Building Safer Organisations for Children

Royal Commission into Institutional Responses to Child Abuse

Submission - Issues Paper 1
Working With Children Check
August 2013
Submission Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>About Child Wise</td>
<td>3</td>
</tr>
<tr>
<td>Recommendations</td>
<td>4</td>
</tr>
<tr>
<td>Submission</td>
<td></td>
</tr>
<tr>
<td>Section 1</td>
<td>6</td>
</tr>
<tr>
<td>Section 2</td>
<td>6</td>
</tr>
<tr>
<td>Section 3</td>
<td>8</td>
</tr>
<tr>
<td>Section 4</td>
<td>8</td>
</tr>
<tr>
<td>Section 5</td>
<td>8</td>
</tr>
<tr>
<td>Section 6 &amp; 7</td>
<td>9</td>
</tr>
<tr>
<td>Section 8</td>
<td>9</td>
</tr>
<tr>
<td>Section 9</td>
<td>10</td>
</tr>
<tr>
<td>Section 10</td>
<td>10</td>
</tr>
<tr>
<td>Section 12</td>
<td>11</td>
</tr>
<tr>
<td>Section 13</td>
<td>12</td>
</tr>
<tr>
<td>Section 14</td>
<td>13</td>
</tr>
</tbody>
</table>
About Child Wise

Child Wise is Australia’s leading international child protection charity committed to the prevention and reduction of sexual abuse and exploitation of children both within Australia and around the world. Child Wise’s primary focus is to prevent abuse before it happens.

Our programs are child-focused, award-winning and informed by a fundamental belief that children have a right to physical and psychological safety.

Child Wise has been responsible for many outstanding achievements in the protection of children both in Australia and overseas. In recognition, Child Wise has been the recipient of many awards, which include:

- 2005 Australian Crime and Violence Prevention Award (Certificate of Merit)
- 2003 Overall winner of the National Child Protection Awards (for the Choose with Care® program)
- 2002 Victorian Crime Prevention Award (Certificate of Merit)
- 1999 Australian Council for Overseas Aid Human Rights Award
- 1996 Australian Human Rights Award
- 1995 The Australian Tourism Award
- 1993 Anti Slavery Award
Recommendations

1.1 That the national WWCC scheme be implemented.


2.1 That the national WWCC scheme emphasises the suitability of the applicant to work with children over an entitlement to work with children.

2.2 That the national WWCC scheme should include an alert mechanism to inform organisations if a holder of a WWCC clearance has been accused or convicted of a categorised offence.

2.3 That the national WWCC scheme includes support for organisations to confidentially and centrally register details of people holding a WWCC clearance.

2.4 That an independent National Child Protection body is established to oversee National Child Protection Standards and the national WWCC scheme.

4.1 That the lifespan of a WWCC clearance is for one year, standardised for all categories of WWCC.

5.1 That no person is able to commence work before a WWCC is fully completed.

5.2 That the national WWCC scheme is adequately resourced to ensure prompt processing of applications with strong quality control systems.

6.1 That all child-related work, sectors, and roles be defined as: ‘anyone who may come into contact with children through their work or workplace; or anyone whose work may interact with, or impact on, children.’ Anyone who through their day to day activities has access to a workplace or sector that meets the above criteria should be considered under the same definition.
8.1 That any position or person which meets the definition of child-related work, sector, or role as at 6.1 should be required to obtain a WWCC under any national WWCC scheme.

9.1 That there be a separate category of offences within a WWCC that sensitively identifies the problem of childhood sexual offending.

9.2 That there a mechanism is established to ensure clear lines of communication between child protection and Children’s Court systems, and the national WWCC scheme.

10.1 That an independent national tribunal for an appeals process be established as part of a National Child Protection body.

12.1 That the risk assessment process for the national WWCC scheme should emphasis the suitability of an applicant for working with children.

12.2 That staff responsible for risk assessments be qualified in child protection and assessing specific risks to children.

13.1 That a WWCC is considered only one element in building strong, child safe, organisations and institutions.

13.2 That all organisations and institutions are required by law to meet National Child Protection Standards, which incorporate strong child protection policies and procedures.

14.1 That an independent National Child Protection body be responsible for the evaluation and monitoring of the national WWCC scheme.
Submission

Section 1: Should there be a national WWCC?

It is the contention of Child Wise that there should be a National WWCC. This should address gaps in existing State and Territory system. It must also provide a high level standard across all State and Territories when assessing who has the right to work with children.

People who have committed offences that would disqualify them from working with children in one State or Territory are able to move jurisdictions without consequence. Such people may apply and be granted the right to work with children in one State where they would be denied the same right in another.

Strategy 6.2 in Protecting Children is Everyone’s Business – National Framework for Protecting Australia’s Children 2009-2020 provides for the development of ‘a national framework for the inter-jurisdictional exchange of the criminal history of people working with children’. It is Child Wise’s position that this can best be implemented by linking with a national WWCC system.

Child Wise recognises that there are regulatory and legislative differences across State and Territory, and Federal, and that these differences would need to be accounted for in any National WWCC system.

Section 2: What features should be included in any national scheme?

The focus of a national WWCC scheme should on how it can best protect children. Current WWCC schemes and their assessment processes reflect an expectation that people should be allowed to work with children.

Child Wise believes that this approach is skewed. The emphasis must be on the severity of offences and the applicant’s subsequent suitability to work with children. A national WWCC scheme should be considered a license for the right to work with children based on suitability; where applicants must meet strict criteria rather than an expectation they will be allowed to work with children.

By focusing on a WWCC as a license for the right to work with children, a national WWCC can ensure that people who work with children are screened with the protection of children as the first priority, secondary to the still important right of the individual to work.
At present, the most effective alert mechanism that tracks if a person with a WWCC clearance commits or is convicted of a categorised offence while holding a WWCC card is in NSW. In all other jurisdictions, an organisation that employs a person who is granted a WWCC and is subsequently charged with, or convicted of, a categorised offence under the WWCC scheme, could continue to work in contact with children.

Child Wise recommends that a national WWCC scheme should include an alert mechanism that flags categorised offences committed by existing holders of a WWCC clearance. This should be done in line with Strategy 6.2 of the National Framework for Protecting Australia’s Children 2009-2020.

Equally, there needs to be a robust system for notifying organisations where a person is based against whom such an alert for a categorised offence is issued. Currently there is no effective method to know at which organisation a person with a WWCC clearance is employed. An alert mechanism, a necessary step for preventing offenders from coming into contact with children, can only be effective if the organisation employing an offender is promptly notified.

Child Wise recommends that a national WWCC scheme should include support for organisations to confidentially and centrally register the details of anyone employed by, or working with, them who holds a WWCC clearance.

There is a critical need for National Child Protection Standards; attitudes may change but unless there are mandatory National Child Protection Standards, people will not report, and the preconditions for child sexual abuse will remain. A national WWCC should be considered as only one aspect of a national system for protecting children.

National Child Protection Standards for organisations and institutions will act to prevent the future abuse of children. It is beyond the scope of this Issues Paper to fully consider the content of any National Child Protection Standards: Child Wise will detail recommendations on this point in a later submission.

Child Wise recommends that there is an independent national body to oversee National Child Protection Standards, one aspect of which should be a national WWCC scheme. It should be established in the same model as WorkCover: a nation-wide prevention system aiming to minimise and reduce the risk of child abuse within institutions and organisations. A central body for child abuse prevention across Australia will be best equipped to manage a national WWCC scheme.
Section 3: If there is no national scheme, should there be minimum requirements for each state and territory?

A strong national WWCC scheme is the most effective way to ensure equality of treatment for all people applying to work or volunteer with children, and to best protect children. It is Child Wise’s opinion that a state by state (or territory) system, no matter how robust, is likely to have gaps that may allow potential offenders to access children through their work.

Section 4: How long should any clearance be granted for?

The clearance for a WWCC should be for one year, with the requirement for it to be renewed annually. This should be the same for all varieties of WWCC: for those undertaking voluntary or paid positions.

As discussed in Section 2, an alert mechanism needs to be incorporated to track when someone with a WWCC clearance commits or is convicted of a categorised offence within the lifespan of their clearance. NSW recently introduced an effective system along these lines, aspects of which could be used as a model for a national scheme.

It is the recommendation of Child Wise that a similar approach is taken for the national WWCC scheme. In support of this approach, the national scheme should meet Strategy 6.2 in the National Framework for Protecting Australia’s Children 2009-2020, to ensure that information about convictions and offences are shared across jurisdictions.

Section 5: Commencing work before a check is completed?

No person should be able to work in contact with children until they are in receipt of a national WWCC clearance. Organisations must ensure that all representatives have been granted a WWCC before they have any contact with children or participate in a program or activity that interacts with or impacts on children. Some positions require a first aid qualification before commencing work: people who work with children must have an adequate WWCC.

To ensure that people are able to commence work in a timely fashion, a national WWCC would need to be adequately resourced to ensure a fast turnover of applications while maintaining effective quality control systems.
Section 6 & 7: Defining child-related work, sectors, and roles.

Child-related work should be defined as anyone who may come into contact with children through their work or workplace; or anyone whose work may interact with, or impact on, children. The same definition should be applied to child related sectors and roles, and anyone who through their day to day activities has access to a workplace or sector that meets the above criteria should be considered under the same definition (for instance, foster care families).

If child-related work is narrowly defined as work that interacts directly with children, there is a risk that children will be exposed to potential abuse. Groomers and paedophiles looking for vulnerable children seek access and opportunity; this does not have to be daily or even regular contact with children, as grooming can occur over long periods with irregular interaction with a child.

By defining the scope of child-related work, sectors, and roles broadly, there is a far greater likelihood that potential offenders will be discouraged from applying to organisations which may provide access or opportunity for abuse to occur.

In line with this recommendation, all people who have a child-related role under this definition, be they volunteers or occupy a paid position, must undergo the same WWCC process.

Section 8: Are current exemptions adequate or inadequate?

Most abuse occurs in the home, and there have been horrific instances of child abuse occurring through “Out of Home” and “Foster Care” Models. A further example is similar risks applying to parent volunteers around a school or community group. Similar risks may apply to parent volunteers around a school or community group. As discussed in section 6 & 7, potential offenders will look for access and opportunity to abuse children. Organisations or activities that do not require WWCC are exposing children to greater risk of abuse or neglect.

Any position which meets the definition of child-related work, sector, or role, must have a standardised WWCC. There should be no exceptions or exemptions.
Section 9: What records should the check include?

It is Child Wise’s experience that at least 33% of child sexual abuse is committed by another child or young person: children who are under 18 but older than the victim (P.Tidmarsh, MAPPS, 2005). These children have often been abused themselves, and there are very few interventions or treatment options to rehabilitate them.

Children who abuse other children, without proper support mechanisms to assist them rehabilitate, often go on to offend as adults. There is some suggestion that serious sexual offences committed as children may indicate a high risk of offending as adults. The highest priority must be to improve early interventions for problem children, and improve treatment options to support children at risk of sexually offending.

Child Wise would recommend that there be a separate category of offences within a national WWCC that identifies the problem of childhood sexual offending. High level sexual offences committed by a child above the age of 12 should be included as a category that may bar such a person from a WWCC clearance.

A major gap in current WWCC schemes is the poor levels of communication between the Children’s Court/Child Protection and the WWCC system. As Children’s Court rulings or findings do not go on a person’s criminal record, a parent who has been found to be abusive and denied custody may apply for, and be granted, a WWCC clearance. Currently, WWCCs rely on voluntary revelations by the applicant filling out the form.

Child Wise recommends that there be a mechanism established to ensure that Children’s Court findings and rulings are included for consideration in a national WWCC scheme.

Section 10: How should an appeal process operate?

A deep working knowledge of how children can be exposed to the risk of abuse is needed in order to assess the suitability of an applicant to work with children. The potential for organisational processes to be circumvented and children groomed for abuse is high: child abusers and groomers are skilled at manipulating organisations in order to gain access to children.
Current appeals processes for WWCC schemes are inadequate. For example, in Victoria, appeals go to VCAT for consideration, a body that does not have the experience or knowledge in the field of child protection to adequately assess the potential risk to children posed by applicants.

Child Wise recommends, as part of a national WWCC scheme, there be an independent tribunal including specialists in the field of child protection, with legislative power to make decisions. Members of the tribunal should be required to undergo training and workshops to ensure they are informed and aware of the latest research in how to prevent child abuse.

Such a tribunal will be ineffective if it is run at the State or Territory level; it must be a national system to ensure consistency of judgements and equality of outcome for applicants across all States and Territories.

**Section 12: The adequacy of the risk assessment process.**

The current risk assessment process is inadequate and needs to be improved. As outlined in Section 2, Child Wise believes there is a need to shift the WWCC system from a legal framework where the emphasis is on the expectation of being allowed to work with children, towards a focus on the suitability of the applicant for working with children. When considering the risk assessment process, the same needs to occur; and the priority must be on whether the applicant is suited to work involving children.

Staff who are required to conduct risk assessments should undergo regular education and training sessions, and there should be minimum standards for the qualifications of assessors. These standards should reflect an understanding of child protection.

The fields of expertise considered for staff conducting risk assessments should preference social workers and psychologists: prioritising their experience is more likely to ensure that the risks to children are adequately assessed.
Section 13: To what degree should the WWCC minimise the need for institutions to establish clear processes for responding to inappropriate behaviour of staff in child-related positions?

There is no measure that can minimise the need for institutions to establish clear and transparent processes for responding to inappropriate behaviour of staff in child-related positions. A WWCC will never be able to capture all potential offenders. As many as 95% of child sex offenders do not have criminal convictions and best estimates stand at only 5-10% of offenders being prosecuted (Dr. K. Gelb, Victorian Sentencing Commission).

The risk for organisations is that offenders who are seeking access to children may have no traceable history through a Police or WWCC, as they have never been caught or prosecuted. Should a WWCC system be seen to minimise the need for clear and transparent processes, an enormous gap will be opened for perpetrators of child abuse to access children through organisations and institutions.

Strong internal policies and procedures can act in two ways to stop child abuse from occurring within institutions and organisations:

1) Potential offenders will seek out vulnerable organisations. Well promoted and effective policies and procedures to protect children will act to deter offenders from accessing the organisation.

2) Clear and transparent policies and processes will ensure that the opportunities for abuse or harm to children are minimised within an organisation; they will provide safeguards; they will encourage organisational representatives and children to speak up about concerns or incidents of abuse.

Staff or volunteers who are concerned about abuse will not report if they feel that their allegation will be ignored, covered up, dealt with inappropriately, handled in a way that is not confidential, or not listened to. Organisations that do not have clear and transparent reporting mechanisms in place are creating environments that make children vulnerable to abuse.

While useful as a deterrent, a WWCC system may result in organisations becoming complacent in their recruitment and selection processes. Strong and robust policies and procedures, that incorporate child safe recruitment & selection, will help to account for possible deficiencies for a national WWCC.
Section 14: How should the effectiveness of any existing or proposed WWCC be evaluated and/or monitored?

As outlined in Section 2, an independent National Child Protection body should be established to ensure consistent and robust measures to protect children in Australia. Such a body should be responsible for monitoring and evaluating the effectiveness of any national WWCC scheme.

Child Wise would like to thank the Commissioners for the chance to contribute to the valuable work of the Royal Commission
Organisations have a moral responsibility to ensure children are safe in their care.

Child abuse is preventable.