

SURF LIFE SAVING AUSTRALIA SUBMISSION
ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE
ISSUES PAPER #1 - WORKING WITH CHILDREN CHECK

SURF LIFE SAVING AUSTRALIA POSITION STATEMENT

- a) Surf Life Saving Australia supports and encourages the establishment of a National Working With Children Check (WWCC).
- b) A WWCC is a frontline defense strategy in the establishment of protection for children against child abuse in institutions catering for children. It is the most significant risk mitigation strategy available to both children and institutions. It provides a defense against persons who have a record relating to child abuse, who are known offenders, and who present the most significant risk to child safety in institutions. A national WWCC will provide a key instrument of risk mitigation for national organisations.
- c) Surf Life Saving Australia is an organisation that has its primary purpose as an emergency service that saves lives in water. However, it is also a multifaceted organisation with secondary purposes as a sporting organisation, a youth organisation, an educational organisation, and a community service. It is a complex organisation in which each of these facets interacts with, and is important to, each of the other facets. In terms of child protection, these facets bring children into contact with adults across a range of activities (eg. patrolling, sport, club activity). A Patrol Captain will have patrolling members under the age of 18 and therefore has a duty of care under the law for those members as children.

During the 2012/13 season, the membership of Surf Life Saving under the age of 18 years was as follows:

5 to 13 years - 62,866 (37.7% of membership)
13 to 18 years - 15,781 (9.5 % of membership)

The total membership for the 2012/13 season under the age of 18 years was 78,647 (47.2% of membership).

- d) Surf Life Saving Australia is a national organisation comprised of separate legal entities that include 310 club entities, seven state/territory entities and a national entity. As a national organisation, SLSA's constituent are subject to differing legislative requirements across states and territories with regard to child protection and WWCCs.

A key to any organisation managing WWCCs relates to having a single point of access/notification whereby that organisation is 'deemed to know' if a person presents a threat to child safety within its operation. This is particularly critical in volunteer organisations where complexities due to legislative differences complicates and diffuses clear policy and practice.

- e) Surf Life Saving Australia acknowledges that education programs for members working with children are vital to establish an environment conducive to the safety and wellbeing of children. Given that child protection legislation and WWCCs are state based, educative programs specific to working with children need to be framed around state legislative requirements, resulting in those programs being state designed and based. This situation creates severe restrictions on the ability for national organisations to develop and provide a standard national process applicable for all Surf Life Saving Australia entities. In essence, national policy exists mainly in principle form, with state entity procedures and processes reflecting state-based legislative requirements.
- f) Responding to Issues Paper #1 brings forward examples of the difficulties faced by a national organisation trying to manage state-based and differing legislative requirements of its entities. For this reason, responses in this submission are in broad terms only, with specifics relating to some questions being difficult to articulate in a concise national model, given that the organisation's experiences are essentially state-based.

RESPONSES TO ISSUES PAPER #1 QUESTIONS

1. Should there be a national WWCC?

Yes...

- a. A national WWCC would not only simplify employment (professional and volunteer) between States but also establish a collective and cooperative advancement towards providing our youth with a safety net and deter inappropriate people from attempting to access our youth.
- b. With computer systems these day's it should not be difficult to have a National WWCC system that can do what each individual state does currently.
- c. Having a national WWCC would mean anyone working with children including coaches, facilitators and leaders could travel across borders, and accepting organisations able to confirm validation of a WWCC prior to courses, competitions and camps etc.
- d. Consistency would provide national efficiencies for the member, clubs and states, with a national Membership Database in use by all SLS states and territories providing consistent information.
- e. A national WWCC would assist with the management of Surf Life Saving policy and procedures (including interstate transfers, sport competitions, and policy development etc).

- f. A national WWCC would ensure there is a simple system which is transparent and effective in regard to child protection.
- g. A national check would make it much easier for national community and sports organisations to implement track and maintain records and ensure there is a consistent approach to the safety of their members.

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

- a. A key feature that should be included in a national scheme involves consistent criteria checking points, with consistent requirements of what is and is not required to complete the check and the fact that the check is in essence a national database of information and tracking.
- b. A 100 points identification regime including photo identification.
- c. A WWCC validation search option on a national website like the Western Australia WWCC site but which also includes the individual's name so an organisation knows the card is for the correct person.
- d. An online renewal system.
- e. An up-to-date website as a hub for information, resources, and statistics.
- f. Requirement for all organisations providing services to children to develop, implement and maintain a child-focused risk management strategy and review it annually. Such a risk management strategy could include:
 - i. Statement of commitment
 - ii. Code of conduct
 - iii. Procedures for recruiting, managing and training volunteers and staff
 - iv. Policies for identifying and reporting disclosures or suspicions of harm
 - v. Managing breaches of risk management strategy
 - vi. Policies for compliance with child protection legislation
 - vii. Risk management plans for high-risk activities and special events
 - viii. Strategies for communication and support.
- g. Volunteers are not charged for submitting an application to receive a WWCC.
- h. Parents of children who are involved in the same or similar activity should *not* be exempt from applying for a WWCC. This is seen as a major loophole of the current Queensland WWCC legislation.
- i. Any negative WWCC should provide a signal to the sponsoring organisation of any individual who should not be come into contact with children in that organisation's activities.

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

Yes...

- a. Whilst the national WWCC is the preference for Surf Life Saving Australia, if this was not implemented, SLSA would support the establishment of a set of minimum requirements that each state and territory would be required to abide by.
- b. Minimal requirements should include depth of checking (eg. not just convictions), period of currency for WWCCs, interstate transferability of WWCCs, a common set of WWCC criteria, and a definition of persons required to complete a WWCC.

4. How long should any clearance be granted for?

Three (3) years ...

- a. Considering the turnover of Surf Life Saving active members is around 4 years, 3 years would provide an effective renewal time for those that continue longer in the movement.
- b. Arguments for a longer period are based on administrative efficiencies rather than child protection.

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

No ...

- a. A check needs to be cleared before work with children is able to begin. If a national WWCC is introduced, this position would need to be consistent nationally.
- b. Difficulty in implementing this position as WWCCs can take up to 12 weeks to come through and most people require the WWCC in a more realistic timeframe .
- c. Currently in QLD a volunteer must not begin child related work prior to validation of WWCC, however paid staff can. Consistency is required for both volunteers and paid staff.
- d. In Queensland, difficulties are faced when our frontline volunteers must hold a WWCC (blue card) to volunteer and undergo training to qualify for patrols and can not begin patrolling until a blue card is validated, particularly for clubs in need of patrol members.

6. How should child-related work be defined?

- a. Anyone over the age of 18, in a voluntary or paid position, who works with person's under 18 years of age in any capacity.
- b. Child related work needs to be defined by sector and have either a primary or secondary focus. For example the New South Wales definition states 'child-related work is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector'. There are organisations or roles where child-related work is not the primary focus, yet does form part of the role. There is a need to make sure that the check is just not for child related work, but for everyone who works in a role with children either all the time or some of the time.

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

- a. Whilst states define sectors and types of organisations, the issue here is the roles specific to each organisation that involve working with children. If an adult is in contact (professionally or volunteering) with children under 18 years then they should be legally required to obtain a WWCC. The number of contact hours is irrelevant.
- b. A definition in terms of interaction with children would more clearly target persons requiring a WWCC. Hence, every organisation that involves persons under 18 years must define those persons working with children as requiring a WWCC.
- c. There is a need to ensure that we are looking at both primary and secondary sectors and that roles are defined within organisations. Many existing definitions of sectors and roles are clear as far as they go, yet are not an exhaustive check of all roles and sectors that relate to children.

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?

Yes ...for both categories

- a. Parents should not be exempt as many cases parents work with other children and move activities directly away from their own child, therefore making them just another adult helping out rather than 'parent volunteer'

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

- a. WWCCs should include all records regardless of the age of a person and when the offence happened. It is understood that sexual abuse offences are committed by persons under the age of 18 years.
- b. Past records, including juvenile, disciplinary and Family Services, should be part of a WWCC regime. (NB. These records should be part of a checking regime and contribute to the reporting regime, but should not part of the reporting regime.)
- c. Convictions (spent or unspent), charges (whether heard, unheard or dismissed) and juvenile records should all be checked as the safety of our members needs to be paramount at all times.

10. How should an appeal process operate?

- a. Yes, to ensure procedural fairness and natural justice.
- b. If an appeal process is initiated by an individual, that individual should not be permitted to work with children until the appeal process is completed.
- c. Appeals should to be lodged within a specific time period, and need to be dealt with by an independent appeals tribunal. A national WWCC would require that appeals be dealt with consistently.
- d. There should exist some exemptions where an appeal process cannot operate.
- e. The independent appeals body is required which has a formal appeals process to review a decision to refuse the certification of a valid WWCC.
- f. A person refused positive WWCC (if not automatically excluded due to child sex or child pornography-related offences) may apply for a review of a decision by a Commissioner for Children or like position.
- g. An application for a review of the Commissioner's decision must be lodged within 28 days of receiving the letter from the Commissioner advising a person of the decision.
- h. Any Tribunal decision should be final.

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

- a. The time taken to investigate and bar an individual, as they may be working with children until there is a conviction, and the organisation may be unaware the individual is being investigated until convicted. Children may be put at risk while this process takes place.
- b. Ability of the Club President/ Personnel to communicate this effectively with the member and coordinate the appropriate suspension.
- c. Club member and community concern around the potential for their child/ren to have been harmed or mistreated by the person in question.
- d. Appropriate support for any under 18 members who may be harmed whilst in the care of SLS, including their families
- e. Provision of support for the President and Club Executive to effectively deal with matter confidentially and effectively.
- f. In Victoria, the VCAT has overturned quite a few WWCC rejections based on the length of time the offence took place and mitigating circumstances. Time and events surrounding convictions shouldn't necessarily be a factor but the type of offence should be relevant. An 'all or nothing' approach seems the only consistent method in protecting children. Anything less is a half hearted effort and a logistical nightmare.

12. The adequacy of the risk assessment process.

- a. In South Australia the Police Check Certificate goes to the individual and cannot be sighted by club or state officers unless the individual chooses to do so. Surf Life Saving in that state therefore requires the Club President to sight the certificate before a member can commence working with children. However, this measure, put in place by Surf Life Saving South Australia because it is not notified directly, does allow people to 'slip through the system'. There is no single point of notification by which the State body is 'deemed to know' in relation to persons with an adverse WWCC.
- b. Ongoing education with relation to child protection must be carried out by parent body organisations, such as SLSQ, due to volunteer/ staff turnover.
- c. Even with criminal history checks and national police checks completed, this still does not prevent harm from occurring. Member safety and well being comes from a heightened culture of vigilance, supervision and being aware of what to look out for and

situations being prevented from occurring. In this regard the Surf Life Saving South Australia Nippersafe program, Club Reporting Officer positions and process, along with other accredited courses for volunteers undertaking official roles (Coach, Age Manager, etc) are key in ensuring members are educated in this area and aware of the member protection policies and practices with Surf Life Saving. The current Surf Life Saving Australia Junior Development Resource provides content which assists Age Managers to discuss this with all our junior members and parents.

- d. In Victoria the risk assessment in obtaining a WWCC is completed through the Department of Justice (DOJ) with Victorian Civil and Administrative Tribunal used for appeals.

A major risk assessment issue experienced by Life Saving Victoria (LSV) relates to the lack of information sharing between DOJ, the Victorian Institute of Teaching (VIT) and community organisations. Under WWCC Exemptions, teachers registered with VIT (all working teachers) are exempt from obtaining a WWCC. Therefore if a teacher is convicted of a relevant offence, DOJ is not notified and that teacher can still obtain their WWCC for other activities. LSV experienced a situation where a teacher was convicted of possessing child pornography images, barred from VIT and teaching, but could still be a Lifesaver and supervise children as there was no communication of information concerning the offences between VIT and DOJ.

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?

- a. The WWCC should make up one part of the organisation's process as there are exemptions and grey areas with regard to state WWCCs for any sense of comfort.
- b. Organisations need to perform interviews/reference checks and have codes of conduct, policies and procedures to make sure their organisation is as safe as possible for all members including those under the age of 18
- c. Templates are needed for clubs, state and national bodies to adopt as part of their risk management strategy. Such templates should include the processes, policies and action plans to be followed should inappropriate behaviors take place involving any staff or volunteer.
- d. Provision of training for staff/ volunteers to effectively manage the processes required, or at a minimum a support line for people to call for advice.
- e. 24 hour contact points for the reporting of harm or alternative child services agencies at state level.
- f. Legal protection of people who report an alleged incident or harm to ensure that they are not hesitant to report, and should it be proved to be false the person reporting the alleged incident are not prosecuted.

- g. It is the view of Surf Life Saving New South Wales that there should be clear national guidelines on what action needs to be taken when responding to inappropriate behaviour of staff. This way the definition of 'inappropriate' is clear to employers as are the required actions.

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

- a. Surf Life Saving Western Australia has made a submission to the Western Australian Working With Children Review and that document will be made available on request.
- b. Annual audits and surveys put in place to assess the practical implementation and awareness of any national system.
- c. Complaints and feedback opportunities for organisations working with children to allow feedback on the systems implemented.
- d. The evaluation and monitoring of a national WWCC would be managed at a national level. There needs to be a systematic review process involving all parties, either within a specific time frame or via a specific communication channel.