in this area.
1. How can Information Sharing across Jurisdictions assist in Creating Child-Safe Organisations?

It is widely agreed that children have a right to the maximum level of protection in their dealings with organisations across Australia. The provision of guidelines for information sharing between States and Territories is consistent with the community expectation that every effort will be made to ensure the safety of children wherever they are involved with community services organisations. A public commitment to the sharing of relevant and reliable information between jurisdictions reinforces the standards expected of child-safe community services organisations in all States and Territories.

The central purpose of information sharing is to assist in minimising the risk of harm to children. Where the risk of harm may be linked with past behaviour of an individual, knowledge about this behaviour becomes critically important. Thorough risk assessment during the recruitment of employees and volunteers centres upon the importance of defensible decision-making which is informed by sound, relevant, comprehensive and up to date information. Such decision-making is compromised where relevant and reliable information is not available.

Authorised systems for the sharing of relevant and reliable information can minimise the exchange of unreliable or inaccurate information; avoid duplication of resources; and contribute towards greater compatibility between systems across jurisdictions. Awareness that relevant and reliable information will be shared between States and Territories also delivers a clear message that every effort will be made to ensure the safety of children is not compromised because people move across jurisdictional borders.

The sharing of relevant and reliable information between the States and Territories can be vital to ensuring the necessary information to protect children is available to those who need to know.

2. Principles and Standards for Information Sharing

Responsible and ethical information sharing requires following principles and standards which reflect an overarching commitment to quality assurance.

Principles which should govern information sharing across jurisdictions include:

- the paramount consideration is the wellbeing of children and their protection from harm;
- information is collected through lawful means;
- the purpose for seeking information is made explicit;
- information collection and sharing should only take place with the explicit knowledge and informed consent of the person who is the subject of the information;
- the privacy of the individual who is the subject of the information is respected;
- information is only made available to persons in specified positions in authorised agencies;
- information that has been found to be malicious by the police or courts should not be made available; and
- information sharing will follow natural justice principles and adhere to the requirements of procedural fairness.

Standards which should govern information sharing across jurisdictions include:

- information which is made available is relevant to the purpose for which it is sought;
- information which is made available has been verified as accurate, is up to date, complete and not misleading;
- information is made available in a timely manner;
- information concerning charges, where exchanged, should be accompanied by a statement concerning the status of the charge, any outcome and the reasons for the outcome;
- rigorous identification checking should be integral to any scheme for the sharing of information across jurisdictions;
- records containing personal information are treated as confidential and protected against loss, modification, unauthorised access or use, and destroyed when no longer required; and
- information sharing processes and mechanisms are formal, reliable, transparent, documented, consistently applied and open for scrutiny and evaluation.

Collaboration between the community services, law enforcement and justice portfolios will be vital to ensuring the maintenance of these standards, particularly in relation to the timeliness of information exchange.
3. Key Considerations for Information Sharing

The primary consideration for the exclusion from child-related employment/volunteering of those persons who pose a risk of harm to children does not deny the importance of balancing certain rights and responsibilities in designing systems for information sharing. Systems providing for the cross-jurisdiction availability of information about individuals must be robust and withstand scrutiny from legal, human rights and civil liberties perspectives.

Natural Justice and Procedural Fairness

It is vital that information sharing for the purpose of screening employees and volunteers is guided by provisions for natural justice and procedural fairness. These considerations include:

- ensuring there are systems in place enabling people to exercise their right to know about, and respond to, any information that is held about them and could be used to declare them ineligible to work with children;
- identifying and making known the specific categories of information to be sought for screening purposes;
- seeking of consent for obtaining each category of information; and
- ensuring there are proper governance arrangements and safeguards in relation to the collection, retention, use, access to and disclosure of personal information.

Ensuring natural justice and procedural fairness should be informed by understanding of the Creating Safe Environments for Children Framework Schedule concerning risk assessment and decision-making, in particular the provisions concerning the competence of persons who have access to personal and sensitive information for the purposes of making recruitment decisions.

Protection of privacy

The information required to make recruitment decisions may be sensitive and is rightly subject to privacy considerations and protections. Any exchange of information must comply with the relevant State or Territory privacy provisions. Clarity concerning what information can be shared between States and Territories, how and with whom it can be shared, and how it must be treated by the recipient is an essential component of protecting privacy and civil rights.

Prevention of discrimination

Information which may be available for the purposes of background checking and risk assessment does not constitute a character check. There is an onus on the authority seeking information to establish that the information sought is relevant and necessary for the purpose. It is reasonable that justification is provided and assurances are given that the information will be treated responsibly.

Clarity about information sharing for specialised purposes

The range of information sought for screening of potential employees and volunteers may vary in accordance with the specific nature of the child-related employment/volunteering to be undertaken. In some areas of child-related work a greater degree of duty of care exists because of the nature of the services and programs provided, for example in out-of-home care programs. It is therefore important that there is clarity for all parties about any specialised purposes of information sharing.

Public accountability and transparency

Government authorities are required by legislation and policy to operate in ways that are transparent and accountable. Public accountability requires that people are informed about the nature and type of information which may be exchanged between jurisdictions and the circumstances under which this can take place. Transparency is also central to ensuring ethical practice within the authorised agencies which have access to this information.

The range of information sought for screening of potential employees and volunteers may vary in accordance with the specific nature of the child-related employment/volunteering to be undertaken.
4. What Information should be shared between Jurisdictions?

There are aspects of information sharing relevant to the purpose of screening employees and volunteers which are within the control of the community services portfolio and aspects which need to be managed in close collaboration with other portfolios, in particular law enforcement and justice.

The cross-jurisdiction sharing of information related to criminal records and information relevant to the assessment of prospective-out-of-home carers for licensing or registration purposes are priorities identified by community services where strengthening systems and practices for information sharing could contribute towards enhancing the safety of children.

4.1 Criminal history information

Within jurisdictions there are existing arrangements for obtaining criminal history information, some of which are governed by specific legislation concerning working with children. However, there are inconsistencies between the level of information able to be accessed within a jurisdiction, for background checking purposes, and that which is able to be exchanged across jurisdictions. These differences generate significant challenges for authorities attempting to ensure thorough screening of persons seeking to work with children.

Existing legislative and policy frameworks governing ‘working with children checks’ demonstrate a degree of consistency in relation to aspects of criminal history information considered important for background checking purposes. For example, the importance of taking account of a history of convictions relating to sexual offending, recognition of indicators of patterns of behaviour, and awareness of possible connections between certain types of offending.

Access to information concerning convictions and charges, whilst encompassed within the screening legislation of some jurisdictions, is only available subject to legislation and information release policies which differ across the States and Territories. Spent conviction legislation varies significantly between States and Territories, and exemptions from spent conviction legislation for areas of child-related employment are not uniformly recognised across State and Territory borders. In effect, these anomalies mean that the comprehensiveness of a criminal history check may be significantly influenced by a person’s mobility and may be based upon incomplete information.

One argument for cross-jurisdiction sharing of information beyond criminal convictions is that it assists in establishing patterns of behaviour where persons have repeated claims made about them but are never convicted. This issue was highlighted during the Bichard Inquiry in Britain, which drew attention to the impact of fragmented criminal history information and prompted recommendations to improve the consistency of information exchange between recognised authorities. The significance of such information is that if it is considered in conjunction with information about convictions and the results of other background checks, the additional information may enable the decision-maker to make a more informed assessment of any risk posed to children.

It is acknowledged that charges may be subsequently withdrawn, dismissed or discharged because they are ultimately found to be without substance. However, it is generally understood that there are a number of additional reasons as to why charges where a child is the alleged victim may not proceed to the stage of finalisation in a court. These reasons include: concerns about the welfare of the child; the impact of the court process upon the child; and the capacity of the child to give evidence.

For the purposes of screening persons to work in child-related areas, in addition to convictions there are charges pertaining to particular types of offences which may be deemed relevant. These include:

• sexual offences;
• violence offences;
• offences where there is violent intent;
• any offences against a child; and
• drug trafficking offences.

It is acknowledged that release of non-conviction information across jurisdictions for the purposes of employee/volunteer screening requires legal authority, and legislation or policy may establish constraints upon the exchange of information.
4.2 Information concerning history as an out-of-home carer

Licensed or registered carers are persons who provide care in the formal out-of-home care sector through State or Territory community services departments or authorised non-government agencies. Carers in the formal sector have children placed in their care through some type of court order or administrative authority, and where the respective State or Territory exercises a duty of care and may make a financial payment for the care of the child. There is some commonality between jurisdictions in the range of information taken into account in the background checking of applicants for licensing/registration as an out-of-home carer.

Information may currently be shared across State and Territory borders between community services agencies during the assessment process for licensing/registration of prospective out-of-home carers. This information generally pertains to previous deregistration decisions and carer history in another State or Territory. The rationale for such inquiries is based very clearly upon the intense nature of the duty of care; the expectation of special provisions to provide for the safety of children in high risk situations; and the general vulnerability of the population of children and young people in out-of-home care. The importance of such sharing of information is echoed in the cross-jurisdiction information sharing issues within the National Plan for Foster Children, Young People and their Carers 2004–2006.

If persons seeking approval as an out-of-home carer declare they have been a carer in another State/Territory they may be asked to consent to the release of information from the agency where they were formerly a registered/licensed carer. However, awareness that such information may be held by another jurisdiction is currently dependent upon this being made known by prospective carers.

The process of inquiring about previous carer history should apply to all prospective out-of-home carers seeking licensing/registration. Formal, reliable and transparent mechanisms for information sharing in this area will enable greater consistency in the conduct of such inquiries and for the release of information concerning carer history to another jurisdiction. Such inquiries should be made with the consent of applicants seeking approval as licensed/registered out-of-home carers, and should be consistent with the principles of information sharing outlined earlier in this Schedule.

States and Territories are committed to formalising systems for cross-jurisdictional sharing of information concerning prospective out-of-home carers seeking licensing or registration and to ensuring that the interstate checking process is undertaken. It is acknowledged that existing policies, systems and practices within jurisdictions are likely to necessitate review before any change to existing arrangements can be made. Collaboration and coordination in the exchange of this information will necessitate ensuring the information is robust in terms of quality and consistency. The starting point of sharing this information should be between State and Territory Government community services departments.

5. The Importance of Authorised Systems for Information Sharing

Australia’s federal system of governance means there are jurisdictional differences in legislation and standards. As mentioned in the overview, information that may be taken into account during screening of prospective employees/volunteers may be of a sensitive and personal nature. It is therefore important to emphasise that any sharing of information across State and Territory borders must take place within robust systems and accompanying legislation, policy and regulations which govern their operation. This will assist in ensuring that information which is made available across jurisdictions meets certain standards of reliability and is managed according to agreed processes.

It is vital that persons are not discouraged from seeking employment/volunteering in child-related areas because they believe that information will be shared about them which is unrelated to any risk to children. This is further reason for providing publicly available guidelines about the release and use of information and the rationale for doing so.

Any sharing of information across State and Territory borders must take place within robust systems and accompanying legislation, policy and regulations which govern their operation.

In Summary

This Schedule expresses commitments to strengthen information sharing systems and practices between States and Territories, in an effort to provide children with a greater level of protection in their dealings with community services organisations across Australia. It is important to reiterate that the Schedule is focused upon the cross-jurisdiction sharing of information related to criminal records, and information relevant to the assessment of prospective out-of-home carers, and it is not intended to encompass the broader context of child protection or residential care systems.

The Schedule proposes enhanced information sharing for the purpose of screening employees and volunteers in child-related areas. Fully realising this longer term goal will require ongoing commitment from all States and Territories and further work in conjunction with related portfolios. Any approach to information sharing should also remain open to review, informed by emerging knowledge concerning the prevention of harm to children in the context of programs and services offered by organisations.

Information sharing between States and Territories is a vitally important measure in the endeavour to provide a nationally coherent approach to protecting children in their dealings with organisations. However, it does not stand alone in increasing the safety of children and should be understood as one further element in the national community services commitment to creating and maintaining child-safe environments. It is therefore important that these guidelines for information sharing are considered in conjunction with the previous two Framework Schedules: Guidelines for Building the Capacity of Child-Safe Organisations and An Evidence-based Guide to Risk Assessment and Decision-making when Undertaking Background Checking.
End Notes

1 In the context of the Creating Safe Environments for Children National Framework ‘harm’ means physical, sexual, emotional or psychological abuse and neglect of children.

2 Consistent with the intent of the Creating Safe Environments for Children National Framework, reference to community services in the context of this Schedule applies to all government and non-government organisations which are considered part of the community services sector within a particular jurisdiction.

3 The term ‘out-of-home care’ describes various types of care, including foster care, provided for children and young people under statutory care and protection legislation. For the purposes of this Schedule reference to ‘licensing’ and ‘registration’ encompasses formal approval or authorisation permitting persons to provide out-of-home care.

4 Although specific practices differ between jurisdictions, ‘screening’ in the context of minimising the risk of harm to children in their dealings with organisations is generally understood to refer to the combined processes of background checking, risk assessment and decision-making concerning acceptance/exclusion of persons in areas of child related employment/volunteering.

5 Reference has been made to the Privacy Act 1988 (Cth); Government of South Australia (July 1992) Department of Premier and Cabinet Circular PC012 – Information Privacy Principles Instruction; Office of the Victorian Privacy Commissioner (June 2006) Controlled disclosure of criminal record data, Melbourne.

6 Authorised agencies’ in this context refers to agencies which possess legal, or otherwise duly sanctioned, authority to receive the type of information referred to in this Schedule.

7 As mentioned in the Evidence-based Guide to Risk Assessment and Decision-making when Undertaking Background Checking it is important to take account of the emerging research and professional knowledge base in the area of assessing risk posed to children in organisational environments.

8 The Standing Committee of Attorneys-General is examining the development of a uniform spent convictions scheme. A uniform national exemption from spent convictions legislation for the purpose of background checking of employees and volunteers would support efforts to create safe environments for children in their dealings with community services organisations.


Selected References


Community and Disability Services Ministers’ Conference (2006 b) An Evidence-based Guide to Risk Assessment and Decision-making when Undertaking Background Checking, National Schedule.


Overview

Objective: to establish standards concerning the exclusion of certain persons from child-related employment/volunteering, based on the premise that certain criminal offences or patterns of offences create an unacceptably high level of risk to children.

The community services sector and the wider public have a genuine and shared interest concerning increasing the safety of children in their dealings with community services organisations. The National Framework: Creating Safe Environments for Children, agreed upon by Community and Disability Services Ministers in July 2005, contributes towards a nationally coherent approach and provides a point of reference for development and review of legislation, policy and practice.

This Schedule is the final in the series of national Schedules which express the commitments within the Creating Safe Environments for Children Framework. Collectively, the Schedules provide a broad multi-faceted approach to increasing the safety of children in their dealings with community services organisations. This Schedule should be read in conjunction with the earlier Schedules, in particular the Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking.

The development of guidance concerning the exclusion of persons from employment/volunteering in child-related areas is premised upon several important understandings:

• Minimising the risk of harm¹ to children requires that reasonable steps are taken to prevent persons who may pose such a risk from working in child-related areas.

• If criminal history checking is mandated in the absence of guidance about what offences might prevent a person from being accepted to work with children there may be confusion or misapplication in the use of information.²

• Where one State or Territory, or particular organisations, exclude persons from child-related employment/volunteering, differences and inconsistencies should not allow for them to gravitate towards other jurisdictions and agencies.

The overarching purpose of this Schedule is to provide guidance in relation to the categories of criminal behaviour which could lead to a person being excluded from child-related employment/volunteering, and the principles to be observed in decision-making concerning exclusion.³ These guidelines are informed by national and international research, and structured around key areas of concern for community services from an organisational and public policy perspective.

This Schedule takes account of variations between State and Territory criminal codes and other relevant legislation, and the existing systems for excluding persons from child-related employment/volunteering. For this purpose reference is made to categories of criminal behaviour rather than codified offences.
There is an explicit link between these guidelines and the guidelines pertaining to risk assessment and decision-making because risk assessment generally takes place within an established exclusionary framework. Legislation in some States and Territories prohibits persons who have been convicted of certain offences from working with children. Discretionary exclusion is also undertaken, based upon risk assessment which acknowledges that offending history is an important factor although it is not the sole consideration. Although the models guiding these practices vary between jurisdictions, the paramount consideration across all systems is the wellbeing of children and their protection from harm.

These guidelines are not intended to be prescriptive. The different types of exclusion resulting from different processes established in legislation highlight the importance of avoiding a rigid ‘criteria based’ approach to decision-making.

### 1. The Context for Guidelines about who may Work with Children

In the context of creating child-safe environments an employer or organisation impliedly declares they have taken reasonable steps to exclude persons who may pose a risk of harm to children. Adherence to guidelines and processes for excluding certain persons from child-related employment/volunteering is one of the many steps an organisation may take to create a child-safe environment.

Some State or Territory based offender registration systems set an overarching exclusionary framework for prohibiting persons who have been convicted of particular criminal offences from engaging in child-related employment. In some jurisdictions these restrictions also prohibit persons from undertaking volunteer activities in child-related areas. The offences encompassed by the State and Territory registration schemes are those which are generally of a sexual nature or where there is an aspect of offending against children.

Legislative or policy based systems for screening of employees/volunteers in child-related areas include provisions for the exclusion of persons on the basis of criminal history and other matters. Some of these systems have developed since the release of the Creating Safe Environments for Children National Framework and the identification of this Schedule as a priority area for attention. Notwithstanding these developments there continue to be a wide cross-section of community services organisations which retain responsibility for criminal history checking and decision-making concerning whether or not to engage a person as an employee or volunteer working in a child-related area. This is particularly so where organisations are engaging volunteers to work in child-related areas, or where organisations may develop and implement policy concerning specific requirements for particular positions.

### 2. Principles Guiding Exclusion of Persons from Employment/Volunteering in Child-related Areas

Whether the systems for exclusion of persons from child-related employment/volunteering are legislative or policy based, the principles which guide their operation should be consistent.

Principles which should govern the exclusion of persons from child-related employment/volunteering include:

- the wellbeing of children and their protection from harm is the paramount consideration in all decision-making concerning acceptance or exclusion of persons from working in a child-related area;
- information concerning the categories of offending behaviour which may lead to exclusion should, as far as possible, be made known to the general public and in particular persons who may be considering undertaking professional training related to working with children;
- persons seeking employment/volunteering should be treated equitably, fairly and in accordance with the principles of natural justice and privacy;
- decisions should be made by persons with the knowledge, skills and abilities necessary to competently assess criminal history information;
- decisions should be documented, transparent, defensible, based upon clear risk assessment guidelines and capable of review;
- applicants should be informed of the reason for their exclusion from child-related employment/volunteering, and any relevant review processes.
3. Standards for Excluding Persons from Employment/Volunteering in Child-related Areas on the Basis of Criminal History

It is important to explicitly address the issue of what offence(s) or pattern of offences may indicate whether a person poses a risk to children. As mentioned, each State and Territory may determine specific offences which preclude a person from employment/volunteering with children under any circumstances, and where discretion will be exercised based upon a range of factors. These offences will be categorized according to the criminal law of the particular jurisdiction. In general terms these different processes represent standards for excluding certain persons from child-related employment/volunteering.

**Prohibition from Child-related Employment/Volunteering**

There are situations in which it is reasonable and justifiable to automatically exclude a person from working with children based upon their history of criminal offences. The offences leading to such exclusion are considered to present a prima facie risk of harm to children, and generally do not encompass a broad range of conduct necessitating assessment.

These serious offence groups may include:

- Sex offences where a child is the victim
- Serious violence in relation to a child
- Child pornography offences
- Offences involving child prostitution

**Potential for Exclusion from Child-related Employment/Volunteering**

There are also categories of offending behaviour where there can be a presumption that there is a presenting risk of harm to children but further assessment is necessary before a decision to exclude a person can be made. These offences may capture a broad range of behaviour requiring assessment of the implications for working with children.

Where a person has a conviction for an offence of this type, careful assessment is needed to determine whether there are exceptional or particular circumstances relevant to assessment of the risk of harm to children. These potentially influential factors underline the importance of access to contextual information in relation to offences where further assessment is required.

These offence groups may include, but are not limited to:

- Sexual offences
- Violence offences
- Drug offences where children may be involved
- Child abuse offences, for example criminal neglect
- Offences involving exploitation of children
- Sexual ‘deviance’, for example bestiality

Beyond the categories of offending mentioned above, legislation may provide for the exclusion of persons from child-related employment/volunteering following risk assessment when the circumstances of another type of offence are known or patterns of offending are revealed. In isolation a particular offence may not indicate a potential risk of harm to children. However, in combination with other offences there may be significant indicators of a pattern of behaviour that raises concerns for the safety of children.

The Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking identifies the importance of considering the frequency and recency of offending, and the age of the perpetrator at the time of the offence. When considering a person’s history of juvenile offending it is particularly important to have due regard for the influence of age-related factors and the outcome of any treatment or intervention programs.

Careful assessment is needed to determine whether there are exceptional or particular circumstances relevant to assessment of the risk of harm to children. These potentially influential factors underline the importance of access to contextual information in relation to offences where further assessment is required.
4. Other Relevant Frameworks Guiding Decision-making

**Situations requiring special provisions**

The guidelines for risk assessment and decision-making acknowledge that:

- situational characteristics, the vulnerability of specific population groups, and the proposed nature of contact with children may be considered in legislation and/or the development of risk assessment frameworks.\(^{10}\)

An organisational risk assessment may determine that situational risks require special provisions for the protection of children from harm. This is especially so where the exercise of a high level of duty of care is required and where the population group is particularly vulnerable. The most widespread example is where residential or home-based care is provided for children.

Government departments responsible for authorisation/licensing of persons working in these situations may be required to make decisions which take into account aspects of a person’s criminal history or previous care of children, beyond those matters generally considered in working with children checks.

Processes to enable some form of review and appeal are a key consideration for the establishment of any exclusionary scheme. The Human Rights and Equal Opportunity Commission has emphasised the importance of clear review processes where persons are excluded from employment on the basis of criminal record.

**Application of standards in communities with specific needs**

It is important to respect the diverse social and cultural contexts in which children live when implementing child-safe practices, including background checking of prospective employees and volunteers. The focus needs to be on enabling communities to observe statutory or other standards. This means recognition of, and support for, the challenges these communities experience.

Organisations in remote areas and Indigenous communities may face practical and cultural challenges in using formal systems not specifically designed for their needs. This is particularly so when the systems relate to excluding individuals from certain activities within the community. These challenges are exacerbated by factors such as communication limitations, isolation and high staff turnover.

Any formal system must consider the capacity of communities to comply with administrative process requirements. For example, proof of identity for background checking may need to be reconsidered in communities where a person may have several names, or where there is ambiguity surrounding birth records.

Consultation with communities is a key to understanding local issues and existing mechanisms for protecting children. Collaborative work with communities is also essential to ensure that local practices are both compliant with the exclusionary framework, and meaningful to the community.

5. The Importance of Review and Appeal Processes

Processes to enable some form of review and appeal are a key consideration for the establishment of any exclusionary scheme. The Human Rights and Equal Opportunity Commission has emphasised the importance of clear review processes where persons are excluded from employment on the basis of criminal record.

At the very least there should be an opportunity for a person with a criminal record to explain the circumstances surrounding their convictions, if that conviction becomes relevant to the decision-making process.\(^{11}\)

States and Territories are responsible for the development and management of review and appeal processes that provide for natural justice and procedural fairness. In some jurisdictions review and appeal processes may be established within legislation and specific statutory provisions will guide their operation. Where persons are prohibited from working with children or subject to a life-long ban in accordance with legislation there may not be provision for review or appeal.

Review and appeal processes must be informed by relevant knowledge and undertaken by persons who have capacity for structured decision-making, understand the settings in which child-related employment/volunteering takes place and are competent in the application of natural justice principles and procedures.
Systems for persons to register grievances, request a review, or appeal the outcome of a decision may be managed through tribunals, administrative decision-making bodies and courts. It is important that review and appeal processes are governed by standards of best practice for the operation of such bodies, including:

- information about the review/appeal process is made known to all persons who may be affected;
- the opportunity is provided for persons to make submissions concerning the circumstances surrounding an offence/charge;
- the opportunity is provided for independent representation and involvement of witnesses and support persons;
- decision-making is consistent and impartial.

**Consideration of the Burden of Proof**

Prior to establishing any system for excluding persons from child-related employment/volunteering it is important to clarify how the issue of burden of proof will be managed.

Existing screening systems allowing for exclusion of certain persons from child-related employment/volunteering reveal variations in where the burden of proof resides, depending upon the nature of the decision and the basis for decision-making. In cases where the criminal history information relevant to the individual suggests a prima facie risk of harm to children it may be appropriate that the individual bears the onus of proving they do not pose such a risk. Conversely, where the criminal history of an individual does not indicate a prima facie risk but where there are other strong indicators of risk that cause concern, it may be appropriate for the decision-maker to bear the onus of proving that the individual poses a risk of harm to children.

**In Summary**

Exclusion of certain persons from child-related employment/volunteering does not stand alone in ensuring the safety and wellbeing of children in their dealings with organisations. It is one further measure in the suite of strategies incorporated within the national Schedules as part of the *Creating Safe Environments for Children Framework*. These strategies will continue to be informed by the developing area of research concerning the causes, consequences and prevention of harm to children in organisational settings.

The guidance and decision-making concerning the exclusion of certain persons from working with children must place priority upon the protection of children from harm and minimising associated risks, whilst being ethical, defensible and informed by emerging knowledge. These guidelines for excluding persons from child-related employment/volunteering in conjunction with the *Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking* offer a community services perspective towards increased national coherence in this area.
End Notes

1 In the context of the Creating Safe Environments for Children National Framework ‘harm’ means physical, sexual, emotional or psychological abuse and neglect of a child.

2 It is important to note that the focus for this Schedule is upon criminal offences or information related to criminal records, although at the State and Territory level other matters may be deemed relevant to decision-making concerning exclusion of persons from child-related employment/volunteering.

3 The Schedule does not seek to provide direction as to the specific assessment of the level of risk to children.

4 Terms such as ‘prohibit’, ‘ban’ and ‘exclusion’ may have a particular meaning within the legislation of a State or Territory. In the context of these guidelines the language used is not intended to reflect the specific interpretation of any one jurisdiction.

5 This decision-making authority is subject to a person not being prohibited by legislation from working in a child-related area in accordance with prohibited employment regimes or jurisdiction based offender registration schemes.

6 There may be specific provisions within a jurisdiction with regard to application of the principle of natural justice and the right to review, particularly where the offending history of an individual is considered to pose an insurmountable risk of harm to children.

7 Any decision-making concerning exclusion of persons from child-related employment/volunteering should also be cognisant of industrial relations issues and adhere to applicable legislation.

8 State/Territory legislation may allow for discretionary exclusion in relation to some of these offence types.

9 Western Australia Criminal Record Checking (Working With Children) Bill 2004, Rationale for Offence Categories (as at 13 September 2004) (Department Document).


Selected References


Community and Disability Services Ministers Conference (2006 b) Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking, National Schedule.


Department of Community Development, Western Australia (2006), Working with Children Check Assessment Guidelines.


Governance Arrangements for the 2009 National Framework

**Standing Council for Community and Disability Services**

Responsible for the implementation of the 2009 National Framework. It consists of the Commonwealth, State and Territory Community and Disability Services Ministers. The Standing Council reports annually to COAG.

**Standing Council for Community and Disability Services Advisory Committee**

Responsible for addressing strategic directions set by Ministers for implementation of the 2009 National Framework. It consists of the chief executive officers of the Commonwealth, State and Territory Departments for Community and Disability Services.

**Children, Youth and Community Services Policy Research Working Group**

An additional governance group established in 2012 as a high-level sub-committee of the Standing Council Advisory Committee to progress strategic national reforms that are critical to reforming child protection systems nationally. It consists of senior representatives and chief executives from relevant government departments and agencies across Australia to date. This group has not undertaken work relating to nationally consistent approaches to WWCC.

**National Framework Implementation Working Group**

Key governance group responsible for implementing the 2009 National Framework. It consists of senior officers from the Commonwealth, State and Territory Governments and representatives of the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children (known as the NGO Coalition).

**Working with Children Check Sub-Committee**

Formed to agree on an approach to developing national consistency in WWCC. It consists of policy officers and operational advisors from the National Operators’ Forum.

**National Operators’ Forum**

Brings together representatives of screening agencies throughout Australia to share experiences. The role of the Forum is to improve members’ understanding of operational issues and adopt joint projects to enhance the operation of screening agencies.
Position Paper: Toward a Nationally Consistent Approach to Working with Children Checks

BACKGROUND

In June 2010 the Community and Disability Services Ministers Conference (CDSMC) agreed to progress a nationally consistent approach to working with children checks.

In 2005, CDSMC agreed on initiatives and approaches that constitute best practice guidelines, expressed in the Creating Safe Environments for Children National Framework. Priority was placed on state and territory governments building the capacity of child-safe organisations, ongoing risk assessment background checking, the development of a set of guidelines for excluding people and cross jurisdictional information sharing.

In April 2009, the Council of Australian Governments (COAG) endorsed the National Framework for Protecting Australia’s Children 2009-2020 (National Framework). One of the actions under Supporting Outcome 2 (children and families access adequate support to promote safety and intervene early) is the development of a ‘nationally consistent approach to working with children checks’. One of the actions under Supporting Outcome 6 (sexual abuse and exploitation is prevented) is the implementation of a national framework for inter-jurisdictional exchange of criminal history for people working with children.

In the 21st century, the community expects nothing less than an assurance that there are vigilant safeguards in place to protect children irrespective of where they are located or what state or territory they are in. Loss of public confidence sharpens imperatives for action as governments are held to account for failings in statutory and administrative systems. In response to these expectations, governments have taken action to ensure that a range of protective mechanisms are in place to reduce the risk of harm to children by predatory individuals.

PROGRESSING A NATIONALLY CONSISTENT APPROACH

The actions underway by state and territory governments are cross jurisdictional information sharing and screening, and risk assessment.

1. Cross Jurisdictional Information Sharing and Screening

On 29 November 2008 the Council of Australian Governments (COAG) agreed to establish an inter-jurisdictional exchange of criminal history information for people working with children. The 12-month trial of the Exchange of Criminal History Information for People Working with Children (ECHIPWC) commenced on 30 November 2009. The scheme allows jurisdictions to exchange criminal history information of people applying to work with children, including spent convictions, pending charges, and (except for Victoria) non-conviction charges, and acquittals.

This expanded information is only used by prescribed screening units to assess an applicant’s suitability to work with children. Uniformity in jurisdictional approach is not a trial requirement.
This trial was developed to meet the requirements of a framework endorsed by COAG on 13 April 2007. The Working Group explicitly considered a consistent legislative scheme and determined this was not feasible or desirable. The endorsed recommendations included:

1. In the longer term, and ongoing, child-related employment screening should be informed and improved by increased research and effective sharing of evidence-based learning to achieve consistent practices, with consideration of the scope for achieving mutual recognition of existing schemes.

2. The most appropriate framework for exchange of criminal history information is to seek inter-jurisdictional agreement on the type and scope of information to be exchanged, while leaving each jurisdiction to determine for itself to what extent and how to use the information received to make decisions relevant to the safety of children.

The majority of states and territories have implemented child related pre-employment screening programs or are working toward such legislation. In addition to child related employment legislation (where it exists), all states and territories have legislation that requires occupational screening. Although there are differences between jurisdictions in the type of screening program, the records that are checked and who is required to undergo screening, there is a consistent objective with respect to the outcome of the screening process. The object is to enable an assessment of the level of risk a prospective employee poses to child safety and to exclude unsuitable applicants.

Progress toward further consistent approaches to working with children checks is monitored by the National Operators Forum, a voluntary network of the national screening agencies (predominantly Children’s Commissioners). All states and territories are represented on the National Operators Forum. The National Operators Forum has identified that even though screening systems vary across jurisdictions in terms of the scope and type of information taken into account, consistent screening decisions are made; that is, the decision to screen someone in or out is essentially the same. The NOF is working towards establishing a nationally consistent decision making framework for applicants who have returned a criminal history to guide decisions about suitability for employment.

2. Risk Assessment

Risk assessment describes the process of evaluating day to day available information (for example, information obtained from a background check), in order to identify and minimise the risk of harm an individual may pose to a child. The National Framework for Creating Safe Environments for Children sets out the key principles for assessing the likelihood of risk for people working with children.

Each state and territory has determined its own legislative or policy approach, or is determining this, in order to minimise the likelihood that a person who poses a risk to children will be engaged in child related work. The National Operators Forum has recognised that most work relating to greater national consistency has been done in the area of screening. Rigorous background checking is a critical component of a child safe organisation but not a failsafe way to protect children from exposure to harm in organisational environments.

Working with children checks are a growing area of practice. There is limited evidence that demonstrates that screening is effective as a stand-alone risk management response. The
available literature supports the need for proactive participation from organisations in producing child safe organisational policy.

The National Operators Forum has recognised the importance of a nationally consistent risk management framework that generally reflects the elements in the *Creating Safe Environments for Children* guidelines developed by the Community and Disability Minister’s Advisory Council (CDSMAC) in 2005.

The key elements identified by the NOF are:

1. strong and reliable screening and decision making processes.
2. strong community support and understanding on the part of organisations of their roles and obligations to reduce risks to children by providing safe environments.
3. ongoing criminal history checking, compliance checking and reporting.

**KEY CONCERNS IDENTIFED BY THE WORKING GROUP**

In Australia not all children receive the same level of protection from the organisations and systems designed to protect them. The variation between state and territory systems makes it difficult to recognise and accept safety checks of volunteers and workers who move across borders. In addition, the lack of cross jurisdictional infrastructure means that any change to the suitability status of the person cannot be effectively actioned and communicated to any relevant employers or organisations accessing that person’s services.

State and territory representatives on the Working with Children Checks Working Group are concerned that a stand-alone focus on achieving national consistency by legislative harmonisation and alignment of screening processes does not afford sufficient protection to children. Legislative reform and alignment of screening practices and processes are one element of a broader response to the protection and safety of children in the organisational environment, not a stand alone response. A response reliant on legislative reform will ultimately fail to adequately protect children when enforcement mechanisms breakdown. Harmonisation of state and territory legislation would require substantial investment of resources to bring the data and related information management mechanisms into line. Current fiscal constraints make additional financial commitments untenable as part of an agile response. There is insufficient evidence to inform a best practice screening model. Attempting to develop a best practice model in an emerging area of research and practice risks being influenced by high profile cases and worst case scenarios.

Legislative reforms can also have unintended consequences. This has been demonstrated by the recent experience in the United Kingdom where the government has suspended the centralised Vetting and Barring Scheme (VBS) implemented between 2007-2010. This action was in response to public outcry based on privacy and regulatory concerns. The VBS scheme would have seen vetting of individuals in unprecedented numbers as a community safeguard against the abuse of children and vulnerable people. The UK experience highlights that vetting systems are not substitutes for proper vigilance by individuals and society.

Additional misgivings with a vetting and barring scheme include concerns about volunteer impact. For example, that organisations would be less willing to take on volunteers and that new regulations and the cost of a working with children checks would deter people from wanting to take up volunteering.
Legislative harmonisation relies on enforcement to be effective. It is most effective when compliance with regulatory systems is subject to consistent monitoring and evaluation. This would involve all eight jurisdictions taking a consistent approach to enforcement. States are left exposed when enforcement mechanisms break down and this contributes to a public loss of confidence in the systems and processes designed to offer protection at both state and commonwealth levels.

There is a risk that over time the costs attached to compliance monitoring will deter effective implementation of compliance mechanisms or there will be ‘slippage’ over time as cost-saving measures are implemented. Amendments to legislation may be enacted causing it to go ‘out of synch’ with the ‘agreed to’ harmonised approach and eroding its efficacy.

WORKING GROUP POSITION

State and territory representatives on the Working Group strongly support progress towards a nationally consistent approach to working with children checks. This can be achieved by reaching agreement on actions, such as those proposed by the National Operators Forum, including those that embed child safe practices at the operational level. It is at the operational level where children interact with organisations and where children are also at greatest risk of exposure to unsafe adults. It is the view of the state and territory representatives on the Working Group that the protection of children can be achieved in the absence of nationally harmonised legislation without exposing children to risk of harm.

States and territories have already made significant commitments to enable inter-jurisdictional exchange of criminal history information and have made or are working towards an investment in infrastructure that ensure screening and data systems are in place.

A much stronger response can be achieved through a national commitment to ongoing checking, consistent risk management strategies at the organisational level and communication strategies that make it simpler to find out what is allowed when working or volunteering in another jurisdiction. Mandated reporting and enforcement through licensing and or conditional funding arrangements may be required to ensure comprehensive application of these risk management strategies at the organisational level for those jurisdictions that have not legislated for this.

PROPOSED WAY FORWARD

The proposed way forward for maximising the protection of the child involves a commitment to both legislative and administrative action. The actions outlined below go a significant way toward ensuring that children who come into contact with staff or volunteers in organisations receive a high level of consistent protection wherever they are located, as follows:

1. Recognising recent legislative amendments achieved by all state and territory governments through the ECHIPWC trial.
2. A recommitment to the implementation of the Creating Safe Environments for Children National Framework, with a particular focus on building the governance capacity of child safe environments. This may involve revisiting the different elements within the Framework and looking at different options for compliance monitoring.
3. Endorsing the implementation of a nationally consistent approach to working with children checks as proposed by the National Operators Forum. This would involve:
a. a focus on outcomes that can be achieved within a short timeframe and in particular implementing sensible strategies to address cumbersome requirements for persons who have been screened in one jurisdiction and are temporarily working with children in another jurisdiction.
b. a commitment to implement risk management strategies in organisations that work with children and to subject these to ongoing monitoring and enforcement through licensing and funding requirements.
c. a shared understanding of what an exclusionary framework might look like in order to prevent ‘high risk’ individuals from entering the risk management system in the first place.
d. actions that heighten the awareness of organisations about the duty of care they have to protect children.
e. actions that heighten NGO and community awareness about existing actions and provisions in place for the purpose of protecting children.

* The National Operators Forum proposal is provided at Attachment B
Achievements, progress towards a National Consistent Approach to Working With Children Checks and proposed actions to enhance nationally consistency

Observations and proposals from the National Operators’ Forum (NOF) - June 2010

Summary of achieved, in progress, and proposed actions that would contribute to National Consistency in Working With Children Checks.

**ACHIEVED**

1. Commenced 12 month pilot of the National Exchange of Criminal History Information for People Working with Children (ECHIPWC) across jurisdictions and participating agencies to evaluate its utility in providing more comprehensive information across jurisdictions to strengthen working with children checks. 9

2. There has been ongoing commitment by the National Operators’ Forum (NOF) to explore opportunities to increase consistency across jurisdictions. 10

**IN PROGRESS**

3. There has been ongoing enhancement of existing working with children check legislation which is increasingly making the checks more consistent. 11

**PROPOSED**

4. Develop common communication initiatives to be shown on each jurisdiction’s website designed to raise awareness of existing provisions that allow volunteers to work across borders. 12

5. Develop broad level principles for the focus of the working with children check systems. 13

6. Align the criteria that enable individuals to cross state borders for participation in national and interjurisdictional activities on a short term basis without the need to be screened. 14

7. Explore opportunities to embed risk management strategies, as best practice, in organisations providing services primarily targeted to children – this could be achieved through mechanisms that may include legislation, licensing, registration and funding requirements, or skill development and education. 15

8. Implement continuous checking of criminal histories. 16

9. Establish consistent framework for assessing effectiveness of screening and risk management outcomes. 16

**EXTENSIVE PROJECT THAT WOULD NEED TO BE COAG AUSPICED AND WOULD TAKE CONSIDERABLE TIME TO IMPLEMENT**

10. Explore opportunity for mutual recognition across jurisdictions. 17
Since the introduction of the National Framework for Protecting Australia’s children there have been a number of significant achievements to promote children’s safety and develop child safe organisations through a nationally consistent approach to working with children checks and screening systems.

For example on 1 December 2009 the National Exchange of Criminal History Information for People Working With Children (The Exchange or ECHIPWC) pilot commenced. This pilot removes legislative and administrative restrictions to enable an expanded range of criminal history information to be shared across jurisdictions by screening agencies that meet strict participation requirements. This means that The Exchange promotes a more consistent approach by giving all jurisdictions routine access to the expanded range of criminal history information when making decisions about the suitability of people to work with children.

Other notable developments include:

- the National Operators Forum, a voluntary network of the national screening agencies, met in November 2009 to identify similarities and differences in decision making frameworks with a view to identifying consistent outcomes of final decisions i.e. decisions about whether or not a person would be consistently screened out even though different decision making and legislative frameworks may be used
- nationally consistent messages about the importance of working with children checks have been promoted by jurisdictions resulting in greater community acceptance of screening systems
- greater national consistency through the introduction of new screening legislation and provisions across a number of jurisdictions
  - QLD’s screening all child related screening under blue card or exemption frame (mutual recognition across certain specified screening agencies)
  - SA will screen non-government organisations for the first time
  - NT is currently in the process of introducing working with children checks
  - ACT is conceptualising a working with children model (planned implementation in 2011)
  - NSW is currently reviewing its working with children process
  - Victoria has recently completed a review of legislation clarifying the capacity to share information with interstate jurisdictions as an area for legislative amendment

These achievements demonstrate the commitment and willingness of screening agencies to share information and work cooperatively to develop robust and consistent screening approaches.

To date, however, most work and analysis relating to creating greater national consistency has been done in the area of screening and, while criminal history screening is crucial, it is important to acknowledge that it takes place at a point in time and consequently needs to be seen as only one element, albeit a fundamental element, in a broader system to be effective in promoting children’s safety and creating child safe organisations.

To conceptualise a working with children check system based solely on screening and without including these additional elements of a broader working with children checks system will result in less safe environments for children than could otherwise be achieved. It will also increase the risk of a loss of public confidence as the public recognises the vulnerability of relying solely on a point in time check.
The elements that the NOF members views as necessary in a comprehensive working with children check system generally reflect the elements in the *Creating Safe Environments For Children* guidelines developed by the Community and Disability Services Ministers’ Advisory Council (CDSMAC) in 2005

The key elements are:
1. strong and reliable screening and decision making processes
2. strong community support and understanding on the part of organisations of their roles and obligations to reduce risks to children by providing safe environments, and
3. ongoing criminal history checking, compliance checking and reporting.

**Effective screening**

The screening agency is responsible for carrying out working with children checks, ensuring that it is robust, efficient and reliable and based on a sound and defensible decision making frame.

**Risk management**

At the community level organisations have an obligation to:
- ensure that relevant people have undergone the appropriate screening and received approval
- assess the organisation’s environment and activities in relation to risks to children and reducing any opportunity for exposure to abuse
- develop a risk management strategy to address those risks

Working with children checks only assess a person’s existing criminal history. If a person has not offended previously, or has offended but not been caught, there will not be any criminal history for the screening process to detect. It is therefore also very important for organisations to identify and mitigate, as far as is possible, risks their particular environment could create for children. The way to do this is for organisations to consider the particular risks and reduce any potential opportunities for children to be exposed to abuse in the context of that organisation’s activities and location. The organisation then develops a risk management strategy designed to address those risks. This was identified as best practice in the 2005 report produced by the Community and Disability Services Ministers’ Advisory Council in its document on *Creating Child Safe Environments*. A number of screening agencies have implemented risk management strategies for organisations, however, others have not.

**Ongoing criminal history monitoring, compliance and reporting**

Once a person is screened and given approval to work with children, it is important that there is a process in place to detect if there is any change in their criminal history, and for appropriate action to be taken with regard to these changes. A number of screening agencies have incorporated continuous checking as part of their system, however others have not.

Any moves towards greater national consistency in working with children checks need to address the consistency in each of these three elements, that is screening, risk management and ongoing monitoring, and not only focus on consistency around screening. Moreover, greater consistency in risk management and continuous checking are necessary precursors to the desired outcomes of being able to allow individuals more easily work across borders for longer periods without having to be screened in the new jurisdiction.

The following matrix considers the achievements towards national consistency that have occurred over the past 12 months, where progress has been made in the same period, and where the Commission proposes initiatives that would contribute to greater consistency across the three elements of a comprehensive working with children check system.

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1 In 2005 CDSMAC agreed on a set of initiatives and approaches that would constitute best practice guidelines in Creating Safe Environments For Children across Australia.
### Screening

1. Commenced 12 month pilot of the National Exchange of Criminal History Information for People Working with Children (ECHIPWC) across jurisdictions and participating agencies to evaluate its utility in providing more comprehensive information across jurisdictions to strengthen working with children checks.

- Commenced 1 Dec 2009

- Provides participating agencies with greater access to criminal history information across jurisdictions to better inform their decision making about people working with children
- Feedback from the pilot is due to COAG after 12 month trail (mid 2011).

1. Provides participating agencies and jurisdictions\(^2\) access to a consistent scope and type of information taken into account when undertaking criminal history screening – this is a precursor to being able to develop a system of mutual recognition of another jurisdiction’s screening approval.
2. All states have signed the ECHIPWC agreement as they support the exchange of information, even though not all have as yet implemented working with children checks.
3. The eligibility requirements\(^3\) necessary to participate in the ECHIPWC trial have lifted the standards on the receipt and use of the expanded range of information in participating agencies.

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\(^2\) Participating screening units are: The child related employment screening units\(^2\) that will participate in the exchange are:

- the Commission for Children and Young People constituted by the *Commission for Children and Young People Act* 1998 (NSW);
- an approved screening agency under the *Commission for Children and Young People Act* 1998 (NSW);
- the Secretary to the Department of Justice as mentioned in the *Working with Children Act* 2005 (Vic);
- the chief executive officer as mentioned in the *Working with Children (Criminal Record Checking) Act* 2004 (WA);
- the Screening Authority established under the *Care and Protection of Children Act* (NT), section 196;
- the Commission for Children and Young People and Child Guardian constituted by the *Commission for Children and Young People and Child Guardian Act* 2000 (Qld);
- the Queensland College of Teachers as mentioned in the *Education (Queensland College of Teachers) Act* 2005 (Qld); and
- any child related employment screening units that the parties, under Part 7 of this memorandum, agree may participate in the exchange in the future and that the parties add to this schedule.

\(^3\) To be eligible to participate in the ECHIPWC pilot, participating screening units are required to:

- have the legislative basis for screening persons working or seeking to work with children, which specifically enables consideration of information available through the exchange
- comply with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management
- comply with the principles of natural justice, and
- have a risk assessment and decision –making framework that is evidence based, documented and supported by business rules and tools and have appropriately skilled staff make assessments about the risks to children’s safety suggested by the applicant’s criminal history.

\(^4\) Outcome 6  Child sexual abuse and exploitation is prevented and survivors receive adequate support
Strategy 6.2  Enhance prevention strategies for child sexual abuse
Action 6.2.A  National framework for inter-jurisdictional exchange of criminal history for people working with children
<table>
<thead>
<tr>
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<th>Implementation status</th>
<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
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<tbody>
<tr>
<td><strong>Screening</strong></td>
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<tr>
<td>2. There has been ongoing commitment by the National Operators Forum (NOF) to explore opportunities to increase consistency across jurisdictions</td>
<td>Ongoing</td>
<td>NOF: Provides a voluntary commitment for operators to identify and develop, within the parameters of the current legislation, nationally consistent approaches to working with children checks. NOF establishes best practice for decision making and confirms the currency of the evidence base underpinning decision making, including the influence of Tribunal decisions across Australia. NOF has identified that even though screening systems may vary across jurisdictions, consistent screening decisions are made (that is, the decision to screen someone in or out is essentially the same).</td>
<td>NOF: 1. Has collaborated to implement the national exchange of criminal history information for people working with children (ECHIPWC). 2. Has produced a national jurisdictional comparison document which highlights the similarities and differences between agencies conducting working with children checks to identify where national consistency initiatives could occur. 3. Has recognised the importance of a nationally consistent risk management framework and is advancing some broad guidelines that will be the subject to further discussions at NOF forum. 4. Is working towards establishing a nationally consistent decision making framework for applicants who have returned a criminal history.</td>
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<td><strong>Achieved</strong></td>
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<tr>
<td>Immediate opportunities</td>
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<tr>
<td>• NOF is a community of best practice that could provide FaHCSIA and CDSMC with current, good on-the-ground information on what is happening in the area of working with children checks.</td>
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<tr>
<td>• NOF is best placed to provide FaHCSIA and CDSMC with advice on what is possible now in relation to developing nationally consistent initiatives that would improve the experiences of the client groups and work operationally.</td>
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3 Outcome2 Strategy 2.2 Develop new information sharing provisions between Commonwealth agencies, State and Territory agencies and NGOs dealing with vulnerable families Action 2.2.A National consistent approach to working with children checks
<table>
<thead>
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<th>Action</th>
<th>Implementation status</th>
<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
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<tbody>
<tr>
<td>IN PROGRESS Screening</td>
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</table>
| 3. There has been ongoing enhancement of existing working with children check legislation which is increasingly making the checks more consistent | Past 12 months | By 2011 all states and territories will have a system of criminal history screening for people working with children (Tasmania may still be in the process of implementation)  
This means that there is a nationally consistent message about the importance of taking extra precautions when employing people to work with children.  
Each time states amend their legislation it continues to make approaches more consistent. | 1. Increasing number of states currently conducting child related employment screening check and providing a nationally consistent message about the importance of working with children checks.  
2. The decision making frameworks have been tested at NOF to determine that comparable screening outcomes are arrived at in those jurisdictions that have similar screening (Queensland, WA and Vic).  
3. Some jurisdictions have responded to pressure from sporting groups and recreational clubs to facilitate time limited moves across borders in some areas. |

Including:  
- Queensland has introduced legislation to reduce duplication of screening and create one check for all child related screening, done through the blue card system, or through an exemption frame that recognises certain screening that has occurred (e.g. screening of registered teachers and police officers)  
- the Northern Territory has commenced phasing in working with children checks  
- ACT and Tasmania are currently conceptualising their working with children check model and ACT has published that it anticipates implementation by 2011, and  
- NSW is currently reviewing its working with children check processes and has consulted with Queensland, Western Australia and Victoria to inform its model.  
- WA is in the process of amending its legislation which will particularly improve decision making and compliance functions.  
- Victoria has recently completed a review of legislation clarifying the capacity to share information with interstate jurisdictions as an area of legislative amendment.
<table>
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<th>Proposed</th>
<th>Action</th>
<th>Implementation status</th>
<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
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</table>
| PROPOSED | 4. Develop common communication initiatives to be shown on each        |                       | • This would make it simpler for people to find out what is currently allowed in relation to working or volunteering in another jurisdiction, including the time frames and conditions which apply.  
 • This information is not readily available and sometimes people are unaware that they may be able to move across borders in circumstances for a period of time without being screened. | 1. It would make it easier for people to know what they can currently do in relation to moving across borders. |
<p>|          | jurisdictions’ website designed to raise awareness of existing         |                       |                                                                                                                                                                                                                              | [2.2 /2.2A]                                                                                         |
|          | provisions that allow volunteers to work across borders                |                       |                                                                                                                                                                                                                              |                                                                                                   |</p>
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<th>Implementation status</th>
<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
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<tbody>
<tr>
<td><strong>Policy frame</strong></td>
<td></td>
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<td>1. Having an agreed upon policy frame and broad level principles for the focus of working with children checks will mean greater consistency across jurisdictions of the employment circumstances under which people employment screening (and risk management strategies) for working with children.</td>
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<tr>
<td>5. Develop broad level principles for the focus of the working with children check systems</td>
<td></td>
<td>Make more explicit and as consistent as possible across jurisdictions the circumstances under which people working with children need to be screened. Clarify where working with children checks need to be targeted. For example, places where children are required to be by statute (school, foster care, youth detention), or where statutes apply (child care, shelters) or where the government has indicated it wants to support and foster children’s involvement because it is seen as being good for their development (sports and clubs). Working with children checks are a partnership between the screening agency, the organisation, parents and children. It is important that the roles and inter-relationships are made more explicit.</td>
<td>2. This is a precursor to being able to allow people to move more readily across state borders for short periods without being screened in the new state. Unless similar paid employment, self employment and volunteer contexts are screened it is not feasible to simplify the screening requirements when people move across jurisdictions. This recognises that the scope across jurisdictions will not be exactly the same.</td>
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<td>Medium term opportunity</td>
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<td>• This would be a significant move forward but would require some legislative and processing change within states</td>
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[2 /2.2 / 2.2A]
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<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
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<tbody>
<tr>
<td>Screening</td>
<td>6. Align the criteria that enable individuals to cross state borders for participation in national and interjurisdictional activities on a short term basis without the need to be screened</td>
<td>Discussed at NOF &amp; some exploration and mapping work has been done</td>
<td>- Under some circumstances, people are able to operate across state borders without being required to be screened in the new state but the time periods, frequencies and circumstances under which this occurs varies across jurisdictions.</td>
<td>1. Facilitates ease of movement across borders for particular events, for example sporting and club events and would be a very popular initiative.</td>
</tr>
<tr>
<td>Caution: To minimise risk of harm to children this needs to be implemented in tandem with risk management strategies</td>
<td>Medium term opportunity</td>
<td></td>
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<tr>
<td>Action</td>
<td>Implementation status</td>
<td>Explanation of what it is /does</td>
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| Risk management | Mandatory in Qld | • Would require all organisations who primarily provide services to children to consider their environment and the type of activities they provide and identify where risks to children could occur, particularly those that place children at risk of harm from other people. Organisations would then develop risk management strategies to address and mitigate these risks.  
• Once organisations start to implement risk management strategies the need for screening becomes quickly apparent. In the absence of a state based screening process it is usually incumbent upon the organisation to request police checks directly and incur the related costs.  
• Implementing risk management strategies has been identified by CDSMC as a best practice element in creating child safe environments.  
• The Queensland Commission has also found that its Compliance work, which is carried out through proactive audits and in response to complaints about organisations and individuals helps drive understanding. It does this by alerting people to their responsibilities around ensuring appropriate screening of employees and the requirement for them to develop a risk management strategy to create a safe environment for children. It also helps inform them of the supports the Commission provides to assist with this. | 1. Implementing risk management plans could provide a level of national consistency even prior to all states having implemented a screening process.  
2. This would facilitate standardising the periods of non-screening to make it easier for people under some circumstances to be able to operate across state borders without being required to be screened in the new state but the time periods, frequencies and circumstances under which this may occur vary across jurisdictions. (See action 6)  
3. The nationally agreed characteristics of child safe organisations arrived at through the 2005 CDSMC work on Creating Safe Environments for Children covered:  
   • Governance and culture  
   • Education and training  
   • Human resources management  
   • Participation and empowerment of children  
   • Systems to ensure adaptation, innovation and continuous improvement |

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6 Where state based screening systems are in operation and where volunteers working with children are required to be screened, the state governments have provided this free of charge to the individual and their organisation – creating savings to the NGO sector.

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<tr>
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<th>Implementation status</th>
<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
<th>Outcome strategy/Action</th>
</tr>
</thead>
</table>
| Ongoing criminal history checking, compliance checking and reporting | Occurs in Qld, WA and Vic | • Continuous checking provides an ongoing, daily or weekly capacity to identify any change in a person’s criminal history within their state.  
• Currently Queensland, Victoria and WA conduct frequent regular checking of all those they have approved to work with children.  
• Changes in criminal history in other states is not detected through the continuous checking process. | 1. If all states had continuous checking and there was the capacity for other states to be notified when a person’s criminal history changed it would permit for a longer screening renewal period.  
2. This would also act as a precursor to enable consolidation of how people screened in one state, and continuously checked there, could operate in other states through some exchange of information process. | [2 /2.2 /2.2A] |
| 8. Implement continuous checking of criminal histories | | | | |
| **Medium term opportunity**  
• All states establish a continuous checking process to detect any change in the criminal history of all those approved to work with children | | | | |
<p>| Assessing effectiveness | | | | |
| 9. Establish consistent framework for assessing effectiveness of screening and risk management outcomes | | • A consistent framework for assessing the effectiveness of screening and risk management activities would mean that each jurisdiction was measuring its system’s effectiveness in a similar way. | 1. Jurisdictions would have a similar assessment tool. | [2 /2.2 /2.2A] |
| <strong>Proposed</strong> | | | | |</p>
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<th>Explanation of what it is /does</th>
<th>National consistency advantages</th>
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<tr>
<td>EXTENSIVE PROJECT THAT WOULD NEED TO BE COAG AUSPICED AND WOULD TAKE CONSIDERABLE TIME TO IMPLEMENT</td>
<td></td>
<td></td>
<td>1. Would enable ease of movement across borders of those who have undergone screening in a participating jurisdiction and who are approved to work in specific employment occupations to be able to work in another states’ regulated employment environment</td>
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<tr>
<td>Screening</td>
<td></td>
<td>States with comparable working with children checks would agree to consider testing which would enable people without a criminal history to operate in a new state without having to undergo a check if they had been checked in another participating state</td>
<td></td>
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<tr>
<td>10. Explore opportunity for mutual recognition across jurisdictions</td>
<td>This requires high level policy consideration and would be an extensive and resource intensive project that, without exposing children to risk of harm or degrading the value of existing screening systems or eroding public confidence in the systems would require:</td>
<td>This would need to be undertaken in a considered manner in order to avoid possible discrimination against those with a criminal history</td>
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<td></td>
<td>• being auspiced by COAG</td>
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<td>• significant resourcing &amp; specialised skills</td>
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<td>• significant legislative change</td>
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<td>• participating states to have a risk management system in place</td>
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<td></td>
<td>• participating states to have a continuous checking system in place</td>
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<td>• a way to verify that screening had taken place in the originating state (e.g. issue of card or notice)</td>
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<td>• a process for informing screening agencies /and employers in another jurisdictions when a person’s criminal history changed or their screening approval had been suspended or cancelled – this would be extremely complex to achieve</td>
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<td></td>
<td>• a carefully staged approach</td>
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<tr>
<td></td>
<td>• a considerable time span to fully implement</td>
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<tr>
<td></td>
<td>(Note: ECHIPWC took 5 years to implement and was a significantly smaller undertaking than this would be)</td>
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Foreword

On 30 April 2009, the Council of Australian Governments endorsed the National Framework for Protecting Australia’s Children 2009–2020 (the National Framework)—an ambitious and long-term agenda to improve the safety and wellbeing of Australia’s children.

The First Action Plan 2009–2012 laid a firm foundation for the National Framework by building the evidence base for future actions to protect children and families at-risk. Over the life of the Plan, we made significant achievements across a large number of priority projects, including the establishment of the first National Children’s Commissioner and the development of National Standards for out-of-home care. These achievements would not have been possible without strong collaborative work between governments at all levels and the non-government sector.

The Second Action Plan 2012–2015 was developed through close collaboration between the Commonwealth, State and Territory governments, and the Coalition of Organisations Committed to the Safety and Wellbeing of Australia’s Children. This approach reflects the National Framework’s key message that ‘protecting children is everyone’s business’ and has been a critical element of the success achieved under the National Framework to date.

The critical focus of the Second Action Plan is ‘working together’ across governments and non-government sectors to improve the safety and wellbeing of Australia’s children. This will be achieved by strengthening families, early intervention, prevention and collaboration through joining up service delivery with mental health, domestic and family violence, drug and alcohol, education, health and other services. This work will be progressed within the child protection system as well as across other sectors, including those that are not traditionally thought of as child centred.

The Second Action Plan will also emphasise the development of local partnerships for local solutions, recognising that a ‘one size fits all’ approach does not work across Australia’s diverse communities and that Indigenous and culturally and linguistically diverse families and communities need strategies that are sensitive to their needs and circumstances.

Some of the actions outlined in the priorities will require commitment by the Commonwealth, State and Territory governments and the non-government sector. Others will require action by the Commonwealth or by individual State and Territory governments. As a result of local priorities and reforms occurring in the child protection and broader service systems not all actions will be progressed by jurisdictions in the same way and at the same time.

Building on the strong partnerships and achievements of the First Action Plan, we are confident that the Second Action Plan will significantly advance us towards our goal of ensuring that:

**Australia’s children grow up safe and well**

Endorsed at the Standing Council on Community and Disability Services, 17 August 2012, by:
The Hon Jenny Macklin MP, Minister for Families, Community Services and Indigenous Affairs, Commonwealth
The Hon Julie Collins MP, Minister for Community Services, Commonwealth
The Hon Pru Goward MP, Minister for Families and Community Services, New South Wales
The Hon Mary Wooldridge MP, Minister for Community Services, Victoria
The Hon Wendy Lovell MP, Minister for Children & Early Childhood Development, Victoria
The Hon Tracy Davis MP, Minister for Communities, Child Safety and Disability Services, Queensland
The Hon Ian Hunter MP, Minister for Communities & Social Inclusion, South Australia
The Hon Grace Portolesi MP, Minister for Education & Child Development, South Australia
The Hon Robyn McSweeney MLC, Minister for Child Protection, Western Australia
The Hon Cassy O’Connor MP, Minister for Human Services, Tasmania
The Hon Michelle O’Byrne MP, Minister for Health and Children, Tasmania
Ms Joy Burch MLA, Minister for Disability, Housing & Community Services, Australian Capital Territory
The Hon Konstantine Vatskalis MLA, Minister for Child Protection, Northern Territory
Section 1:
Achievements in the First Action Plan
1. Achievements in the First Action Plan

The Council of Australian Governments (COAG) endorsed the *National Framework for Protecting Australia’s Children 2009–2020* (the National Framework) on 30 April 2009. The National Framework represents the first time that all Australian governments have agreed to work together, alongside the non-government sector, to ensure that Australia’s children are safe and well.

Under the First Action Plan (2009–2012), Commonwealth and State and Territory governments, together with the Coalition of Organisations Committed to the Safety and Wellbeing of Australia’s Children, worked in partnership to build strong foundations for change. This involved the identification of twelve national priorities that, when taken together, aim to achieve the high level outcome—‘Australia’s children are safe and well’:

- Joining Up Service Delivery
- Closing the Gap
- Seeing Early Warning Signs and Taking Early Action
- Improving Support for Carers
- Developing National Standards for out-of-home care
- Building Capacity and Expertise
- Enhancing the Evidence Base
- Filling the Research Gaps
- Transitioning to Independence
- Responding to Sexual Abuse
- Advocating Nationally for Children and Young People
- Sharing Information

The Commonwealth Government committed $63 million over four years to support the implementation of the First Action Plan. This included a significant investment in the evidence base to help us gain a clearer picture of the state of child wellbeing in Australia, funding for key National Leadership Projects, increased support for care leavers, and enhanced access to quality child care for vulnerable children.

State and Territory governments made considerable contributions towards the key national achievements of the First Action Plan, along with leading the way in best practice initiatives for reforming the child protection system and support programs for children and families within their jurisdiction.

Key national achievements in the First Action Plan include:

- The establishment of the first National Children’s Commissioner, to promote the rights, wellbeing and development of children and young people in Australia
- The development and implementation of National Standards for out-of-home care, which seek to drive improvements in the quality of care so that children and young people in out-of-home care have the same opportunities as other children and young people to reach their potential
- The development and agreement of a Priorities Plan for Indigenous Children, which prioritises Aboriginal and Torres Strait Islander children in all future national priority projects under the National Framework
- The establishment of 50 new Indigenous Parenting Support Services to promote positive outcomes for vulnerable Indigenous families with young children
The development of a biennial survey of children and young people in out-of-home care, which will be piloted in partnership with jurisdictions in 2012 as a measure of the National Standards for out-of-home care. This will be complemented by Australian Government surveys in the other years to explore specific areas of interest.

The development of ‘Transitioning from out-of-home Care to Independence: A Nationally Consistent Approach to Planning’, which improves consistency across jurisdictions by outlining best practice in leaving-care planning.

An increase in the Transition to Independent Living Allowance, from $1,000 to $1,500.

The development and agreement of the position paper, ‘Toward a Nationally Consistent Approach to Working with Children Checks’ which will guide future cross-jurisdictional action on Working with Children Checks.

The establishment of a 12-month pilot of the national Exchange of Criminal History Information for People Working with Children, to evaluate its utility in providing more comprehensive information across jurisdictions to strengthen Working with Children Checks.

The completion of the first national study on Australia’s response to sexualised or sexually abusive behaviours in children and young people.

The development and publication of a learning resource to support family-based and residential carers and staff to respond to concerning sexual behaviours.

The development and trial of a Common Approach to Assessment, Referral and Support to help practitioners better identify and refer children at-risk, increase consistency among jurisdictions and promote information sharing.

The publication of a landmark research report that explores the payments and services available to carers, including an analysis of gaps and inequities in support.

The development and implementation of an online resource to improve carers’ access to information about available services and payments.

The development and production of the Winangay Indigenous kinship carer resource to support carers and staff working in the field.

The introduction of 25 ‘MyTime for Grandparents’ peer support groups and six Centrelink Grandparent Advisors in selected locations nationally.

The development and roll out of Building Capacity, Building Bridges workshops and training programs to boost the capacity of community service workers to identify and respond effectively to at-risk children and families.

Undertaking the first national analysis of workforce trends and approaches impacting on statutory child protection workforces.

The development of a National Research Agenda for Protecting Children, to identify research priorities and opportunities that will inform future policy and service delivery.

A funding commitment of $600,000 over three years (2011–12 to 2013–14) for research under the National Research Agenda on prevention, protection and therapeutic responses, care, systems and maltreatment types.

Developing headline indicators for children’s health and wellbeing and working towards developing a child protection unit data collection.

The approval and implementation of an information sharing protocol between State and Territory child protection agencies and the Commonwealth Department of Human Services (encompassing Medicare Australia, the Child Support Agency and Centrelink)—more than 26,000 requests for information had been received under this protocol as at December 2011.

The realignment and transition of all Communities for Children sites under the Family Support Program to strengthen families and provide more effective and comprehensive services to vulnerable families and children at risk of entering the child protection system.
In addition to these considerable national achievements, each State and Territory has been working on key projects aimed at local reform. Further information about these key reforms can be found on each of their websites as outlined in Appendix A.

Throughout the implementation of the First Action Plan, non-government organisations have continued to develop programs and contribute to the development of knowledge about practice. Non-government organisations have worked in partnership with government programs and on committees dedicated to bringing improvements to reduce the abuse and neglect of Australia’s children and young people.

Central to the significant achievements of the First Action Plan of the National Framework has been the collaboration between the Commonwealth Government, the State and Territory governments and a large group of non-government organisations, through the Coalition of Organisations Committed to the Safety and Wellbeing of Australia’s Children.
Section 2:
A Partnership Approach
2. A Partnership Approach

The National Framework

The National Framework recognises that child abuse and neglect remains one of Australia’s most serious concerns and that it requires action from all levels of government and the non-government sector to make a difference. The high level outcome of the National Framework—‘Australia’s children and young people are safe and well’—cannot be achieved by one level of government alone. Collaborative effort is required to improve the lives and opportunities of children and families, and ensure that there is ‘a substantial and sustained reduction in child abuse and neglect in Australia over time.’

The National Framework sets out six supporting outcomes that need to be achieved if Australia’s children and young people are to be safe and well. They are:

1. Children live in safe and supportive families and communities
2. Children and families access adequate support to promote safety and intervene early
3. Risk factors for child abuse and neglect are addressed
4. Children who have been abused or neglected receive the support and care they need for their safety and wellbeing
5. Indigenous children are supported and safe in their families and communities
6. Child sexual abuse and exploitation is prevented and survivors receive adequate support.

In line with Australia’s obligations as a signatory to the United Nations’ Convention on the Rights of the Child, the National Framework is underpinned by the following principles:

- All children have a right to grow up in an environment free from neglect and abuse. Their best interests are paramount in all decisions affecting them
- Children and their families have a right to participate in decisions affecting them
- Improving the safety and wellbeing of children is a national priority
- The safety and wellbeing of children is primarily the responsibility of their families, who should be supported by their communities and governments
- Australian society values, supports and works in partnership with parents, families and others in fulfilling their caring responsibilities for children
- Children’s rights are upheld by systems and institutions
- Policies and interventions are evidence based.
Public Health Model

The National Framework promotes a public health model approach to child protection. Under this model, illustrated in Figure 1 below, priority is placed on having universal supports (for example, health and education) available for all families. More intensive (secondary) prevention interventions are provided to those families who need additional assistance, with a focus on early intervention. Tertiary child protection services are a last resort for families and governments.

The First Action Plan put this model into practice by working towards a stronger universal and early intervention service system. The Second Action Plan, and each subsequent three-year plan, will build on this foundation by committing to, and implementing, actions that address the continuum of services in the public health model.

Figure 1 – Public health model for protecting Australia’s children

The above pyramid diagram demonstrates the public health model approach to child protection that forms the basis of the National Framework. The model outlines the spectrum of child protection services and identifies the level of government responsible.

The model demonstrates that universal preventative initiatives to support the following groups are managed by Commonwealth, State and Territory governments and non-government organisations:

- all families and children
- early intervention services targeted to vulnerable families and children
- targeted services and programs for at-risk families and children.

The statutory system is depicted at the top of the triangle as it is the smallest part of the system and is a last resort option for children who have been subject to abuse or neglect. The statutory system is managed by State and Territory governments and non-government organisations.
Linkages with Other Major Reforms

The National Framework builds on a number of significant national reform agendas. In varying ways, these agendas intersect to contribute towards addressing the needs of vulnerable children and families. Strengthening the focus of other national reform agendas to keep Australia’s children safe and well will be an important part of the work to be undertaken as part of the Second Action Plan. This can only be achieved through the Commonwealth, State and Territory governments working together in a partnership approach to develop and deliver on these broader social reform agendas.

Some key national reform agendas that impact on Australia’s children and families include:

- Investing in the Early Years—A National Early Childhood Development Strategy
- Closing the Gap on Indigenous Disadvantage
- The National Plan to Reduce Violence Against Women and their Children
- National Partnership Agreement on Homelessness with a focus on intervening early for children and their families at risk of homelessness
- National Disability Insurance Scheme launch sites
- National Disability Strategy
- National Affordable Housing Agreement
- National Quality Framework for Early Childhood Education and Care
- National Partnership Agreement on Early Childhood Education
- National Partnership Agreement on Indigenous Early Childhood Development
- National Partnership Agreement on Low Socio-Economic Status School Communities
- National Anti-Racism Strategy
- Building Australia’s Future Workforce package
- National Mental Health Strategy
- National Compact between the Australian Government and the Third Sector.
Section 3:
Outline of the Second Action Plan
3. Outline of the Second Action Plan

The theme for the Second Action Plan is:

"Working together to improve the safety and wellbeing of Australia’s children through strengthening families, early intervention, prevention and collaboration through joining up service delivery with mental health, domestic and family violence, drug and alcohol, education, health and other services."

This theme underpins the twenty priorities that have been identified for joint action under the Second Action Plan. Each of these priorities is based on a partnership approach that is family centred, focused on outcomes and includes performance measures. These priorities fall into three groupings based on how they build on the First Action Plan:

1. Embedding National Priorities from the First Action Plan
   The Second Action Plan will embed and build on achievements from the First Action Plan such as continuing to improve the effectiveness of Working with Children Checks, improving the evidence base and exploring the expansion of information sharing protocols between child protection agencies and other Commonwealth agencies.

2. Delivering on National Priorities in the Second Action Plan
   The Second Action Plan will build on and strengthen delivery of six significant National Priorities from the First Action Plan including Closing the Gap, National Standards for out-of-home care, joining up service delivery and responding to sexual abuse.

3. Exploring new priorities for the Second Action Plan and beyond
   The Second Action Plan will explore opportunities for joint work in new areas (including early childhood, education, domestic and family violence, disability, health and mental health) and will seek to strengthen the focus of these agendas to keep Australia’s children safe and well.

<table>
<thead>
<tr>
<th>EMBEDDING NATIONAL PRIORITIES</th>
<th>DELIVERING ON NATIONAL PRIORITIES</th>
<th>EXPLORING NEW PRIORITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Sharing Information</td>
<td>2. Transitioning to Independence</td>
<td>2. Education</td>
</tr>
<tr>
<td>5. Enhancing the Evidence Base</td>
<td>5. Improving Support for Carers</td>
<td>5. Sector Development</td>
</tr>
<tr>
<td>7. Seeing Early Warning Signs and Taking Early Action</td>
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</table>

Some of the actions outlined in the priorities will require commitment by the Commonwealth, State and Territory governments and the non-government sector. Others will require action by the Commonwealth or by individual State and Territory governments. As a result of local priorities and reforms occurring in the child protection and broader service systems, not all actions will be progressed by jurisdictions in the same way and at the same time.
Section 4:
Building on the First Three Years
The First Action Plan 2009–2012 laid out specific areas that would be the foundation for action over the remaining years of the National Framework. A significant amount of work was focused on establishing the evidence base through research and data for action in further years and investing in practical supports for vulnerable children and families.

Outcomes and lessons learnt from actions undertaken in the first three years have been used to inform the Second Action Plan 2012–2015. The Second Action Plan builds on the foundations of the First Action Plan and embeds the success of its National Priorities into our ongoing commitment to ensuring Australia’s children are safe and well.

### ADVOCATING NATIONALLY FOR CHILDREN AND YOUNG PEOPLE

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Embedding this in the Second Action Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement to establish the first National Children’s Commissioner to promote the rights, wellbeing and development of children and young people.</td>
<td>Supporting the establishment of the National Children’s Commissioner and acknowledging the Commissioner’s role as an advocate for children at the national level, in addition to State and Territory government commissioners. Continuing to support education initiatives to improve awareness amongst the broader community of children’s rights.</td>
</tr>
</tbody>
</table>

### SHARING INFORMATION

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Embedding this in the Second Action Plan</th>
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</thead>
<tbody>
<tr>
<td>Establishment of an information sharing protocol between State and Territory child protection agencies and the Commonwealth Department of Human Services (encompassing Medicare, the Child Support Agency and Centrelink) has resulted in the sharing of thousands of pieces of information to protect vulnerable families.</td>
<td>Continuing to explore and improve information sharing protocols across all levels of government, including between State and Territory governments, the Commonwealth Department of Human Services, the Department of Immigration and Citizenship and the Attorney-General’s Department.</td>
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</table>

### BUILDING WORKFORCE CAPACITY AND EXPERTISE

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Embedding this in the Second Action Plan</th>
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</thead>
<tbody>
<tr>
<td>Development and roll out of Building Capacity, Building Bridges workshops and training programs in 12 communities to boost the capacity of community service workers to identify and respond effectively to at-risk children and families. Development of the Community Services Workforce Profile Project final report <em>Who Works in Community Services – a profile of Australian workforces in child protection, juvenile justice, disability services and general community services.</em></td>
<td>Exploring options to broaden child and family sensitive practice through increased access to training. Findings of the Community Service Workforce Profile Project final report have provided the foundations for proposed work to support Australia’s statutory child protection workforce.</td>
</tr>
</tbody>
</table>
## WORKING WITH CHILDREN CHECKS

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Development and agreement of the position paper, ‘Toward a Nationally Consistent Approach to Working with Children Checks,’ which will guide future cross jurisdictional action on Working with Children Checks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embedding this in the Second Action Plan</td>
<td>Continuing to improve the effectiveness of Working with Children Checks across jurisdictions.</td>
</tr>
</tbody>
</table>

## ENHANCING THE EVIDENCE BASE

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Development of headline indicators for children’s health, development and wellbeing, and indicators to measure the progress of the National Framework (at Appendix B), and the Child Protection National Minimum Data Set (based on unit data records).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embedding this in the Second Action Plan</td>
<td>Improving the evidence base about Indigenous children, culturally and linguistically diverse children and children with disability, including disaggregating indicators by these statuses wherever possible. Continuing to embed the consistency and quality of data collections through improving the National Minimum Data Sets, and the collection of data about implementation of the National Standards for out-of-home care.</td>
</tr>
</tbody>
</table>

## FILLING RESEARCH GAPS

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Development of a National Research Agenda focused on protecting Australia’s children, underpinned by an ongoing national research program.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embedding this in the Second Action Plan</td>
<td>Undertaking research in the priority areas of community awareness, including diverse communities and Indigenous children and young people. Sharing best practice through the Closing the Gap Clearinghouse and the Child Family Community Australia Information Exchange.</td>
</tr>
</tbody>
</table>

## SEEING EARLY WARNING SIGNS AND TAKING EARLY ACTION

<table>
<thead>
<tr>
<th>Achievements in the First Action Plan</th>
<th>Development of the Common Approach to Assessment, Referral and Support (CAARS), with the pilot finishing in late 2012.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embedding this in the Second Action Plan</td>
<td>Testing CAARS’ applicability in different settings—including 13 Family Mental Health Support Services across Australia. Exploring options to further embed the tool in services.</td>
</tr>
</tbody>
</table>
Section 5: Delivering on National Priorities
5. Delivering on National Priorities

The Second Action Plan will build on and strengthen delivery of six significant National Priorities from the First Action Plan. These National Priorities are critical areas for joint action to improve the lives of vulnerable children and their families. Working with Commonwealth, State and Territory governments as well as non-government organisations in a partnership approach is essential to delivering on these National Priorities over the three years of the Plan.

The Second Action Plan recognises that solutions to improve the lives of vulnerable children must take into account the diverse backgrounds and needs of children and families. In particular, the Second Action Plan strengthens a focus on responding to the needs of Indigenous children, families and communities, and places a new focus on children with disability and children and families from culturally and linguistically diverse backgrounds. Addressing risk factors for child abuse and neglect, with a particular focus on domestic and family violence is an important part of the Second Action Plan.

Each of the National Priorities contains a number of actions that have been identified as important steps on the way towards ensuring Australia’s children and young people are safe and well. Each National Priority also contains one or more measures drawn from the National Framework indicators (at Appendix B) that will help us to gauge our progress towards this goal.

### NATIONAL PRIORITIES

| 1. | National Standards for out-of-home care |
| 2. | Transitioning to Independence |
| 3. | Joining Up Service Delivery |
| 4. | Closing the Gap |
| 5. | Improving Support for Carers |
| 6. | Responding to Sexual Abuse |

Further detail on each National Priority is available over the following pages.

**National Standards for Out-of-Home Care**

*Supporting Outcome 4—Children who have been abused or neglected receive the support and care they need for their safety and wellbeing*

Out-of-home care plays a significant role in shaping the lives and development of children and young people who cannot live safely with their birth families. Safe and stable out-of-home care can help children and young people to recover from the experience of abuse and neglect and improve their developmental outcomes.

The National Standards for out-of-home care seek to drive improvements in the quality of care, so that children and young people in out-of-home care have the same opportunities as other children and young people to reach their potential.
The actions in this priority address key issues in the out-of-home care system, such as: improving the stability of out-of-home care placements; enhancing the application and nationally consistent reporting of the Aboriginal Child Placement Principle; developing quality benchmarks; and listening to the voices of children and young people in out-of-home care.

As a society, we need to find ways of working together to provide enduring care and support for these children and young people so that they can achieve their full potential.

**ACTIONS**

- Enhance the application and nationally consistent reporting of the Aboriginal Child Placement Principle
- Develop minimum quality benchmarks for each of the out-of-home care standards and deliver full reporting on the standards in 2015
- Conduct the first national survey of children and young people in care under the National Standards for out-of-home care
- Improve stability of placements for children in out-of-home care, including through permanency planning
- Scope options to more effectively manage the transfer of children and young people in child protection who relocate to a different State or Territory.

**Measure**

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DESCRIPTION</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Placement stability</td>
<td>4.2</td>
<td>Proportion of children aged 0–17 years exiting out-of-home care during the</td>
<td>Australian Institute of Health and Welfare (AIHW) National Child Protection</td>
</tr>
<tr>
<td></td>
<td></td>
<td>year who had 1 or 2 placements</td>
<td>Data Collection</td>
</tr>
</tbody>
</table>

**Transitioning to Independence**

*Supporting Outcome 4—Children who have been abused or neglected receive the support and care they need for their safety and wellbeing*

Many young people experience an effective transition from out-of-home care arrangements and achieve very positive outcomes. Those who experience a difficult transition can face challenges in areas such as finances, relationships and housing—some of which may extend into the long term and affect life outcomes.

All young people deserve to have the opportunity to learn, work, engage in community life and influence decisions that affect them. Vulnerable young people, such as those transitioning from out-of-home care, require additional support to overcome barriers and achieve positive outcomes in all life domains, including health, housing, education and employment.

As a society, we need to work together to provide young people leaving care with enduring support, so they can secure their social and economic independence and build successful lives.
ACTIONS

• Integrate support for young people leaving care that is tailored to their individual needs and builds on a lifespan approach, including the Transition to Independent Living Allowance and State and Territory leaving care packages for care leavers

• Provide support and incentives that sustain engagement in school, and for young people leaving care, to help them overcome barriers to engaging in further education, employment and training

• Continue to implement practical mechanisms to ensure that there are appropriate housing options and supports for young people leaving care

• Identify and disseminate information on best practice housing models for young people leaving care, including through a literature review of current best practice models

• Explore options for community mentoring programs for children and young people who are soon to be transitioning from out-of-home care to build enduring support bases and facilitate ongoing positive engagement in the community.

To support these reforms, work will continue, including through the Protocol for Case Management of Unsupported Young People (Youth Protocol), to improve case management and the integration of services needed to achieve positive outcomes for young people leaving care.

This includes ensuring that unsupported, homeless and at-risk young people have access to appropriate assessment and assistance that provides for their immediate safety and wellbeing, and that service providers engage with these young people in a way that results in a planned and appropriate response to their longer-term needs.

Measures

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leaving care plans</td>
<td>4.6</td>
<td>Proportion of young people aged 15 years and over who have a leaving care plan</td>
</tr>
<tr>
<td>Cross-sector clients</td>
<td>4.7</td>
<td>Proportion of child protection clients aged 0–17 years who enter juvenile corrective services or seek assistance from homelessness services</td>
</tr>
</tbody>
</table>
Joining Up Service Delivery

Supporting Outcome 1—Children live in safe and supportive families and communities

The public health model underpinning the National Framework emphasises the provision of universal and targeted services to reduce the need for statutory intervention. However, families who experience multiple or complex needs may find it difficult to access these services.

Research has found that challenges such as domestic and family violence, mental illness and substance abuse are significant risk factors for child abuse and neglect.

Targeting locally based responses by bringing together the efforts of government and non-government organisations to meet the needs of these families is a priority because, as a society, we need to find better ways to support the most vulnerable children and families to prevent child abuse and neglect.

**ACTIONS**

- Trial locally based strategies for working with households with complex needs with a cost benefit analysis to inform future service models
- Develop local initiatives based on person-centred approaches through localised pilots of pooled funds
- Develop and implement local place-based initiatives to support the safety and wellbeing of children in Indigenous communities in the Northern Territory
- Develop approaches and support responses through collaboration with Mental Health, Drug and Alcohol and Domestic and Family Violence services in a way that focuses on eliminating violence and retaining a vulnerable child at-risk within a strengthened family unit
- Identify and share best practice in Child Aware Approaches to promote a better understanding of the relationship between the risk factors for child abuse and neglect
- Coordinate service supports between the Commonwealth Department of Human Services and statutory child protection agencies.

To support these reforms, there will be additional work to identify and share best practice in working with Indigenous communities through the Stronger Futures in the Northern Territory package, and also in working with children and families from culturally and linguistically diverse backgrounds.

Additional supporting initiatives include the National Collaboration Framework for Family Support Services, which aims to create a more efficient and effective alignment of Commonwealth and State and Territory government investment and effort. Work will also continue to support other locally based strategies, including Communities for Children, Community Playgroups, Children and Family Centres and Building Australia’s Future Workforce local sites.
Measures

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parental mental health</td>
<td>3.3</td>
<td>Proportion of parents with children aged 0–14 years who have a mental health problem</td>
</tr>
<tr>
<td>Domestic violence</td>
<td>3.5</td>
<td>Proportion of adults who experienced current partner violence and their children saw or heard the violence in the previous 12 months</td>
</tr>
</tbody>
</table>

Closing the Gap

Supporting Outcome 5—Indigenous children are supported and safe in their families and communities

Indigenous children continue to be over-represented in the child protection system throughout Australia. According to the AIHW Child Protection Australia 2010–11 report, Indigenous children are almost eight times more likely to be the subject of a child maltreatment substantiation when compared to non-Indigenous children, and more than nine times as likely to be on a child protection order.

Indigenous children are more likely than non-Indigenous children to be disadvantaged across a broad range of health, development and wellbeing indicators. A long-term investment is needed to address the varied and complex needs of Indigenous communities, including risk and protective factors for child abuse and neglect. Focusing efforts on community-based strategies is an important part of improving the safety and wellbeing of Indigenous children.

The Closing the Gap priority under the National Framework aims to ensure that Indigenous families and communities are in a position to provide their children with the safe and supportive environments they need to reach their full potential.

ACTIONS

- Explore collaborative approaches to child safety and wellbeing where children and families move between jurisdictions, particularly in Western Australia, South Australia and the Northern Territory
- Build the capacity of Aboriginal and Torres Strait Islander organisations through partnerships with mainstream providers
- Work towards building a community development approach to child protection in remote Indigenous communities
- Share strategies to encourage indigenous people to work in child protection and family support.
These actions will be supported by broader work in Indigenous communities, including disseminating information about what is working to meet the needs of vulnerable Indigenous families, the delivery of Stronger Futures in the Northern Territory and the whole-of-government strategy to Close the Gap on Indigenous Disadvantage.

Additionally, as agreed in the Priorities Plan for Indigenous Children, each National Priority includes specific actions to ensure that the needs of Indigenous children and families are considered across all domains.

The following actions will have a specific focus on addressing the needs of Indigenous children, families and communities.

<table>
<thead>
<tr>
<th>ACTIONS</th>
<th>NATIONAL PRIORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Enhance the application and nationally consistent reporting of the Aboriginal Child Placement Principle</td>
<td>National Standards for out-of-home care</td>
</tr>
<tr>
<td>• Explore options for community mentoring programs for children and young people who are soon to be transitioning from out-of-home care</td>
<td>Transitioning to Independence</td>
</tr>
<tr>
<td>• Trial locally based strategies for working with households with complex needs</td>
<td>Joining Up Service Delivery</td>
</tr>
<tr>
<td>• Develop and implement local place-based initiatives to support the safety and wellbeing of children in Indigenous communities in the Northern Territory</td>
<td>Joining Up Service Delivery</td>
</tr>
<tr>
<td>• Expand training and support for grandparent and kinship carers</td>
<td>Improving Support for Carers</td>
</tr>
<tr>
<td>• Develop and trial programs to prevent sexual abuse and keep children safe</td>
<td>Responding to Sexual Abuse</td>
</tr>
</tbody>
</table>

**Measures**

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Placement of Indigenous Children</td>
<td>5.1 To be developed (Aboriginal Child Placement Principle compliance indicator)</td>
<td>To be determined</td>
</tr>
<tr>
<td></td>
<td>5.2 Proportion of Indigenous children aged 0–17 years in out-of-home care placed with extended family or other Indigenous caregivers</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td></td>
<td>5.3 Proportion of Indigenous children aged 0–17 years placed through Indigenous-specific out-of-home care agencies</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Cultural support plans</td>
<td>5.4 Proportion of Indigenous children aged 0–17 years in care who have a cultural support plan</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
</tbody>
</table>
Improving Support for Carers

Supporting Outcome 4—Children who have been abused or neglected receive the support and care they need for their safety and wellbeing

Australia’s child protection system relies upon people who volunteer to act as out-of-home carers, giving of themselves—including their time, their home and other personal resources—to care for children and young people unable to live at home with their own families. In order to provide a high level of quality care for these vulnerable children and improve their life outcomes, out-of-home carers need assistance and support. All jurisdictions are experiencing difficulties in recruiting and retaining carers. Australia’s diverse kinship carers are now the fastest growing demographic of carers, and it is important for governments and non-government organisations and the community to support them in their valuable role. As a society, we need to acknowledge and recognise the carers of our most vulnerable children and young people.

The actions in this priority are aimed at addressing issues facing carers, including potential carers, by exploring opportunities for professional care, removing barriers to caring for working families and developing a national survey to better understand what carers need.

**ACTIONS**

- Investigate the barriers and opportunities for developing models of professional carers
- Improve opportunities and remove barriers to enable working families to become carers
- Develop a national carer survey to better understand carer demographics and their support needs
- Expand training and support for grandparent and kinship carers, including Indigenous and culturally and linguistically diverse kinship carers.

These measures build on the landmark research about carer payments and services that was conducted as part of the First Action Plan. They will provide practical support in addition to the online carers’ resource, Winangay Indigenous kinship carer assessment tool, ‘MyTime for Grandparents’ peer support groups and Centrelink Grandparent Advisors.

**Measure**

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carer retention</td>
<td>4.3</td>
<td>Proportion of out-of-home carer households that were retained in a given year</td>
</tr>
</tbody>
</table>
Responding to Sexual Abuse

Supporting Outcome 6—Child sexual abuse and exploitation is prevented, and survivors receive adequate support

Childhood sexual abuse is associated with a range of negative outcomes, including mental health problems, substance abuse, homelessness and behavioural problems. We know that 40 per cent of all sexual assault victims in 2009–10 were aged between 0 and 14 years. As a society, we need to be more aware of the impacts of childhood sexual abuse and to work together to find ways of preventing it.

Complex trauma can be caused by any form of childhood abuse and neglect, including growing up in an environment with domestic or family violence. Exposure to traumatic experiences in childhood can lead to emotional difficulties as well as loss of security, capacity to learn and the ability to detect or respond to danger cues. The effects of trauma can continue throughout life, impacting on future mental health, relationships and parenting, financial security and often leading to subsequent or repeated trauma exposure in adolescence and adulthood.

As a society we need to provide trauma-informed support to assist children, young people and adults who are survivors of child abuse and neglect, including those who have witnessed or experienced domestic or family violence and/or sexual assault.

ACTIONS

• Develop and trial programs to prevent sexual abuse and keep children safe, including specific programs for remote Indigenous communities, such as the cyber smart outreach program

• Review and support strategies to assist children, young people and adults who have experienced complex trauma to engage with the service system

• Share best practice in therapeutic and trauma-informed care across jurisdictions.

• Explore ways to respond nationally to the sexualisation of children.

These reforms will be supported by the whole-of-government commitment in the National Safe Schools Framework to teach skills and understandings related to personal safety and protective behaviours and appropriately monitor and respond to child protection issues in schools.

Measure

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual abuse substantiations</td>
<td>6.1</td>
<td>Proportion of children aged 0–17 years who were the subject of a child protection substantiation for sexual abuse</td>
</tr>
</tbody>
</table>
Section 6: Exploring New Priorities
6. Exploring New Priorities

It is important for vulnerable children and their families to be considered across all areas of service provision, by all levels of government and the non-government sector. The Second Action Plan will explore opportunities to integrate the National Framework with a number of significant national social reform agendas (including early childhood, education, disability, domestic and family violence, health and mental health) and seek to strengthen the focus of these agendas to keep Australia’s children safe and well.

The areas below will be explored through the Second Action Plan.

Early Childhood

The first five years of a child’s life shape their future, including health, learning and social development, and we want to make sure their future is bright. There is significant evidence to show that, no matter what the cultural background, quality early childhood experiences can significantly improve the outcomes for vulnerable and at-risk children; however, it is these children who continue to fall through the gaps.

This priority will explore opportunities to link in with the National Partnerships on Early Childhood Education and Indigenous Early Childhood Development and the National Quality Framework for Early Childhood Education and Care.

Work will be undertaken to:

- Identify communities where children are at-risk through available data (including the Australian Early Development Index)
- Review the current supports that encourage hard-to-reach families to engage in early childhood (child care and preschool), including through place-based and joined up approaches.

Education

For the majority of children, school builds on and complements the emotional and financial resources that their families provide for their development. However, some children may require additional support. These children are often at risk of dropping out of education. Appropriate intervention at the right point in the school life of these children can greatly increase their chances of completing and succeeding in education.

This priority will look for opportunities to link with the National Partnership Agreement on Low Socio-Economic Status School Communities, the National Partnership Agreement on Empowering Local Schools, and the National Partnership Agreement for More Support for Students with Disabilities.

Work will be undertaken to:

- Improve student performance, attendance and post-school outcomes for children and young people in care, including through exploring alternatives to suspension
- Explore options for strengthening the role education plays in early identification and support of children at-risk.
Domestic and Family Violence
Growing up in a family experiencing domestic and family violence can have a profound effect on a child, impacting on future relationships, health and emotional wellbeing and engagement in work and community life. There is a strong link between domestic and family violence, and child abuse and neglect. Research is increasingly recognising exposure to domestic and family violence as a form of child abuse — a fact acknowledged by the strong connection between the National Framework and the National Plan to Reduce Violence against Women and their Children.

This priority will look to strengthen families so children and young people grow up in a safe household free from domestic and family violence.

Work will be undertaken to:

- Identify priority areas to be progressed under the National Plan to Reduce Violence Against Women and their children
- Work towards the development of a National Centre for Excellence to Reduce Violence against Women and their Children to coordinate and share research, data collection, analysis and review in the areas of sexual assault and domestic and family violence.

Health and Mental Health
Vulnerable and at-risk children, including children and young people in out-of-home care, are likely to have poorer physical, mental and developmental health than their peers. They are also more likely to have ongoing unmet health needs, such as poor uptake of immunisation, inadequate oral health care and chronic medical conditions.

This priority will look for opportunities to improve maternal care and mental health services for women with mental illness such as home visits and culturally appropriate supports for women and babies. The priority will also look to strengthen links with the National Partnership Agreement on Preventive Health — Healthy Children Initiative, and the National Partnership Agreement on Supporting Mental Health Reform.

Work will be undertaken to:

- Review options for ensuring ongoing and substantive health assessments and interventions for children and young people in out-of-home care, including mechanisms to track health histories
- Track outcomes for children in care using available data sets and explore the potential links with the work of the National Mental Health Commission
- Implement the expanded Medicare Healthy Kids Check
- Explore options to better meet the mental health needs of children and young people in out-of-home care.

Disability
In Australia, the population of children with disability in child protection systems is unclear. However, existing international research indicates that children and young people with disability experience abuse and neglect at rates higher than their peers who do not have disability.

This priority will look for opportunities to link with the rollout of the National Disability Insurance Scheme and the National Disability Strategy.

Work will be undertaken to:

- Explore the interface between disability, child protection, and primary service systems, including through the National Disability Insurance Scheme launch sites
- Review the service response for children with disability in the out-of-home care system
- Explore evidence-based models of working with families where disability of the child or adult is impacting on the safety and wellbeing of children, including working with adult service providers.
Sector Development

Services for children and young people in the child protection system, including specialist support, are increasingly being delivered in partnership with the non-government sector. Taking a broad industry development perspective will help strengthen the capacity of the non-government sector.

Sharing knowledge about what works and local innovations being undertaken in each jurisdiction, will help us to understand how best to support the education, professional development and retention of the child protection workforce, including enabling the Indigenous workforce to be more actively involved in the Tertiary child protection system.

This can be achieved by undertaking work to:

- Explore the development of a para-professional workforce
- Explore competency frameworks and professional representation for workers
- Explore options to strengthen vocational and training pathways for Aboriginal and Torres Strait Islander workers
- Explore options for building professional and cultural expertise in remote service provision
- Research mandatory reporting schemes in each jurisdiction to identify elements that enhance their success
- Establish a collaborative approach to industry development and identify capabilities of high performing non-government organisations
- Explore options for building the capacity of non-government organisations that provide out-of-home care
- Share information about what works for statutory child protection workers and the family support workforce.

Community and Business

The National Framework acknowledges that everyone has a role to play in protecting Australia’s children. Further work is needed to encourage greater community awareness, support and action to ensure that protecting Australia’s children is truly everyone’s business. This includes supporting the community to better tackle issues critical to the safety and wellbeing of Australia’s children such as domestic and family violence and sexual abuse.

Work will be undertaken to:

- Work with the non-government sector to strengthen community engagement and development of enduring social supports for families, children and young people in, or at risk of entry into, care
- Explore options for developing stronger engagement of culturally and linguistically diverse communities and in particular, newly arrived cultural groups, to enhance their understanding of child wellbeing and available support systems
- Increase community awareness of, and engagement with, issues affecting the safety and wellbeing of children, to help ensure that the wider community understands the importance of their role in reducing child abuse and neglect
- Work with the media to foster appropriate reporting of child abuse and neglect in order to protect the interests of the child
- Highlight outstanding work in the field of child protection, early intervention and targeted services
- Engage community leaders, including leaders from Indigenous and culturally and linguistically diverse communities, to build support for protecting children and young people
- Explore options for engaging business in the protection and wellbeing of children.
Section 7: Reporting on Progress
7. Reporting on Progress

The National Framework is an ambitious and long-term agenda that involves actions by all levels of government and the non-government sector, so it is critical that we are able to measure progress over time.

The Second Action Plan includes a number of monitoring and reporting elements that will enable us to provide ongoing information about the progress of the National Framework. The main monitoring and reporting elements for the Second Action Plan are:

- Indicators of change for the National Framework’s six supporting outcomes
- Further development of demographic and administrative data about children in, and at risk of entering, the child protection system
- Research projects based on the National Research Agenda
- Biennial surveys of children and young people in out-of-home care, supported by Australian Government surveys of specific groups
- Annual Reports to COAG on the progress of the National Framework
- Information from bodies such as the Australian Children’s Commissioners and Guardians (ACCG).

Performance Indicators

Identifying and developing performance indicators is essential for measuring progress. The First Action Plan agreed the key performance indicators that will be used over twelve years of the National Framework to identify progress (at Appendix B). All these indicators will be reported on during the period of the Second Action Plan.

Data Collection

Collecting data that can be compared across jurisdictions is also a priority. We have commissioned improvements in the Child Protection National Minimum Data Set (CP-NMDS) that collects data on children and family demographics, children’s pathways into the child protection system, the type of abuse or neglect children experience, and demographic information about their carers. This data will include information on Indigenous, disability and culturally and linguistically diverse status, where possible. The results will be published by AIHW in their annual Child Protection Australia reports as well as the National Framework Annual Reports to COAG.

Research Projects

Under the First Action Plan, a National Research Agenda was developed to identify areas that need a broader evidence base to fill gaps in policy or practice knowledge. The Research Agenda was developed with key stakeholders, including non-government organisations, universities and the wider community, and was released in 2011.

The initial research priorities for the Second Action Plan are:

- Making a community safe and supportive for its children—understanding the conditions necessary to create a safe and child friendly community
- What family-based and community-based strategies work best to keep Indigenous children and young people safe?

The results from projects that contribute to the Research Agenda will be distributed broadly and outlined in the National Framework Annual Reports to COAG.
Surveys of Children and Young People in Care

The first national biennial survey of children and young people in care will be undertaken by 2014. This survey will cover key areas such as sense of security, participation, community activity, family connection, sense of community, significant others and leaving care.

Commonwealth Surveys

In the alternate years to the Survey of Children and Young People, the Commonwealth will undertake focused surveys on particular areas of interest.

National Carer Survey

A new survey of the demographics and support needs of out-of-home carers will be undertaken in the Second Action Plan to help us learn more about the carer population, and how they could be assisted in their vital role.

Annual Reports

Reporting to COAG through Annual Reports will continue under the Second Action Plan of the National Framework. These reports will track our progress towards the high level outcome that Australia’s children and young people are safe and well and against each of the supporting outcomes. The reports will measure our progress over time against agreed performance indicators and highlight our achievements through case studies.

Each of the Annual Reports under the Second Action Plan will assess: how governments and the non-government sector are working together with the community to embed the national priorities from the First Action Plan into Australia’s ongoing response to protecting children; what outcomes we achieve from delivering national priorities; and what we accomplish through exploring new priorities.

Commissioners and Guardians

The Australian Children’s Commissioners and Guardians (ACCG) aims to promote children’s rights and participation and ensure the best interests of children are considered in public policy and program development across Australia, including in the statutory child protection system. The ACCG has particular regard for children and young people who are most vulnerable or disadvantaged and is well placed to monitor outcomes for children and young people under the National Framework.

The National Children’s Commissioner will also play a role in monitoring and examining Commonwealth legislation, policies and programs that relate to children’s human rights, wellbeing and development. This will complement the work of the State and Territory children’s commissioners and guardians.

National Framework Evaluation

The National Framework sets the target of ‘a substantial and sustained reduction in child abuse and neglect in Australia over time.’ The success of the National Framework will ultimately be measured against progress on this target. While there are difficulties in isolating the impact of specific actions on broader social outcomes, the National Framework identifies a suite of indicators to provide a basis for measuring progress at a more detailed level and to provide information about progress in different areas.
A baseline evaluation will provide a blueprint for future evaluations and a platform from which to build an evidence base on progress. This evidence will be used to inform adjustments and enhancements to the National Framework over time and ultimately, help us work out whether we have achieved long-term change.

All jurisdictions are providing funding to support the development of the evaluation plan.

A core element of the National Framework evaluation will be an agreed set of performance indicators (at Appendix B). Another important element will be to recognise the numerous other national reform agendas that have links with the National Framework, outlined previously.

The strategic evaluation plan will be finalised in December 2012. The plan will set out how the evaluation of the National Framework at three yearly intervals will measure our progress towards achieving our high level and supporting outcomes as well as our success against a number of the key, broad elements of the National Framework including:

1. the implementation of the public health model approach to ‘protecting children’
2. the recognition that the best way to protect children is to prevent child abuse and neglect from occurring in the first place
3. the need for a shared agenda for change with the Commonwealth, State and Territory governments and the non-government sector
4. the underpinning principles of the National Framework, in particular the UN Convention on the Rights of the Child to which Australia is a signatory
5. the philosophy that protecting children is everyone’s responsibility.

The final evaluation for the National Framework, anticipated in 2020, will synthesise the findings from all information sources and previous three-year evaluations.

Community Engagement

It is important that the achievements of the Second Action Plan are communicated to the wider community, to help encourage awareness and engagement with the goals of the National Framework.

Each part of this Second Action Plan needs effective engagement of business and the broader Australian community.
Section 8:
Governance Arrangements
8. Governance Arrangements

The National Framework is an unprecedented example of collaboration between the Commonwealth, State and Territory governments and the non-government sector. All parties have been brought together by one of Australia’s most significant concerns — child abuse and neglect — and the commitment that has been demonstrated to date reinforces the National Framework’s message that ‘protecting Australia’s children is everyone’s responsibility.’

The high level goal of the National Framework — that ‘Australia’s children and young people are safe and well’ — cannot be achieved by one level of government alone. Collaborative effort with all levels of government and the non-government sector is required to improve the lives and opportunities of children and families in Australia.

The cooperative approach of the National Framework does not change the responsibilities of governments. States and Territories retain responsibility for statutory child protection, as the Commonwealth Government retains responsibility for income support payments.

The governance arrangements for the Second Action Plan include:

**COAG** will continue to perform an oversight role and will monitor progress through Annual Reports. Given its high level role, COAG has an equal interest in all types of actions in the Plan.

The **Standing Council on Community and Disability Services (SCCDS)** has responsibility for delivering the Second Action Plan and submitting Annual Reports to COAG. SCCDS consists of Commonwealth, State and Territory Ministers responsible for portfolios such as family, community, disability, youth, children, child protection and social welfare. It is responsible for tracking the progress of the National Framework and making decisions regarding its overall direction.

The **Standing Council on Community and Disability Services Advisory Council (SCCDSAC)** is responsible for the overall management of the National Framework. It consists of senior officials from relevant departments and is tasked with supporting and addressing strategic directions set by Ministers.

In the First Action Plan, the Community and Disability Services Ministers’ Advisory Council (CDSMAC, now SCCDSAC) had a broad range of responsibilities for a large number of policy areas, including child protection, juvenile justice, adoption and unaccompanied humanitarian minors. Following a review of these responsibilities, SCCDSAC’s role has been reframed to enable it to take a more strategic role in capturing relevant work across systems and to give it the authority to tackle systemic changes.

The **Children, Youth and Community Services Policy and Research Working Group (CYCSPRWG)** has been established as a new high level sub-committee of SCCDSAC, comprising senior representatives and chief executives from relevant government departments and agencies across Australia. It has been established to take a broad-based and comprehensive look across systems relating to community services, child protection and welfare, and it will support SCCDS to progress strategic national reforms that are high profile and critical to reforming child protection systems nationally.
The National Framework Implementation Working Group (NFIWG) is a trilateral body consisting of Commonwealth, State and Territory, and community representatives, including the Coalition of Organisations Committed to the Safety and Wellbeing of Australia’s Children (the NGO Coalition). Through NFIWG, the NGO Coalition is a partner in the promotion, negotiation and implementation of the National Framework and takes a lead role in engaging with the non-government sector and community more broadly in relation to the National Framework.

Under the Second Action Plan, NFIWG will be responsible for developing and managing local responses and partnerships and will continue to jointly explore complex issues by seeking input from stakeholders.

Taken together, these governance and consultation arrangements bring together governments, communities, business, children and families to drive home the message that protecting Australia’s children is everyone’s responsibility.
Appendix
Appendix A: Where to Find Further Information

<table>
<thead>
<tr>
<th>WHERE TO FIND FURTHER INFORMATION ABOUT STATE AND TERRITORY GOVERNMENT INITIATIVES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Capital Territory—Community Services Directorate</td>
</tr>
<tr>
<td>New South Wales—Family and Community Services</td>
</tr>
<tr>
<td>Northern Territory—Department of Children and Families</td>
</tr>
<tr>
<td>Queensland—Department of Communities, Child Safety and Disability Services</td>
</tr>
<tr>
<td>South Australia—Department for Education and Child Development</td>
</tr>
<tr>
<td>Tasmania—Department of Health and Human Services</td>
</tr>
<tr>
<td>Victoria—Department of Human Services</td>
</tr>
<tr>
<td>Western Australia—Department for Child Protection</td>
</tr>
</tbody>
</table>
### ORGANISATION

| COMMONWEALTH |
|-----------------|----------------------------------------------------------------------------------|
| **Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)** | Supports the Government to deliver on a broad range of social policy outcomes. FaHCSIA’s vision is a strong and fair society for all Australians. |
| **Department of Health and Ageing (DoHA)** | Promotes, develops and funds health care services. Aims to achieve better health for all Australians. |
| **Department of Education, Employment and Workplace Relations (DEEWR)** | Provides national leadership in education and workplace training, transition to work and conditions and values in the workplace. |
| **Department of Human Services (DHS)/Centrelink** | DHS is responsible for the development of service delivery policy and provides access to social, health and other payments and services. |
| **Attorney-General’s Department (AG)** | Provides support to the Government in the maintenance and improvement of Australia’s system of law and justice and its national security and emergency management systems. |
| **Australian Institute of Family Studies (AIFS)** | Conducts research and communicates findings that affect family wellbeing to policy makers, service providers and the broader community. |
| **Department of Broadband, Communications and the Digital Economy (DBCDE)** | Develops and delivers communications policy and programs. |
| **Australian Federal Police** | Combats crime nationally and internationally. |
| **Australian Communications and Media Authority** | Regulates broadcasting, the internet, radio communications and telecommunications. |
**Appendix B: Summary of indicators for the National Framework**

<table>
<thead>
<tr>
<th>DOMAIN</th>
<th>INDICATOR</th>
<th>DATA SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HIGH LEVEL OUTCOME: AUSTRALIA’S CHILDREN AND YOUNG PEOPLE ARE SAFE AND WELL</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child protection substantiations</td>
<td>0.1 Rate of children aged 0–17 years who were the subject of child protection substantiation</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Out-of-home care</td>
<td>0.2 Rate of children aged 0–17 years who are in out-of-home care</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Teenage births</td>
<td>0.3 Age-specific fertility rate for women aged 15–19 years</td>
<td>AIHW National Perinatal Data Collection</td>
</tr>
<tr>
<td>Low birthweight</td>
<td>0.4 Proportion of live born infants of low birthweight</td>
<td>AIHW National Perinatal Data Collection</td>
</tr>
<tr>
<td>Child homicide</td>
<td>0.5 Assault (homicide) death rate for children aged 0–17 years</td>
<td>AIC National Homicide Monitoring Program</td>
</tr>
<tr>
<td>Early childhood development</td>
<td>0.6 Proportion of children who are developmentally vulnerable on one or more domains of the AEDI</td>
<td>Australian Early Development Index</td>
</tr>
<tr>
<td>Child social and emotional wellbeing</td>
<td>0.7 Proportion of children aged 0-17 years scoring ‘of concern’ on the Strengths and Difficulties Questionnaire</td>
<td>To be determined</td>
</tr>
<tr>
<td>Family economic situation</td>
<td>0.8 Proportion of households with children aged 0–14 years where at least 50% of gross household income is from government pensions and allowances.</td>
<td>ABS Survey of Income and Housing</td>
</tr>
</tbody>
</table>

**SUPPORTING OUTCOME 1: CHILDREN LIVE IN SAFE AND SUPPORTIVE FAMILIES AND COMMUNITIES**

Pending AIHW development work in progress.
### SUPPORTING OUTCOME 2: CHILDREN AND FAMILIES ACCESS ADEQUATE SUPPORT TO PROMOTE SAFETY AND INTERVENE EARLY

<table>
<thead>
<tr>
<th>Category</th>
<th>Indicator</th>
<th>Proxy data source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family support service use</td>
<td>Number of children aged 0–17 years seeking assistance through treatment and support services</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Early childhood education</td>
<td>Attendance rate of children aged 4–5 years at preschool programs</td>
<td>ABS Early Childhood Education and Care national data collection</td>
</tr>
<tr>
<td>Antenatal care</td>
<td>Proportion of women who had at least five antenatal visits during pregnancy</td>
<td>AIHW National Perinatal Data Collection</td>
</tr>
</tbody>
</table>

### SUPPORTING OUTCOME 3: RISK FACTORS FOR ABUSE AND NEGLECT ARE ADDRESSED

<table>
<thead>
<tr>
<th>Category</th>
<th>Indicator</th>
<th>Proxy data source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parental substance use</td>
<td>Proportion of parents with children aged 0–14 years who used any illicit drug within the last 12 months</td>
<td>AIHW National Drug Strategy Household Survey</td>
</tr>
<tr>
<td></td>
<td>Proportion of parents with children aged 0–14 years who drank alcohol at risky levels</td>
<td>AIHW National Drug Strategy Household Survey</td>
</tr>
<tr>
<td>Parental mental health</td>
<td>Proportion of parents with children aged 0–14 years who have a mental health problem</td>
<td>Household, Income and Labour Dynamics in Australia (HILDA) Survey</td>
</tr>
<tr>
<td>Homelessness</td>
<td>Rate of children aged 0–17 years who receive assistance through homelessness services (accompanied and unaccompanied)</td>
<td>AIHW Specialist Homelessness Services data collection</td>
</tr>
<tr>
<td>Domestic violence</td>
<td>Proportion of adults who experienced current partner violence and their children saw or heard the violence in the previous 12 months</td>
<td>ABS Personal Safety Survey</td>
</tr>
</tbody>
</table>

### SUPPORTING OUTCOME 4: CHILDREN WHO HAVE BEEN ABUSED OR NEGLECTED RECEIVE THE SUPPORT AND CARE THEY NEED FOR THEIR SAFETY AND WELLBEING

<table>
<thead>
<tr>
<th>Category</th>
<th>Indicator</th>
<th>Proxy data source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child protection resubstantiations</td>
<td>Rate of children aged 0–17 years who were the subject of a child protection resubstantiation in a given year</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Placement stability</td>
<td>Proportion of children aged 0–17 years exiting out-of-home care during the year who had 1 or 2 placements</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Outcome Area</td>
<td>Number</td>
<td>Indicator</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>--------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Carer retention</td>
<td>4.3</td>
<td>Proportion of out-of-home carer households that were retained in a given year</td>
</tr>
<tr>
<td>Rebuilding resilience of abuse survivors</td>
<td>4.4</td>
<td>Proportion of children aged 0-17 years leaving care and scoring ‘of concern’ on the Strengths and Difficulties Questionnaire</td>
</tr>
<tr>
<td>Literacy and numeracy</td>
<td>4.5</td>
<td>Proportion of children on guardianship and custody orders achieving at or above the national minimum standards for literacy and numeracy</td>
</tr>
<tr>
<td>Leaving care plans</td>
<td>4.6</td>
<td>Proportion of young people aged 15 years and over who have a leaving care plan</td>
</tr>
<tr>
<td>Cross-sector clients</td>
<td>4.7</td>
<td>Proportion of child protection clients aged 0–17 years who enter juvenile corrective services or seek assistance from homelessness services</td>
</tr>
</tbody>
</table>

**SUPPORTING OUTCOME 5: INDIGENOUS CHILDREN ARE SUPPORTED AND SAFE IN THEIR FAMILIES AND COMMUNITIES**

<table>
<thead>
<tr>
<th>Outcome Area</th>
<th>Number</th>
<th>Indicator</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Placement of Indigenous Children</td>
<td>5.1</td>
<td>To be developed (Aboriginal Child Placement Principle compliance indicator)</td>
<td>To be determined</td>
</tr>
<tr>
<td></td>
<td>5.2</td>
<td>Proportion of Indigenous children aged 0–17 years in out-of-home care placed with extended family or other Indigenous caregivers</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td></td>
<td>5.3</td>
<td>Proportion of Indigenous children aged 0–17 years placed through Indigenous-specific out-of-home care agencies</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Cultural support plans</td>
<td>5.4</td>
<td>Proportion of Indigenous children aged 0–17 years in care who have a cultural support plan</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
</tbody>
</table>

**SUPPORTING OUTCOME 6: CHILD SEXUAL ABUSE AND EXPLOITATION IS PREVENTED AND SURVIVORS RECEIVE ADEQUATE SUPPORT**

<table>
<thead>
<tr>
<th>Outcome Area</th>
<th>Number</th>
<th>Indicator</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual abuse substantiations</td>
<td>6.1</td>
<td>Proportion of children aged 0–17 years who were the subject of a child protection substantiation for sexual abuse</td>
<td>AIHW National Child Protection Data Collection</td>
</tr>
<tr>
<td>Child sexual assault</td>
<td>6.2</td>
<td>Rate of children aged 0–14 years who have been the victim of sexual assault</td>
<td>ABS Recorded Crime – Victims Collection</td>
</tr>
</tbody>
</table>