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**YMCA Australia**

## **YMCA Australia Submission to:**

### **Royal Commission into Institutional Responses to Child Sexual Abuse**

#### **Issues Paper 1: Working With Children Check**

August 2013

In Australia, the YMCA is made up of 28 independent Member Associations, serving over 625 communities. Nationally, the YMCA employs more than 10,000 staff and is supported by more than 3,000 volunteers.

The YMCA has been a trusted provider of values-based services to Australia's youth for over 180 years. Each year, over 300,000 young people come into contact with YMCA Youth Services. The YMCA has dedicated youth services operating in more than 70 communities across the country. In 2012, the YMCA operated 233 outside school hours care and vacation services, 41 kindergartens and 23 early learning centres. The YMCA experiences over 15,000,000 visits of children and young people per annum to our programs and services.

Given the geographic scope and the diversity of programs and services the YMCA delivers in support of children and young people, the issues and challenges posed by the current systems of WWCC and pre-employment screening are of particular relevance to the work of the YMCA, our staff and volunteers. The protection and safeguarding of children and young people within the YMCA is of paramount importance and the YMCA recognises that all children and young people have the right to develop and reach their potential in environments that are caring, nurturing and safe. In developing policies to safeguard children and young people, the YMCA has worked in partnership with the Australian Childhood Foundation and the ACF Safeguarding Children voluntary accreditation program. YMCA Australia continues to contribute to child protection policy reform through a variety of mechanisms including active contribution to the national Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children.

The YMCA operates in jurisdictions with legislated screening schemes and accordingly, recruitment procedures require that such checks be obtained for all applicants who are to be offered/have accepted a position of employment or as a volunteer within the YMCA. It is YMCA policy that all staff, volunteers and Directors undertake a Working with Children Check. In addition to legislated screening schemes, employees may be required to undergo a National Criminal History Record Check. These are done in conjunction with identity and candidate assessment checks regardless of whether the person will have direct contact with children or not.

In our response to this Issues Paper, we have responded to the questions about which the YMCA has knowledge and experience.

## **1. Should there be a national WWCC?**

YMCA Australia believes that the development of a nationally consistent approach to Working with Children Checks is a critical step forward in further strengthening a process to minimise the risk to children and young people. The National Framework for Protecting Australia's Children, the priorities of the second three-year implementation plan and the National Exchange of Criminal History Information for People Working with Children have significantly advanced efforts to progress a national approach to WWCC.

While the Working with Children Checks Working Group (COAG) have determined that national harmonisation of the relevant state and territory legislative frameworks is neither desirable nor feasible, there are a number of common elements that may be synthesised to achieve a greater level of consistency across jurisdictions. This includes a greater level of information sharing and standardised research techniques to inform evidence-based practice.

Overseeing progress towards a greater level of national consistency, the National Operators Forum have identified that although systems vary across jurisdictions, the quality of decision-making is consistently applied. Key challenges arise, however, when the current lack of cross-jurisdictional infrastructure does not adequately support the recognition of checks relating to volunteers and employees working across state boundaries. Lack of consistently applied processes across jurisdictions also creates challenges in effectively communicating changes to an individual's suitability to work with children. Efforts to enhance national consistency in relation to WWCC and other pre-employment screening systems should focus on improving the functionality of the system across jurisdictions.

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

Greater clarity regarding a nationally consistent definition of child-related work, particularly regarding both direct and indirect child-related work should be included. Indirect child-related work may include those working in governance, management or administrative roles and while they may not have direct contact with children on a regular basis, their roles may be critical in terms of determining child protection policy and in particular providing a monitoring and oversight role to the implementation of policy and management of policy breaches. While the risks associated with employees or volunteers who have indirect contact with children during the course of their work may be less than those with direct contact, there

may be some forms of indirect child-related work that requires risk mitigation. The screening tests need to be flexible enough for organisations to require screening of employees and volunteers engaged in both indirect and direct work with children and young people. For example, the Working with Vulnerable People Check in the ACT provides little differentiation between direct and indirect work.

The validity period of WWCC varies significantly across jurisdictions from 2 years to 5 years in some states. Greater consistency in the validity periods will facilitate the capacity of employees and volunteers to work across jurisdictions on a short-term or temporary basis.

Progress towards greater consistency in information sharing across jurisdictions is well underway with the National Exchange. To complement this process, greater consistency in sharing information across jurisdictions that relates to professional accreditation issues or professional disciplinary proceedings should also be considered within a national approach.

An effective and nationally consistent approach will also benefit from a process that provides mutual recognition of WWCC systems across jurisdictions.

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

The development of a nationally consistent scheme has been a key priority of the National Framework for Protecting Australia's Children and should continue to receive high-level support and concrete steps towards achieving national consistency should be progressed. Establishing minimum requirements for each state and territory should also be a key part of this process and in particular, the enactment of legislation that in its practical application achieves a greater level of consistency. Minimum standards regarding definitions of both direct and indirect child-related work and minimum standards that govern the extent of criminal and professional history checks also need to be established to support a robust national system. In the absence of nationally harmonised legislation, the application of WWCC that continue to function effectively and efficiently across jurisdictions will depend on minimum standards at the state and territory level. The establishment of minimum standards should not preclude these standards from reflecting best practice in relation to pre-employment screening and the achievement of best practice in this element of child protection should continue to be a priority.

#### **4. How long should any clearance be granted for?**

Resolving the current inconsistencies in the validity periods of WWCC will be an important aspect of achieving greater national consistency. For those working in both direct and indirect child-related work, an effective validity period in terms of cost and functionality should be considered to be three years. A shorter period will contribute to higher costs and a longer period of up to five years may be ineffective when conducting a review of a newly implemented system. Amendments to the current time frames for renewal of WWC will also need to consider the administrative and cost implications for organisations and individuals. During the validity periods of the WWCC it will be important that a consistent approach is taken in terms of updating the checks to include employer information and professional disciplinary matters. A change of employer should also necessitate an updated WWCC.

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

An employee or volunteer should not commence in their role until a WWCC is completed and thorough risk assessments should also be conducted prior to the commencement of individuals while awaiting the WWCC. The volume of WWCC needing completion has however resulted in significant administrative delays in some jurisdictions. In some circumstances it will be critical that an employee commence in their role immediately and this may require commencing prior to the completion of a WWCC. In these circumstances, organisational policy needs to be clear about the supervision required and a robust process will need to be put into place to monitor this process. Commencement of an employee prior to receiving a WWCC also presents a risk of a potential employment dispute should that employee receive a negative assessment. A reduction in the timeframes of the administrative process of the WWCC will also further minimise risk.

#### **6. How should child-related work be defined? And 7. How should child-related sectors and roles be defined?**

The development of consistent definitions regarding child-related work and child-related sectors will be important in supporting a nationally consistent framework. YMCA Australia believes that child-related work involves direct and indirect service contact with children and young people. Direct child-related work may be easier to define in terms of work that involves direct and regular contact with children and young people. Defining indirect child-related work may be more challenging in that indirect child-related work may involve roles that are supervisory, managerial, and governance roles with a focus on establishing, implementing and monitoring policy in relation to child protection measures. Given the importance of these indirect roles

in promoting and supporting the safeguarding of children and young people, the WWCC and other pre-employment screening systems need to be flexible enough so as not to exclude employees or volunteers working in indirect child-related work.

- 8. Are current exemptions for a WWCC adequate or appropriate – in particular, should a WWCC apply to those:**
- (a) living in the homes of children in out-of-home care?**
  - (b) parent volunteers?**

Considering the broadest application of the definition of child-related work, those living in the homes of children in out-of-home care should be required to obtain a WWCC and while their role may not be defined as paid employment or voluntary work, the vulnerability of children and young people in out-of-home care must require that other individuals in the home environment obtain a WWCC and are deemed to be a fit and proper person in terms of their suitability to have to contact with children.

Parent volunteers, whether this is in a community sporting role, in a school environment or on school camps or excursions should also be required to obtain a WWCC. While some schools, community groups and sporting clubs or associations have voluntarily adopted this as policy, irrespective of the existence of legislation, there should be a mechanism to ensure a greater level of consistency in this regard.

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

While the WWCC should give consideration to juvenile records, this needs to occur on a case-by-case basis according to the nature and severity of a juvenile offence and whether a custodial sentence was served. Currently, the National Criminal History Check provides for a complete disclosure in relation to employment in child-related work.

- 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 role and purpose of WWCC must be viewed within a broader context of a range of child protection policies and practices within organisations. There needs to be a

clear community perception that the WWCC is only a small component of overall child protective practice. While WWCC have a particular function in terms of assisting in pre-employment screening processes and helping to minimise the risk to children and young people, the strength of an organisation's capacity to protect children and young people will be achieved through continuous improvement in child protection and child safety policies and practices. This in turn needs to be supported by a robust process of risk management, accreditation and monitoring, ongoing staff and volunteer training and ensuring that organisations respond immediately and decisively to inappropriate behaviours.

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

Indicators of the effectiveness of a nationally consistent WWCC will include the degree to which the WWCC prevents the employment of individuals with a relevant criminal or incident history in child-related work; the administrative ease of the application process including processing times and costs; an assessment of the costs and efficiencies of the re-registration process; and the effectiveness of employer reporting systems in relation to misconduct issues. An important element of evaluation will be to measure the impacts of the newly implemented scheme on the recruitment and retention of the casual labour force and the impact on volunteering.

In summary, The YMCA recognises the importance of a nationally consistent scheme that is effective, flexible, and achieves a greater level of consistency across jurisdictions, without presenting a cost or administrative barrier for organisations or individuals.

We would welcome the opportunity to discuss any aspect of this submission, if requested.



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