



ISSUES PAPER 1

WESLEY DALMAR RESPONSE

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WORKING WITH CHILDREN CHECK

Response by Wesley Dalmar OOHC

1. Should there be a national WWCC?

Yes. Absolutely.

2. What features should be included in any national scheme?

NSW system has changed as of June 2013.

Positive features which could be included in a national scheme are:

- Individuals apply for their own clearance which reflects their own history and is not specific to the roles or responsibilities involved in a particular child-related employment
- It is the responsibility of the employer to verify that an individual has a valid clearance number
- Clearances for employees require a fee to be paid. Clearances for volunteers are free of charge.

Other features which we would like to see included are:

- One check to include elements of both the Working With Children Check and the National Criminal History Record Check.
- Employers to be provided with risk assessment information or investigation documents from the body completing the check, rather than a notification of “barred / cleared”. This would enable employers to make decisions based on the nature of the information, particularly if the information pertains to a risk, but the threshold is low enough that the Check is “cleared”.

3. If there is no national scheme, should there be minimum requirements for each state and territory scheme?

Yes. Minimum requirements are:

- Verification of criminal history with State and Federal police in relation to child abuse

- Verification of criminal history with State and Federal police in relation to other related crimes such as violence, crimes of a sexual nature, fraud, or kidnapping.
- Verification of any reportable conduct history with the Commission for Children and Young People

4. How long should any clearance be granted for?

Timeframes do not have relevance as long as there is an obligation for an employee to declare status changes.

The system needs to be able to capture people who may have left employment because their WWCC clearance would be withdrawn but who could try to move to another employment or role with the same number. In other words, clearances would need to be constantly updated with new information in order to be relevant.

5. Should a person be able to commence work before the check is completed?

No.

6. How should child-related work be defined?

Child related work should be defined as *any* role where children are / have the potential to be left with the person for *any* period of time and for *any* reason. The role should not be limited to care giving or overnight stays.

For example, there is just as much risk that a school bus driver could groom a child for sexual abuse, or emotionally abuse them as there is a classroom teacher or a foster carer.

7. How should child-related sectors and roles be defined?

Child related sectors and roles should be defined as any sector or role employing people who engage in child related work as described in 6.

8. Are current exemptions for a WWCC adequate or appropriate – in particular, should a WWCC apply to those:

- living in the homes of children in out-of-home care?
- parent volunteers?

WWCC should apply to all people in child related work as defined in 6., including those living in the homes of children in out-of-home care and parent volunteers. Enabling WWCC that are free of charge for these people would be more appropriate than exemptions.

The system needs to be about keeping children safe – not about making it easier to volunteer your time to children (particularly if the volunteer is a potential perpetrator of abuse).

9. What records should be included in the check? For example, should the check include juvenile records?

- All records of criminal history. This should include juvenile and adult history, spent convictions, current investigations and charges that may be either current or withdrawn.
- Verification of any reportable conduct history with the CCYP
- Risk of Harm allegations from FACS (NSW or other state).

Note that the inclusion of some of these records is relevant to the risk assessment stage and is only useful to agencies engaged in child related work if the information is passed on to the agency – see question 11 for more information.

10. How should an appeal process operate?

Individuals should be entitled to request copies of the information held against them. They should have the opportunity to respond, particularly in cases of mistaken identity or a significant period of time having passed. Process for appeal should include the opportunity to consider the amount and severity of information held in relation to the current risk of harm.

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

Under the current regime in NSW, individuals and employers are given a WWCC response in terms of “barred” or “cleared”. It is preferable, to employers, that the risk assessment information, or investigation documentation, be passed on for consideration. This is particularly the case for some of the records that we believe should be included in the checking, but in a way that is relevant to the process of keeping children safe.

This is the case, for example, with current charges and investigations. Currently, in NSW, a person would not necessarily be barred under a current investigation if it is not a criminal matter. However, if the potential employer were made aware of it, it would influence the possible employment or the levels of supervision and risk management that are put in place in the workplace.

Another case is where, potentially, a person could be barred for a serious matter where the conviction occurred, for example, 30 years ago, when they were 17 or even 18 and have not been convicted, charged or even suspected of any concerning behaviour since that time.

Both of these examples are situations where it is preferable that the employer be provided with the information in order to complete a risk assessment and decide

about possible employment and risk management strategies rather than receive a blanket WWCC result of “barred” or “cleared”.

12. The adequacy of the risk assessment process.

In NSW, we are not privy to this process so cannot comment on this question.

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?

The WWCC should not minimise the need for institutions to have clear responses to inappropriate behaviour. A cleared WWCC does not guarantee that an individual will not become a future perpetrator of abuse.

Institutions need to have sound policies and procedures around staff and volunteer supervision; discipline; and complaints handling and investigation.

14. How should the effectiveness of any existing or proposed WWCC be evaluated and / or monitored?

The body designated to deal with appeals could also be responsible for gathering and monitoring statistical data around incidences of child abuse.

Submissions should be made by **Monday 12 August 2013**, preferably electronically, to solicitor@childabuseroyalcommission.gov.au, otherwise in writing to GPO Box 5283, Sydney NSW 2001