

8 August 2013

The Hon. Justice Peter McClellan, AM
Chair,
Royal Commission into Institutional Responses to Child Sexual Abuse
GPO Box 5283
Sydney NSW 2001

Dear Justice McClellan

Thank you for the opportunity to contribute to the Royal Commission's consideration of the current processes concerning Working with Children Checks (WWCC).

The Centre for Excellence in Child and Family Welfare is the peak body for more than 90 child and family welfare organizations in Victoria. Our role is to build capacity through research, evidence and innovation to influence change. With our members, we share social responsibility with government and the broader community for eliminating vulnerability in Victoria. We see the WWCC regime as a necessary component of a community that respects the rights of all children and ensures that all children are safe. We endorse the commitment of the Department of Justice to the continuous improvement of the scheme's operations, and in that context, offer the following responses to the questions in the issues paper.

Should there be a national WWCC? What features should be included? Should there be minimum requirements for each state and territory scheme?

We believe that consistency across every state is a necessary to ensure the integrity of the WWCC's. We do not however, believe that a national scheme is the only way to achieve this. In place of the lengthy and complicated work that would be required to institute a national scheme, we call for a renewed effort to be made towards the harmonisation of the existing regimes. There are several dimensions along which we believe that the current systems should be aligned, such as: the roles and job descriptions for which they are required, the lists of records which are to be checked, the offences and findings that are specified in the list of relevant offences, the requirements for card holders to inform about changes in their status, and procedures for appealing against a negative assessment. We believe that the harmonisation process should maintain Victoria's existing level of stringency around WWCC's, rather than lead to a relaxing of the current requirements.

Are the current exemptions from a WWCC adequate or appropriate?

We believe that the current definitions exempt some people who should indeed be subject to WWCC's. We believe that all adults living in the homes where foster carers provide out of home care should be required to undergo a WWCC. We also believe that the requirements for WWCC's should be extended to include adults who provide accommodation for overseas and interstate exchange students.

The adequacy of the risk assessment process

The situation as described on the Department of Justice website is that employees are not obliged to inform their employer or the organisation they volunteer for of changes in their status, instead they are obliged to inform the Department of Justice of such changes. If the changes in their status results in a change of their eligibility for a working with Children Card, the Department of Justice should notify the organisations that the person's status has changed. This depends on the individual having previously notified the the Department of Justice of the change in their employing organisation. This creates a potential loophole in the process for ensuring that the WWCC remains current, and we believe that this loophole should be closed.

We believe that the list of professional bodies whose findings are relevant to whether someone passes a working with children check should be broadened to include the professional bodies representing psychologists, social workers, youth workers and community workers. We understand that, as these associations are not created under their own legislation in the same way as is the Victorian Institute for Teaching, this will require the co-operation of the leadership of these bodies to adjust their policies accordingly.

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

The list of offences that automatically results in a negative assessment dates from the regime's inception and predates the widespread use of social media by children and adolescents. Although we believe that this aspect of the current arrangements for WWCC's should be reviewed, we also believe that such a review should follow, rather than pre-empt any future legislative changes in the status of these actions. The process of community consultation and parliamentary debate that precede changes in legislation will provide guidelines as to the most appropriate response to trends such as this.

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

We believe that the existence of the WWCC does not replace the need for organisations to maintain policies and practices that ensure that children are safe at all times. The safety and well-being of children are the result of values and behaviours of all members of an organisation. A culture that respects the rights of children is created and maintained through policies, codes of conduct and specified procedures. A WWCC is a useful instrument for creating this culture because it assists in - but does not replace - recruitment procedures. In this respect, we draw you attention to the publication: "*A Guide for Creating a Child Safe Organisation*" published by the then Office of the Child Safety Commissioner for Victoria, which is now the Commissioner for Children and Young People. This document draws on the national *Creating Safe Environments for Children, Employees and Volunteers* framework, which provides a guide for organisations of any size and purpose to ensure the safety and wellbeing of all children and young people they work with.

Thank you for considering this letter. I would be happy to discuss these issues with you at any time.

Yours sincerely



Deb Tsorbaris
CEO