

---

Royal Commission into Institutional Responses to Child  
Sexual Abuse

Issues Paper 3  
Child Safe Institutions

AFP Submission

October 2013

---

---

## Overview

The Australian Federal Police (AFP) welcomes the opportunity to make a submission to the Royal Commission's inquiry into Institutional Responses to Child Sexual Abuse. This submission addresses the following of the Inquiry's terms of reference:

- Essential elements of establishing a 'child safe organisation' that protects children from sexual abuse in an institutional context, including screening and education and awareness raising;
- How the effectiveness of 'child safe' strategies should be tested;
- How 'child safe' policies and procedures work in practice; and
- Frameworks for 'child safe' organisations.

This submission addresses these terms of reference by giving context to the AFP's role in, and recommendations for, ensuring institutions are 'child safe'.

Policies and practices that protect children are essential elements in 'child safe' organisations. These include codes of conduct, complaints handling procedures, and the recruitment, education, training and supervision of staff, including contractors and volunteers. Education and awareness campaigns for children are likewise vital in ensuring child safety, whereby children can identify inappropriate behaviour and are empowered to express concerns about safety.

### Screening - Working With Children Checks

An essential element in establishing child safe organisations is ensuring employees are appropriately screened. Working with children checks help protect children from physical and sexual harm as they assess a person's suitability to work with children. In most Australian States and Territories checks are the minimum legal requirement for those undertaking paid or voluntary child-related work with most now moving to have those people maintain a registration.

The involvement of police in working with children checks is limited to the disclosure of court and police held records through a National Police Check and additional information at the request of a screening unit. Screening units are responsible for assessing an individual's suitability to work with children.

Determining suitability to work with children appropriately rests with child screening units within various jurisdictions. In November 2009, the Council of Australian Governments (COAG) signed the Memorandum of Understanding (MoU) for the Exchange

---

of Criminal History Information for People Working with Children (ECHIPWC scheme). Underpinning this MoU was legislative exchange across the jurisdictions that permitted a significantly increased level of information disclosure to approved child screening units. At this stage, not all jurisdictions have finalised implementation of their child screening units.

Recognising that offences against children may not be prosecuted for a range of reasons, including concern over the child's welfare should they have to give evidence, the scheme allows for disclosure of convictions and findings of guilt, in addition to dismissed matters and other instances where charges have been laid but not proceeded with. In essence, the scheme articulated a national standard level of disclosure of police and court records and includes records committed as a juvenile.

The scheme permits screening units to obtain details of the circumstances of an offence. This information most often comprises the "Statement of Facts" which is prepared by police for provision to the court in the event of a guilty plea. This provides all details of the offence/s sufficient to satisfy a court as to the guilt of the individual and to enable a full understanding of the offence for sentencing purposes. This enables screening units to make a more fully informed decision as to the risk a person may pose to children.

### **Education and Awareness Raising in an Online Environment**

The AFP views education and training as playing a pivotal role in creating an environment which is 'child safe'. This should include the online environment to counter the threat posed by potential online offenders.

An essential element in establishing a 'child safe organisation' is being aware of the potential risks posed to children in an online environment, and any potential causes for changes in a child's behaviour (as a result of possible online grooming).

In March 2008, the AFP established the High Tech Crime Operations (HTCO) portfolio, and within the portfolio, the Cyber Crime Prevention Team.

The Cyber Crime Prevention Team has a strong prevention and awareness-raising focus on educating the Australian community on cyber-safety and security. The Team has two distinct but interconnected focal points:

- Social media and reputation management for primary and secondary school students ('Friends and Followers 101' presentation); and
- Bridging the cyber knowledge gap between youth and parents, with a focus on parents, carers and teachers (ThinkUKnow cyber safety program).

---

During 2012-2013, the AFP delivered the following:

- 230 Friends and Followers 101 cyber safety presentations to 25,224 primary and secondary school students
- 263 ThinkUKnow presentations to over 8640 parents, carers and teachers
- 69 Social Media and Reputation Management sessions to 3636 people from the National Rugby League, Swimming Australia, AFP Recruits, the Australian Defence Force and multiple sporting codes through the Australian Institute of Sport
- 63 cybersafety sessions to 9726 children and young people and 15 sessions to 515 community members as part of the Cyber Safety Pasifika project across the South Pacific.

### **Measuring effectiveness of 'child safe' strategies**

The ECHIPWC scheme and legislative changes introduced across the jurisdictions have removed some impediments to the disclosure of police held information to child screening units. The Commonwealth recently conducted a review of the impact of these legislative changes to the Commonwealth legislation on the extent to which additional information was now being disclosed for consideration by child screening units.

For the period 1 July 2012 to 30 September 2012, the AFP disclosed Commonwealth records in respect of 543 individuals being checked for working with children across Australia. Of that group, 242 were disclosures that were not affected by the legislative changes. However, the remaining 301 resulted in disclosures that would not have previously occurred. Of that group 90% would have previously been finalised without any record being disclosed had the legislative changes not been introduced. Additional offences were disclosed for the remaining 10% under the new legislation. The vast majority of additional offences disclosed related to fraud offences. However, within this group there were also drug matters, assaults and harassing telephone calls.

### **How 'child safe' policies and procedures work in practice**

The ECHIPWC scheme is a positive step towards providing a full picture of a person's history, particularly relating to instances where they have come to police notice. This enables informed risk management decisions to be made by appropriately skilled child screening units. Each jurisdiction could further enhance the level of checking, in particular, the use of ongoing/continuous checking of personnel who are already cleared to work with children. This would enable the police service of a jurisdiction to provide information in instances where a person cleared to work with children was charged with

---

new offences and then advise the screening unit to determine if these new charges affect the person's suitability to work with children.

A vulnerability identified at the Commonwealth level is that Commonwealth agency staff are often deployed across multiple jurisdictions making compliance with requirements in each jurisdiction complex. As a consequence, a number of Commonwealth agencies have come together to explore potential solutions.

Until resolved there remains a risk that Commonwealth employees who may be working with children are not being checked to the standard required in the local jurisdiction.

### **Frameworks for 'child safe' organisations**

The AFP recommends a national ongoing checking arrangement to minimise the risk of new charges on a cleared person not being discovered until the next national check is conducted. Additionally, the obligation should also rest with the individual to self-report any charges or misconduct that could negatively impact their clearance.

The AFP also recommends Australia adopt a national/international Child Protection Certificate framework to cover Australian nationals and residents who work with, or aspire to work with, children anywhere across Australia or internationally. This framework could be based on the UK International Child Protection Certificate developed by the Child Exploitation and Online Protection (CEOP) Centre.

The Certificate would be issued following checks of police information and intelligence databases across Australia. The Certificate would provide reassurance to employers within Australia and internationally that Australian nationals have been checked and have no adverse record preventing them from working with children. However, it is important to note that police checks are only as good as the information against which they are checked and some people with an interest in children may never have come to the attention of Australian police authorities. It is crucial that any organisation working with children also have robust policies and procedures in place to ensure that children are not put at any risk from those who may seek to harm them.

All Australian States and Territories have enacted legislation with respect to registering offenders convicted of serious offences against children, predominantly sex offences. The respective provisions stipulate reporting obligations in regards to the convicted offender which come into effect post any period of detention/imprisonment. There have been instances where convicted offenders have been released from corrective services facilities and placed into immigration detention pending assessment of immigration status or awaiting deportation. In some cases this detention is alongside others including

---

children. As these offenders remain in 'custody' there is contention as to whether they are bound by any State/Territory based reporting obligations. It is recommended that the definition of detention in the respective State/Territory provisions is considered against this context. Alternatively, or in addition, it is recommended that consideration be given to enacting specific obligations on the (immigration) detainee, or the Detention provider, to deny access to children in these environments.

### **Conclusion**

While the role of the police is limited to providing jurisdictional screening units and organisations with relevant information to assess an individual's suitability to work with children, ultimately it is the responsibility of the screening units and organisations to ensure the safety of children in institutions. To further enhance the value of police checks employed by screening units for the purposes of employment clearances, the AFP supports national certificates and ongoing police checks for all individuals working with children as well as the continuing implementation of the child screening registration requirements across the jurisdictions.