Queensland Commission for Children and Young People and Child Guardian

Submission to the Royal Commission Into Institutional Responses to Child Sexual Abuse

Issues Paper 3 – Child Safe Organisations

October 2013

Contents

Executive Summary

Numerous inquiries have demonstrated a long and concerning history of child maltreatment occurring within Australian organisations.

It is imperative that the inherent vulnerability of children in specific service environments (i.e. those where mandatory, essential and developmentally focused services are provided) is recognised and that enforceable requirements are in place within these service environments to protect children from harm.

In order to be effective, child maltreatment prevention programs must include strategies which target multiple risk factors on multiple levels.

The blue card system in Queensland aligns with this view by adopting a holistic approach and incorporating strategies to address past, present and future risks of harm to children, including:

- Past risks - effective employment screening identifies and prevents individuals with criminal histories associated with increased risks of harm to children from working in regulated child-related environments

- Present risks – existing safeguards are strengthened through ongoing monitoring of card holder and applicant police information, as well as external oversight and compliance mechanisms, and

- Future risks – organisations are required to develop, implement and maintain a comprehensive child and youth risk management strategy which addresses the following eight mandatory requirements:

  1. A statement of commitment to the safety and wellbeing of children and the protection of children from harm
  2. A code of conduct for interacting with children and young people
  3. Recruitment, selection, training and management procedures for paid employees and volunteers
  4. Policies and procedures for handling disclosures and suspicions of harm, including reporting guidelines
  5. A plan for managing breaches of the risk management strategy
  6. Risk management plans for high risk activities and special events
  7. Policies and procedures for compliance with blue card legislation, including regular reviews of the operation and effectiveness of the organisation's child-safe policies and practices
  8. Strategies for communication and support including:
     - written information for parents/carers, paid employees and volunteers outlining the organisational child-safe policies
     - training material for paid employees and volunteers to help them identify risks of harm and handle disclosures.

It is the view of the Queensland Children's Commission that the management of past, present and future risks represent the core components of an effective child maltreatment prevention strategy. While the research in relation to managing risk factors in organisational settings is somewhat limited, the evidence base which does exist supports this approach.

In practice, child safe policies and practices support situational crime prevention by:

- *increasing* the *effort* required to offend against children in organisational environments by limiting access to these environments and limiting opportunities to offend
- *Increasing the risk* of child maltreatment detection

- *Controlling prompts* associated with organisational child maltreatment, and
- *Reducing the permissibility* of organisational child maltreatment.

While organisations should be required to implement child safe policies and practices which address minimum mandatory safeguards, it is also important to recognise the diverse nature of services provided and the need for flexibility for organisations to tailor strategies to address specific issues within their particular service environment.

An analysis of the effectiveness of holistic prevention frameworks is complicated by a number of factors, i.e.:

- the safeguards provided by these frameworks are one aspect of and are applied within a broader suite of prevention mechanisms which affect the occurrence of child maltreatment both within organisations and across the community more widely

- a lack of data about the prevalence of organisational maltreatment both within and across jurisdictions

- limitations to organisational capacity to consistently collect and report valid data, and

- issues with utilising official crime data to infer the effectiveness of holistic systems which seek to mitigate the risks of harm to children through the implementation of multiple safeguards.

Overall, measuring the effectiveness of employment screening and child-safe policy frameworks is difficult from a research perspective. However, to overcome the absence of externally sourced administrative datasets that can be used for this purpose, the Queensland Children's Commission has developed and implemented a suite of survey measures to collect data from stakeholders that can, in turn, be used to quantify the contribution of the screening system and the value of the Commission's partnerships with stakeholders in fostering safer service environments for children and young people. To date, the Queensland Children's Commission's data in this respect is overwhelmingly positive and indicates that the community values the role of an integrated employment screening / monitoring / risk management system as a mechanism to protect children and young people from harm.

Section A – Background

1.   The need for child-safe policies and practices

Many organisations and institutions entrusted with a duty of care for vulnerable children and young people have historically generated environments in which individuals exploited their positions of authority and offended against them. Numerous inquiries across the world into a range of child-related organisations have found that "emotional, physical and sexual abuse was enabled by the indifferent collusion or even the active support of the institutional management structures" (Sullivan & Beech, 2002, p. 161).

The identification and management of risks of harm to children and young people is essential to the creation of safe and supportive service environments. In addition to employment screening and monitoring of individuals engaged in child-related employment, the implementation of child-safe policies and practices should result in appropriate safeguards that identify and minimise potential risks of harm to children. Ongoing success however, requires a dynamic and ongoing process of development, monitoring and review.

In Queensland, the blue card employment screening system was introduced in 2001 to address widespread community concerns about the number of children that had been exposed to significant levels of abuse in service environments intended to promote their safety and wellbeing. The blue card system recognises the vulnerability of children and the obligations of employers, the government, parents and the community to work in partnership to protect them from harm and promote their rights, interests and wellbeing.

2.   Current status of Working with Children Checks and child-safe policy requirements across jurisdictions

The blue card system is a key prevention and monitoring system which aims to minimise the risk of harm to children receiving services essential to their development and wellbeing. It is the only system in Australia that has fully integrated screening, daily monitoring of card holders' and applicants' criminal histories and a legislated requirement that organisations providing services to children develop and implement a child-safe risk management strategy and review it annually.[1]

All jurisdictions within Australia either have or are considering a Working with Children Check (WWCC) framework to mitigate organisational risks to children and young people[2.] Child-safe employment screening and risk management requirement frameworks currently in place across Australia are at different stages of development and maturity.

An analysis of the requirements of WWCCs and child-safe policy frameworks across jurisdictions demonstrates that while there are significant differences in their operation, there is some consistency across the basic elements of the systems (as outlined at Table 1).

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[1] Sections 171 and 172 *Commission for Children and Young People and Child Guardian Act 2000*
[2] Tasmania does not currently have mandated working with children checks for organisations or individuals in relation to broad categories of child-related services or activities. However, the Department of Education administers a safety screening program for employers, individuals and students engaged in the childcare industry. In 2010 Tasmania released a discussion paper in relation to a vulnerable persons check, proposing to form a Working with Children and Vulnerable People Screening Unit within the Department of Health and Human Services.

Table 1 - Features of Australian child-related employment screening systems	QLD	NSW	WA	VIC	SA	ACT	NT
Child-related employment screening system	Yes	Yes	Yes	Yes	Yes	Yes[3]	Yes
Monitoring of criminal history	Yes[4]	Yes[5]	Yes[6]	Yes	No[7]	No[8]	Yes[9]
Child-safe policy (Risk Management Strategy) requirements	Yes – legislative	Yes – not legislative	Yes – not legislative	Yes – not legislative	Yes – legislative[10]	Yes - legislative[11]	Yes – not legislative

3.   Work undertaken at a national level to achieve best practice consistency

Considerable work has been undertaken at both a national level and by state and territory jurisdictions to identify and implement best practice principles in mitigating risks to children and young people in organisational environments regulated by applicable legislation.

In 2005, the Community and Disability Services Ministers' Conference (CDSMC) released the first Schedule under the National Framework Creating Safe Environments for Children – Organisations, Employees and Volunteers: Guidelines for Building the Capacity of Child-Safe Organisations ('the CDSMC guidelines')[12.] These guidelines were designed to:

- outline priority areas for the implementation of risk management strategies to increase the safety of children receiving services within an organisational/institutional context

- take into account the diverse range of community services provided to children, and

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[3] The *Working with Vulnerable People (Background Checking) Act 2011* (the Act) commenced on **8 November 2012**, with individuals working or volunteering in 'Activities or Services for Children' having until 7 November 2013 to become registered.

[4] Occurs daily

[5] *The Child Protection (Working with Children) Act 2012* provides for continuous monitoring of clearance holders for serious criminal activity or disciplinary matters in the workplace.

[6] Occurs weekly

[7] There is a *discretionary* power for the Chief Executive or managing authority to obtain a criminal history report on certain persons *at any time* if it is considered necessary or desirable for the purpose of establishing or maintaining a child safe environment.

[8] Division 6.3 of the WWVP Act allows the Commissioner to seek information from entities about registered people to determine whether a registered person continues to pose no risk or an acceptable risk of harm to a vulnerable person.

[9] Occurs daily

[10] The *Children's Protection Act 1993* requires that organisations providing certain services to children create and maintain a child safe environment, including the lodgement of Child Safe Environment Compliance Statement with the Department for Families and Communities. All organisations providing health, education, welfare, sporting and recreational, child care, or residential services wholly or partly for children must ensure that they have a child safe environments policy in place to promote the safety and well-being of children.

[11] The *Working with Vulnerable People Regulation 2012* imposes obligations on employers intending to engage a person issued with conditional registration and role-based registration in regulated activities, including the obligation to have a risk management strategy.

[12] Community and Disability Services Ministers' Conference (2005), *Creating Safe Environments for Children – Organisations, Employees and Volunteers – Schedule: Guidelines for Building the Capacity of Child-Safe Organisations.* Retrieved from: http://www.dhcs.act.gov.au/__data/assets/pdf_file/0020/5636/NCSF_Schedule1.pdf

- recognise the legislative variation between jurisdictions in child-safe policy and practice requirements.

The best practice principles, policies and processes of child-safe organisations identified at a national level by CDSMC were grouped into key elements which include:

- systems to ensure adaptation, innovation and continuous improvement

- governance and culture

- participation and empowerment of children

- human resources management, and

- education and training

In 2010 the National Operators Forum (NOF)[13] identified a number of key elements for national consistency to promote child safe organisations, and sought to map those against the best practice principles identified in the CDSMC guidelines.

Building on this achievement, further work has been undertaken in 2013 by members of the Working with Children Checks Working Group (WWCCWG) that has been established by the Australian Government Department of Social Services (DSS). [14] This work has included revisiting the core principles/elements of the CDSMAC guidelines to identify possible gaps and appropriate language. The Commonwealth DSS has agreed to develop a scoping paper to progress work towards nationally consistent 'how to' risk management guidance for organisations.

The Australian Children's Commissioners and Guardians (ACCG) has also developed an agreed set of principles and practice guidelines to enhance child safety in organisational environments which reflect the principles and practice guidelines outlined in various ACCG member publications as well as the CDSMAC guidelines.

The challenges inherent in developing and implementing a national WWCC have been extensively explored in the Queensland Children's Commission's response to the Royal Commission's first Issues Paper Working with Children Checks. The Queensland Children's Commission believes the best strategy in the immediate term is to reach a nationally consistent approach to the critical elements of a WWCC (including the legislative requirement for child-related organisations to implement child-safe policies and practices). This approach recognises the difficulties presented by legislative and administrative variations between jurisdictions and the diversity of services provided to children and young people across Australia. This strategy will:

- improve safeguards for children and young people by achieving consistency across the most important components of a WWCC system, and

- address issues of different child protection policy requirements across jurisdictions, thereby simplifying requirements for organisations and individuals to comply with.

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[13] NOF is a voluntary network of national WWCC agencies with cross-jurisdictional representation which meets to share information and work co-operatively to develop robust and consistent screening approaches. NOF has been identified by FaHCSIA, CDSMAC and CDSMC as a useful mechanism as a community of best practice which provides advice on current operational information on what is happening in the area of WWCCs.

[14] Formerly the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)

Section B – Response to Questions

Question 1

The essential elements of establishing a 'child safe organisation' that protects children from sexual abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?

1.1. The need for a multi-level approach

According to the World Health Organisation, programs or systems that aim to prevent child maltreatment, including child sexual abuse, must be based on an understanding of "the complex interaction of a number of factors at different levels" (cited in Schober, Fawcett, & Bernier, 2012, p. 457). Across the world, experts within the public health field are increasingly reaching a consensus that prevention programs focusing on one cause or factor associated with child maltreatment will be "limited", at best, in their effectiveness (Wurtele, 2012, p. 2444).

Accordingly, in order for a system to be effective in reducing risks to children, including the risk of sexual abuse, it is imperative that multiple strategies designed to manage risks are implemented in a holistic manner.

1.2. Managing past, present and future risks

In Queensland, the blue card system plays a critical role in the prevention of abuse and practices that may place children at risk of harm when they are engaged in services and activities which are mandatory (such as school, foster care and detention facilities), essential (such as child care and mental health facilities) and developmentally focused (such as sport and cultural activities).

In line with research findings which suggest that prevention interventions must be implemented at multiple levels to be effective, the blue card system provides a holistic child-protection framework which considers and manages past, present and future risks of harm to children. It is the view of the Queensland Children's Commission that these are the essential elements of establishing a child safe organisation.

Figure 1: **The blue card system – assessing and managing past behaviour and present and future risks**
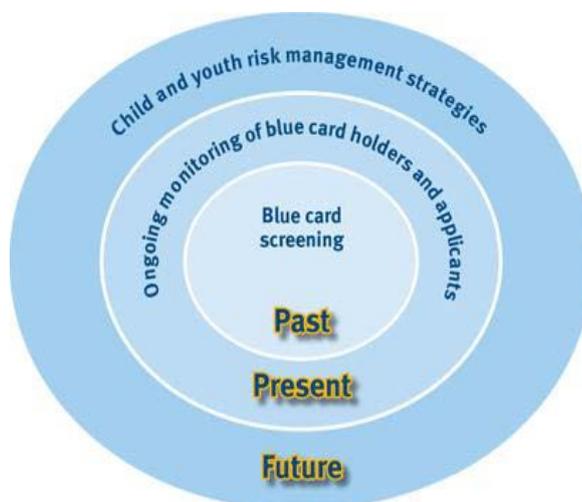
1.2.1. Past risk — Consideration of past behaviour as an indicator of future risk

The initial employment screening process assesses a person's eligibility to hold a blue card based on the person's known police and disciplinary information.

This process is an essential component of a wider strategy to create child-safe environments as it prevents people from working with children in regulated service environments if their past behaviour indicates that they may pose a risk of harm to children and young people, or are unable to protect a child from harm and promote their wellbeing.

It also prevents certain people upfront from applying for a blue card (i.e. those convicted of a disqualifying offence such as a child-related sex or child pornography offence or the murder of a child).

1.2.2. Present risk — Ongoing monitoring

The protection provided by employment screening is supported by the ongoing monitoring of each individual's police information and organisational compliance with child-protection safeguards.

In Queensland, applicants' and card holders' police information is monitored daily through an electronic interface with the Queensland Police Service (QPS). If there is any change in an individual's police information relevant to their child-related employment, the Commission can take steps to immediately protect children from harm.

For example, if the person is charged with a disqualifying offence (such as child pornography or a serious child-related sexual offence), the Commission immediately suspends their blue or exemption card, and the person is prohibited from engaging in regulated child-related activities until their eligibility is reassessed.

The Queensland Children's Commission also monitors and audits organisational compliance with employment screening and child-safe policy framework obligations (see below) to ensure that appropriate safeguards for children and young people are being implemented and maintained.

1.2.3. Future risk – Mitigating future risks

In Queensland, organisations and self-employed persons whose business activities fall within the scope of the blue card system are required by law to develop and implement child-safe policies and practices (a child and youth risk management strategy), which must be reviewed annually.[15] These strategies are intended to ensure that organisations have appropriate policies and procedures in place to identify and minimise potential risks of harm to children and young people in regulated service environments.

In order to comply with the legislative framework, an organisation's child-safe policy framework must include eight mandatory requirements. [16] As outlined in Table 2 below, these requirements are based on the following core principles:

- organisational commitment – policies and practices should demonstrate the commitment of an organisation to creating safe environments for children

- organisational capability – policies and practices should strengthen an organisation's capability to provide a safe environment

- managing concerns – policies and practices should assist organisations to identify and address concerning behaviour or practices, and

- continuity and consistency – policies and practices should ensure the continuity and consistency of an organisation's approach to providing a child-safe environment.

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[15] Sections 171 and 172 *Commission for Children and Young People and Child Guardian Act 2000*

[16] Schedule 3 *Commission for Children and Young People and Child Guardian Regulation 2011*

Table 2 - The eight mandatory legislative requirements for organisational child-safe policy frameworks		
Principle	**Aim**	**Legislated minimum requirements**
Commitment	Policies and practices which aim to establish the organisation's commitment to creating a child-safe environment	1. A statement of commitment to the safety and wellbeing of children and the protection of children from harm 2. A code of conduct for interacting with children and young people
Capability	Policies and practices which strengthen the organisation's capability to provide a child-safe environment	3. Recruitment, selection, training and management procedures for paid employees and volunteers
Concerns	Policies and practices which assist the organisation to manage any particular concerns with respect to the safety and wellbeing of children and young people within the service environment	4. Policies and procedures for handling disclosures and suspicions of harm, including reporting guidelines 5. A plan for managing breaches of the risk management strategy 6. Risk management plans for high risk activities and special events
Continuity and Consistency	Policies and practices which ensure the continuity and consistency of the organisation's approach to providing a child-safe environment; through both the appropriate communication of its child-safe policies to all stakeholders and with respect to its compliance with legislative child-protection safeguards	7. Policies and procedures for compliance with blue card legislation, including regular reviews of the operation and effectiveness of the organisation's child-safe policies and practices 8. Strategies for communication and support including: − written information for parents/carers, paid employees and volunteers outlining the organisational child-safe policies − training material for paid employees and volunteers to help them identify risks of harm and handle disclosures.

As outlined above, child-related organisations are required by law in Queensland to regularly review their child-safe policies and practices. This requirement strengthens the safeguards provided by child-safe policies and practices through:

- ensuring that they continue to be effective in addressing the risks to children and young people within the specific service environment

- checking that they remain up-to-date with any changes to legislation, and

- identifying the need for and facilitating the implementation of appropriate amendments (if necessary).

While the law requires that organisations review their child-safe policies on an annual basis at a minimum, the Queensland Children's Commission encourages organisations to conduct additional reviews should any incident relating to children and young people occur. Organisations are encouraged to document their review and communicate any changes to all appropriate stakeholders.

1.3.   Summary – the essential components of a multi-level child-safe framework

Combined, the blue card system incorporates multiple safeguards which address the interaction of past, present and future risks of harm to children into a holistic child-protection framework. This is in line with current best-practice principles and research which recommend that prevention programs include "multiple strategies that target the same outcome and … are implemented at two or more levels at the same time" (Quadara & Wall, 2012, 9. 10).

Accordingly, it is the view of the Queensland Children's Commission that a holistic response to creating child-safe organisational environments must include legislative requirements for organisations to meet the following essential child-protection practices:

- employment screening of individuals working with children

- ongoing monitoring of individuals' police information and organisational compliance with legislative child-protection safeguards

- the development and implementation of child-safe policies and practices which address essential risk management principles, and

- regular reviews of organisational child-safe policies and practices to ensure their ongoing effectiveness in addressing the risks to children and young people within specific service environments.

Question 2

The evidence base for the range of strategies associated with making an organisation 'child safe'. Does this evidence base extend to the physical environment?

2.1. Organisational child abuse – evidence of convergence of maltreatment types

There is limited research into the risk factors of child maltreatment specifically within child-related organisations, and, where they do exist, studies have focused almost exclusively on the occurrence and prevention of child sexual abuse (Beyer, Higgins and Bromfield, 2005; Irenyi, Bromfield & Higgins, 2006).

However, what is known is that while sexual abuse has generally been viewed as "one of the most damaging forms of abuse for children", other types of abuse, including the more widespread types of maltreatment such as neglect, can be equally as harmful (Higgins & McCabe, 2000, cited in Beyer et al., 2005, p. 17).

While no single risk factor for child maltreatment within organisational contexts has been identified to date, there is evidence for an extensive convergence of different forms of child maltreatment when and where abuse does occur (Higgins & McCabe, 1998, cited in Beyer et al., 2005).

For example, inquiries into the maltreatment of children under the care of the State both in Australia (Australian Senate Community Affairs Reference Committee, 2004) and abroad (Utting, 1997, cited in Stuart & Baines, 2004) have found the co-occurrence of high instances of a range of child maltreatment types:

> *"The Committee received hundreds of graphic and disturbing accounts about the treatment and care experienced by children in out-of-home care … Their stories outlined a litany of emotional, physical and sexual abuse, and often criminal physical and sexual assault. Their stories also told of neglect, humiliation and deprivation of food, education and healthcare. Such abuse and assault was widespread across institutions, across States and across the government, religious and other care providers" (Australian Senate Community Affairs References Committee, 2004, p. xv).*

Accordingly, the Australian Institute of Family Studies (Beyer et al., 2005) has advised that child maltreatment prevention programs and systems should address factors associated with the "abusive or neglectful experience as a whole", rather than focus exclusively on child sexual abuse (p. 18).

2.2. The blue card system – the supporting evidence base

The Queensland blue card system mandates the implementation of a range of strategies to mitigate the risk of all forms of child maltreatment in organisational environments that address three levels of risk – past, present and future.

Outlined below is a summary of the evidence base which supports this approach.

2.2.1. Past risk — consideration of past behaviour as an indicator of future risk

The relevance of past behaviour to child-related employment environments is a critical consideration as it identifies how that past risk relates to the present situation or context in which the person will be working.

There is limited evidence as to the extent to which predatory child sex offenders purposefully seek employment in child and youth-related organisations. However, the available studies have consistently found that a subset of offenders in organisational settings exhibit a pre-existing motivation to sexually abuse children (Colton, Roberts & Vanstone, 2010; Faller, 1988; Smallbone & Wortley, 2001; Sullivan & Beech, 2004). For example, prior to the implementation of the blue card system, a study of convicted child sex abusers in Queensland found that 18.9% of extra-familial offenders accessed child victims through

youth-organisations, with 8% of these offenders reporting that gaining access to child victims was their main motivation in joining the organisation. (Smallbone & Wortley, 2001).

Accordingly, a key feature of the blue card system is that it prohibits certain disqualified individuals upfront from applying for a blue card to work with children. Disqualified individuals include those who have been convicted of a child-related sex or pornography offence or the murder of a child.

There is also evidence to show that while some sexual offenders will only have convictions for sexual offences, many will have convictions for other non-sexual offences. For example, an English study of 374 convicted child sex abusers found that half the participants had a conviction for a non-sexual offence (including drug offences), and one in four had a prior conviction for a violent offence, including violence against a child (Bagley & Pritchard, 2000).

In terms of managing risks to children and young people based on criminal history information, a range of studies have found a significant association between drug and alcohol abuse and sexual offending against children in institutional environments (Terry & Freilich, 2012), and recurrent maltreatment of children by care-givers (Laslett, Dietz & Ferris, 2012).

In line with these findings, the blue card system is not limited to excluding known child sex offenders; it also considers other offence types, including drug and violence-related offences when assessing an individuals' eligibility to engage in child-related employment. In 2012-13, the Queensland Children's Commission's management of the blue card system identified 1,085 cases where individuals represented a high risk and were consequently prohibited from working with children, with 7,002 cases[17] identified since the blue card's inception in 2001.

 A review of applications resulting in a negative notice decision in 2012/13 found that the type/s of offending that resulted in the negative notice decision were:

- violence-related offences (33.61%)

- child-violence offences (15.30%)

- drugs and violence offences (15.03%)

- drug offences (12.84%)

- child-sex offences (10.93%)

- sexual offences (8.20%)

- disciplinary information and other offences (2.46%), and

- child pornography and internet offences (1.64%)[18]

This approach is supported by the Australian Institute of Family Studies (Irenyi et al., 2006) which has indicated that employment screening of individuals working in child-related environments should include "histories related to violence and substance abuse" as an important component in contributing to "safer organisational environment(s) in which children are less vulnerable to maltreatment" (p. 9).

While employment screening alone will not identify every individual who represents a risk to children and young people, it acts to reduce risks of harm to children by identifying and prohibiting individuals with known high risk histories from working with children. It also acts "as a deterrent to certain offenders" who

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[17] As at 31 July 2013
[18] Percentages equal 100.01 due to rounding

would otherwise be motivated to secure regulated employment in order to victimise children (Wurtele, 2012, p. 2446).

In line with the research evidence available and the considerable rate of high risk cases identified since the inception of the blue card system, it is the view of the Queensland Children's Commission that employment screening of individuals seeking to work with children is an essential element in a multi-level strategy to mitigate organisational risks of harm to children and young people. The consideration of previous charges or convictions that indicate an increased risk of any child maltreatment type are critical elements of this process.

2.2.2. Present risk — ongoing monitoring

The blue card system provides an additional layer of protection through its ongoing monitoring of police and disciplinary information of all blue card holders and applicants. Through its partnership with the Queensland Police Service (QPS), the Queensland Children's Commission currently monitors the continued eligibility of over 643,000[19] individuals on a daily basis. This includes any change in a designated list of offences deemed to be relevant to child-related employment. Once notified, the Queensland Children's Commission takes immediate steps to determine the individual's continued eligibility to engage in child-related employment.

Since the inception of daily monitoring in 2004/05, the Queensland Children's Commission has been advised of 12,234 changes[20] to a relevant person's criminal history. Following the assessment of these:

- 576 had their blue card suspended due to a charge for a child-related sex offence. 235 blue cards were subsequently cancelled due to the applicant becoming a relevant disqualified person

- a further 1,071 blue cards were cancelled following a reassessment of the person's eligibility, and

- 79 blue card applications were withdrawn because the applicant was charged with a disqualifying offence while their application was in progress.

In 2012/13 the types of offences detected through this monitoring process that resulted in a blue or exemption card being immediately suspended or cancelled consisted of:

- child-sex offences (23.14%)

- violence-related offences (22.59%)

- drug offences (16.53%)

- child pornography offences (9.92%)

- drugs and violence offences (9.09%)

- child-violence offences (8.82%)

- disciplinary information and other offences (4.96%), and

- sexual offences (4.96%)[21]

In addition, the Queensland Children's Commission also monitors and audits service providers' compliance with blue card system obligations to ensure that appropriate safeguards for children and young people are being implemented and maintained. In 2012/13, the Queensland Children's Commission assessed over

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[19] As at 31 July 2013
[20] As at 31 July 2013

1,000 potential compliance issues (including complaints received from the public), and conducted compliance checks of 533 organisations and over 19,200 individuals. This included targeted audits of individuals identified as high risk to confirm that organisations have acted on the Commission's notification that the individual is not eligible to engage in regulated employment.

The Queensland Children's Commission also routinely audits organisational compliance with child-safe policy framework requirements of the blue card system. Although the Queensland Children's Commission does not ratify or approve organisations' risk management strategies, it does provide written feedback and support to assist service providers to strengthen their child-protection policies and practices.

While this feedback is generally provided after a risk management strategy has been formally requested as part of an audit activity, the Queensland Children's Commission also provides this service to organisations who voluntarily submit their child and youth risk management strategy to the Commission for advice. Since the introduction of legislative risk management strategy obligations for child-related organisations in 2005, the Queensland Children's Commission has provided over 500[22] service providers with comprehensive written feedback on their risk management strategies, each individually tailored to meet the organisation's specific operational requirements.

While the Queensland Children's Commission's compliance activities focus on educating and building the capacity of organisations and individuals to achieve compliance with their legislative obligations, where the Commission suspects or identifies a serious breach which requires immediate escalation, or has been unable to engage with an individual or employer organisation, the matter is referred to the Queensland Police Service (QPS) for investigation and possible prosecution. Since 2001, the QPS has investigated matters involving 809 potential breaches of the Commission's Act.[23] Of those matters finalised in court, 91.5% have been successfully prosecuted.

This data provides an indication of the value provided by ongoing monitoring in protecting children from harm in organisational environments. Accordingly, it is the view of the Queensland Children's Commission that there is sufficient data to demonstrate that continuous monitoring of card holder and applicant police and disciplinary information and organisational compliance with legislative requirements are essential components of maintaining child-protection safeguards provided by employment screening of individuals working in child-related environments.

2.2.3. Future risk – mitigating future risks

Organisational environments account for a "small but significant" percentage of all child sexual abuse and other maltreatment cases (Beyer et al., 2006, p. 6) and research indicates that these environments are ideal settings to implement situational crime prevention mechanisms as organisations are in the position to employ "a good deal of control over the activities of employees and volunteers" (Wortley & Smallbone, 2006, p. 23).

In Queensland, organisations within the scope of the blue card system are required by law to develop, implement and regularly review an organisational child and youth risk management strategy (a child-safe policy and practice framework). This is an important tool for creating child-safe and child friendly environments, and mitigating risk factors associated with all forms of organisational maltreatment. The legislation mandates that organisational child-safe policy frameworks include eight essential elements. Each element is outlined below alongside research and inquiry findings which support their implementation as an essential component of a wider child-protection framework:

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[22] As at 31 July, 2013
[23] As at 31 July, 2013

(1) Statement of commitment

Numerous inquiries, both nationally and internationally, have identified dysfunctional organisational cultures as "a key factor in leading to abuse" of children within their care (Davidson, 2010, p. 410).

Accordingly, a child-focused statement of commitment seeks to formally establish the organisation's aims and values, and its commitment to maintaining the safety and wellbeing of children and young people. The purpose of this statement is to influence organisational cultures by providing an overarching principle which guides the development of the organisation's policies and procedures in creating safe and supportive service environments for children and young people.

(2) Code of conduct

Research shows that the sexual abuse of children is more likely to occur where certain conditions exist. Sexualised working environments, in which staff or youth behaviour, speech and interactions carry sexual overtones damage the professional boundaries between staff and young people, "leading to a suspension of ethics, which in turn, creates opportunities for staff sexual misconduct to occur" (Wurtele, 2012, p.2445). Research indicates that the risk of boundary violations resulting in the sexual abuse of children in an organisational context are more likely to occur where paid and volunteer staff "work in settings where there are opportunities for unguarded access to youth along with the absence of effective risk-management strategies" (Wurtele, 2012, p. 2444).

Further, research has shown that disciplinary practices and interpersonal factors are influenced by situational elements unique to the organisation, and occur within the wider context of an organisational culture. Organisational environments characterised by relationships based on themes of dominance, the control of children and young people, and a reliance on violence or punitive discipline to resolve interpersonal difficulties in high stress situations increases the risk of other forms of child maltreatment within organisations (Coldrey, 2001; Marsh & Evans, 2006; Smith & Bowman, 2009).

Accordingly, a code of conduct is a critical document for outlining an organisation's values and providing clear expectations for:

- personal and professional boundaries

- ethical behaviour, and

- appropriate behaviour and relationships for staff, volunteers, parents, visitors, children and young people.

When a code of conduct is well established and implemented, it provides a transparent and accountable service environment aiming to protect children and young people from harm. In Queensland, the Children's Commission encourages organisations to seek the participation of children and young people in the development of organisational child-safe policies and practices which aim to promote their rights, safety and well-being. By involving children and young people in developing a code of conduct, staff can be made aware of the impact of their behaviour on children and young people and can adopt a code that maximises their welfare. In addition, involving children and young people can strengthen the organisation's commitment to children and young people, enhance their confidence and trust, and assist them in identifying inappropriate behaviour and encourage disclosures of any concerns.

The Queensland Children's Commission is therefore of the view that the requirement for organisations to develop and implement a code of conduct is an important component of a multi-level child-protection framework. A well developed and implemented code is a valuable tool for mitigating risks, including inappropriate behaviour and conduct, known to be associated with all forms of child maltreatment in organisations (Marsh & Evans, 2006; Wurtele, 2012).

(3) Procedures for recruiting, managing and training staff; (4) Complying with blue card requirements;

Situational crime prevention research has proposed that the protection provided by employment screening programs is most effective when supplemented by child-focused recruitment policies within the organisation itself (Wortley & Smallbone, 2006).

For this reason, the blue card system mandates that organisational child-protection policies include guidelines and procedures for compliance with employment screening requirements and the recruitment and management of staff.

The blue card system requirements for organisations to ensure compliance with employment screening legislation and develop strategies for the appropriate recruitment and management of staff are supported by the available research and act to mitigate risks to children and young people accessing an organisation's services by:

- assisting to attract suitable staff and identifying inappropriate applicants early by bringing child safety to the forefront of recruitment processes (Finkelhor, 2008, cited in Wurtele, 2012), and

- ensuring that all employees engaged in regulated activities have undergone blue card screening through implementing processes to ensure compliance with legislative screening requirements.

(5) Policies for high-risk activities and special events

Numerous studies have shown that the opportunity to offend plays a particularly pertinent role in the commission of child sexual abuse within child-related organisations (Colton, Roberts & Vanstone, 2012; Irenyi et al., 2006; Kenny & Wurtele, 2012; Leclerc, Proulx & McKibben, 2005; Terry & Freilich, 2012; Wurtele, 2012; Wortley & Smallbone, 2006). Unlike intra-familial offenders who have access to children within private environments, organisational perpetrators must have (or create) the opportunity to offend against the children with whom they work. This is consistent with the findings of a Canadian study of 750 randomly selected men which found that 15% of study participants who were sexually attracted to children reported that they had identified a particular child they were interested in, and were "awaiting the opportunity" to offend (Irenyi et al., 2006, p. 12).

The requirement for organisations to develop specific policies to manage high-risk activities (excursions and over-night activities such as camps and sports clinics) and special events (such as tournaments) recognises that these events may provide a greater opportunity for offending behaviour to occur and seeks to ensure that appropriate strategies are in place to manage identified risks.

(6) Policies and procedures for handling disclosures, allegations and suspicions of harm; and (7) for managing breaches of the child and youth risk management strategy

A growing body of literature indicates that organisational offenders are either influenced by or actively utilise non-physical environmental factors, such as the status associated with their position within child-related organisations, to sexually abuse children. For example, research involving case studies of professional perpetrators in England found that the strategies offenders employed to abuse children were directly dependent upon the offenders' position of authority and trust within the organisation (Colton & Vanstone, 1998; Colton et al., 2010). Others have found that offenders "used the special features of the institutional environment to facilitate the abuse and prevent disclosure … by the children and other professionals" (Sullivan & Beech, 2002, p. 163).

Numerous inquiries have consistently catalogued the demonstrable impact of the failure by individuals to appropriately act on disclosures or suspicions of abuse. Research into organisational abuse has also found

that staff have "ignored signs of abuse and dismissed or failed to act upon disclosures by children" (Sullivan & Beech, 2002, p. 162).

These organisational factors were apparent in the evidence before the Commission of Inquiry into Abuse of Children in Queensland Institutions ('the Forde Inquiry'), undertaken in 1999. However, as that Inquiry pointed out:

> *"...although it was individuals who perpetrated each act of abuse, they alone cannot shoulder the whole responsibility. Some measure of responsibility must be taken by those to whom the abuses were reported and who did not act..." (Forde, Thomason & Heilpern, 1999, p. xiii).*

A review of the available literature suggests that there are a number of organisation-level factors which impede the reporting of maltreatment, including:

- a lack of formal policies and procedures in relation to reporting complaints of abuse within organisations, and

- organisations' view/belief that instances of abuse reflect problems with the individual involved, not the organisation (Westcott, 1991, cited in Sullivan & Beech, 2002).

The blue card system seeks to address these organisational risk factors by requiring that regulated organisations develop and implement policies for identifying and reporting disclosures or suspicions of harm, and associated procedures for managing any reported breaches of their child-safe policy framework. Combined, these requirements make sure that organisations have formal policies and procedures in place to ensure that:

- the importance of protecting children from abuse and other mistreatment is integrated into the organisation's culture

- processes are established and communicated to children and young people to build an understanding that inappropriate behaviour is not acceptable and to facilitate disclosures of any concerns

- staff respond as quickly as possible, and in an appropriate way, to an allegation or suspicion of harm

- where there is immediate risk of harm to a child, all staff or volunteers are aware of the actions they should take to immediately protect that child and contact the relevant authorities

- the integrity of the information is retained and information is not accidently mishandled in the internal reporting procedures, prior to the matter being reported to the authorities, and

- where breaches of the organisation's child-safe policy framework occur, formal processes allow organisations to manage breaches in an accountable, supportive and consistent manner.

(8) Strategies for communication and support

The appropriate communication of organisational child-safe policies to all stakeholders highlights the importance of protecting the safety and wellbeing of children and reduces the likelihood that policies and procedures in relation to protecting children will be breached.

The implementation of processes to increase stakeholder knowledge of organisational child-protection policies and principles is supported by research findings that:

- staff education programs can be effective in reducing the risk of child physical abuse within organisations (Marsh & Evans, 2006), and

- efforts to increase staff knowledge and awareness of organisational child abuse have been identified as the "cornerstone of preventing child sexual abuse and sexual boundary violations by youth service organisation staff members" (Wurtele, 2012, p. 2448).

Consequently, the blue card system requires that child-related organisations implement strategies to:

- communicate their child-protection policies and practices to all stakeholders, including paid employees, volunteers, visitors, parents/carers, children and young people

- promote the engagement of children and young people within the organisation, and

- provide ongoing training and support to all paid and volunteer staff to sustain safer service environments for children.

Best practice principles also recommend the implementation of in-house training in order to enhance staff skills in positive, strengths-based behaviour management techniques and awareness of the signs, causes and consequences of child maltreatment, as well as educating staff on the importance of maintaining professional and appropriate boundaries with children and young people (Wurtele, 2012).

These principles are in line with the Queensland Children's Commission's practice of encouraging organisations to provide both an induction and ongoing training in organisational child-protection policies, procedures and practices for all paid employees and volunteers. Discussing these policies, particularly the statement of commitment, code of conduct and procedures for handling disclosures and suspicions of harm will ensure that:

- new employees and volunteers are aware of their responsibilities and appropriate behaviour when interacting with children at an early stage, and

- an organisation-wide commitment to and culture of child-protection is reinforced through regular emphasis provided by ongoing training, communication and support.

2.3. The physical environment

Situational crime prevention research has shown that physical aspects of organisational environments, such as activities or settings which limit supervision, can increase opportunities to abuse (Wortley & Smallbone, 2006). For example, a small scale study of British professional perpetrators[24] of child sexual abuse which included teachers, tutors, youth and disability workers, reported that organisational environments which provided the opportunity to be alone with children were viewed by perpetrators "as 'attractive' locations in which to gain access to victims" (Colton et al., 2010, p. 353). Another study of the grooming techniques of professional perpetrators found that 77.5% of offenders arranged to meet a child outside the organisational environment in order to sexually abuse the child, and 67.5% took part in "over-night" activities as a part of their employment, such as camps and excursions, with the principal motivation of offending against the children in their care (Sullivan & Beech, 2004).

While crime prevention research suggests that alterations to the physical design of an organisation's environment can reduce opportunities to offend against children (Wortley & Smallbone, 2006), the wide range of services provided to children across and within jurisdictions, combined with the diverse characteristics of child-related service providers (eg size, budgets, staff and capacity), affects the ability of smaller community-run organisations to implement additional mandatory requirements in relation to the physical environment of services provided.

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[24] This term refers to child sex abuse offenders who utilise their employment through an agency or organisation to target and offend against children.

Research suggests that in the absence of the ability to alter the physical design of environments to inhibit opportunities for child maltreatment by increasing "natural surveillance", organisations must implement policies and practices to increase "formal surveillance" of staff and volunteers working with children (Wortley & Smallbone, 2006). By ensuring that all staff and volunteers are adequately supervised and undergo continuous monitoring and evaluation, organisations are better placed to mitigate risks posed by physical environments, as well as identifying the development of inappropriate disciplinary responses (Marsh & Evans 2006) and interpersonal relationships early, and are able to intervene in an appropriate and timely manner (Wurtele, 2012).

2.4. Summary – the evidence base for a multi-level prevention framework

It is the view of the Queensland Children's Commission that the available research and current knowledge base around the prevention of child maltreatment within organisational environments suggests that:

- it is important that strategies for managing risks of harm to children are broad in focus and address all potential forms of maltreatment

- mitigating past risks based on employment screening for a criminal history associated with child maltreatment is supported by the available evidence which demonstrates:
    – an association between a wide range of offence histories (including violent and drug offending) with a range of child maltreatment types, and
    – that a subset of predatory child sex offenders are motivated to gain employment in child-related organisations in order to offend against children.

- mitigating present risks based on continuous monitoring of police and disciplinary information and organisational compliance with legislative requirements is supported by data held by the Queensland Children's Commission in relation to:
    – the considerable number of individuals whose eligibility to provide services to children has required reassessment following a relevant change in their police or disciplinary information, and
    – the continued need to check individual and organisational compliance with legislative safeguards which aim to mitigate risks to children, and (where necessary) refer non-compliance to police for investigation and possible prosecution.

- mitigating future risks based on the requirement for child-related organisations to implement child-safe policies is supported by evidence of the association between the occurrence of organisational child maltreatment and:
    – dysfunctional organisational cultures (addressed by the requirement for an organisational statement of commitment)
    – organisational environments characterised by relationships based on themes of dominance, punitive discipline, or boundary violations (addressed by the requirement for a code of conduct)
    – factors related to organisational physical environments or supervisory arrangements and the opportunity to (and increased likelihood of) committing offences against children (addressed by the requirement for procedures for recruiting, managing and training staff; complying with blue card requirements; and policies for high-risk activities and special events)
    – procedural and cultural barriers to disclosure and the ongoing abuse of children within organisational environments (addressed by the requirement for policies to handle disclosures, allegations and suspicions of harm; and for managing breaches of organisational child-protection policies), and

— increased knowledge and awareness of child abuse prevention and reduced risk of child maltreatment in organisational environments (addressed by the requirement for strategies for the communication and support of organisational child-protection policies).

Question 3

How should the effectiveness of 'child safe' strategies be tested?

3.1.   Issues impacting on the ability to assess the effectiveness of 'child safe' strategies

There are a number of issues which impact efforts to assess the effectiveness of organisational child protection policies and associated employment screening frameworks in reducing incidences of harm to children and young people in organisational environments. Primarily, the safeguards provided by these frameworks are one aspect of a broader suite of prevention mechanisms, such as law enforcement, education, public health and other social programs which aim to reduce the occurrence of child abuse within the wider community. Other extraneous variables, such as individual and socio-demographic factors associated with the occurrence of child abuse more widely further complicate a direct assessment of the effectiveness of employment screening and organisational child-safe policy frameworks.

Other factors which prevent a simplistic cause-effect analysis of the implementation of these frameworks include:

3.1.1.   A lack of data on the prevalence of organisational child maltreatment

According to a literature review conducted by the Australian Institute of Family Studies, while statistics on the prevalence of child maltreatment exist in the form of individual studies of the incidence of abuse;

> *"these studies do not generally provide key information for developing an understanding of organisational abuse because they tend not to identify the relationship between victim and perpetrator, nor the method or situation in which the abuse occurred" (Beyer et al., 2005, p. 6).*

As such, there is no comprehensive or centralised collection of base-rate[25] or current data on the prevalence of organisational child maltreatment in Queensland, or more widely, within Australia (Beyer et al., 2005).

3.1.2.   Issues with utilising recorded crime rates to measure organisational child maltreatment

Similarly, where official data of child maltreatment is recorded, "inconsistencies in data collection both in terms of whether data is recorded and in terms of how it is recorded and counted" affects the ability to make any defensible causal links between recorded crime rates and prevention programs and systems. This issue occurs both "across sectors (e.g. between police recording/counting practices and those used by the courts), but also within the same system sectors but across jurisdictions" (Tarczon & Quadara, 2012, p. 2).

In addition, while recorded crime rates may afford an indication of the number of child maltreatment cases reported to police, it is generally accepted that this data vastly underestimates the actual prevalence of child maltreatment, particularly sexual abuse (Beyer et al., 2005; Swahn et al., 2006; Tarczon & Quadara, 2012).

Further, the use of reported crime rates to assess the efficacy of prevention programs does not take into account the different outcomes of holistic frameworks which seek to effect organisational change through multiple safeguarding mechanisms, such as the past, present and future framework of the blue card system, rather than establish a direct cause-and-effect relationship between one prevention mechanism and one outcome (Rosenbaum, 2002; Tomison, 2000). For example, an increase in reported rates of organisational child abuse may indicate the effectiveness of new policies and procedures to detect or disclose abuse, rather than any increase in the actual incidence of these cases.

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[25] Organisational prevalence data prior to the implementation of the blue card system in Queensland, or other comparable child-protection frameworks in other Australian jurisdictions

3.1.3. Organisational capacity to collect data

The diversity of child-related service providers (particularly in relation to size, funding, structure and staffing levels) impacts the capacity of many smaller or community-run organisations to adequately record and provide data to inform large-scale assessments of the effectiveness of employment screening and child-safe policy frameworks.

Should a requirement for organisations to introduce data capture processes be mandated, a number of conditions would need to be met in order for a valid evaluation to be performed from data aggregated from multiple organisations. At a minimum, common standards would need to be adopted across all participant service providers, including:

- the identification and definition of agreed performance measures

- the application of an identical child-safe policy framework

- the implementation of uniform data collection procedures, and

- adequate control measures to account for any extraneous variables which might affect the comparability of service delivery across multiple sites (such as client demographics and/or particular vulnerabilities, organisational resources, or level of staff expertise/experience) (Tomison, 2000).

Accordingly, the design, execution and analysis of even quasi-empirical evaluations of a holistic program or framework require substantial expertise and resources (Tomison, 2000). As stated in a review of community child abuse prevention programs published by the Australian Institute of Family studies, "to conduct rigorous outcome studies require(s) a significant commitment of time, funds, service provider cooperation and a 'rare confluence of research talent and political will'" (Hanson, 1997, cited in Tomison, 2000, p. 10).

3.2. Measuring the value of the blue card system in Queensland

Due to the limitations associated with measuring the effectiveness of employment screening and child-safe policy frameworks from a research perspective, the Queensland Children's Commission has established three key outcome indicators focussed on measuring the value and contribution of the blue card system (at an organisational and community level) in reducing risks to Queensland children and young people in regulated service environments. These are:

- awareness - stakeholder awareness about the requirements of, and participation in, the blue card system is essential to help safeguard children and young people and mitigate risks in child-related service environments

- building compliance - compliance with the requirements of the blue card system is critical in building and maintaining safeguards for children and young people in child-related environments, and

- creating safe child-related service environments - the safety of children participating in child-related services and activities is strengthened by preventing access to children in these environments by high-risk individuals and the development of child-focused organisational cultures, policies and procedures through the implementation and review of child-safe policy frameworks.

The outcome indicator based framework was developed by the Queensland Children's Commission following consultation with stakeholders, including non-government peak bodies and key government agencies. Based on the outcomes of this consultation, the framework demonstrates:

- the value and importance of stakeholder investment in the blue card system

- the outcomes of stakeholder investment in relation to improving the safety of children and young people engaging in their services or activities, and

- how organisations (and children and young people) are protected by the blue card system (for example through the development and implementation of a child-safe policy framework).

The Queensland Children's Commission also values stakeholder feedback as a key source of information to drive continuous improvement in the administration of the blue card system. Accordingly, to inform the outcome indicators, the Queensland Children's Commission developed a range of voluntary survey measures to gather data around stakeholder perceptions of the value of the blue card system in assisting to create safer service environments for children. The surveys are administered at various points across the service delivery continuum (e.g., contact centre enquiries, web enquiries, compliance and community engagement activities).

Survey data for 2012/13 indicates that there is a high-level of community support for the blue card system, with approximately 97% of stakeholders surveyed responding that they were satisfied with the contribution of the blue card system towards achieving this goal, including approximately 57% who rated the contribution of the system as "Excellent".

The Queensland Children's Commission also routinely audits organisational compliance with child-safe policy framework requirements of the blue card system. In order to build the capacity of audited organisations, the Queensland Children's Commission further provides comprehensive written advice highlighting areas where the frameworks can be strengthened. In 2012/13 a number of organisations who were provided with written feedback on their child-safe policy frameworks voluntarily took part in a survey to determine whether they found this feedback useful and how the feedback was used to increase the safety of children in regulated service environments. Of the organisations surveyed:

- 100% advised that they were satisfied with the organisational child-safe policy framework advice service provided by the Commission, with 55% rating it as 'excellent'

- 68% stated that they used the framework feedback provided by the Commission to either review or improve their child protection policies

- of the organisations who made changes to their framework after receiving feedback from the Commission, 61% reported that they implemented additional procedures designed to reduce the risk of harm to children and young people, and

- 95% of organisations who reported accessing resources and toolkits available on the Commission's website stated that they found these resources helpful in improving their child-protection policies.

Measuring the effectiveness of employment screening and child-safe policy frameworks is difficult from a research perspective. However, in Queensland the value of the blue card system can be measured in terms of the number of high risk individuals excluded from working with children, and organisational and community awareness of, support for and participation in the system. To date, the Queensland Children's Commission's data in this respect is overwhelmingly positive and indicates the community values the role of the blue card system as a mechanism to protect children and young people from harm.

Question 4

How 'child safe' policies and procedures work in practice

4.1.   Situation crime prevention principles

Situational crime prevention principles have been used and found to be effective in reducing specific types of crime in a wide variety of settings (Wortley & Smallbone, 2006). Prevention strategies thought to be most effective in the case of organisational child maltreatment include increasing effort, increasing risk, controlling prompts, and reducing permissibility.

In practice, the child protection policies and procedures developed in accordance with the legislative requirements of the blue card system operate to implement each of the four critical components of situational crime prevention, as outlined below:

4.1.1.   Limiting access and opportunity through increasing effort in organisational environments

Research indicates that offenders will ordinarily choose those targets which require the least amount of effort and/or departure from their routine activities to achieve their purpose (Cohen & Felson, 1979, cited in Wortley & Smallbone, 2006). Increasing effort generally involves implementing strategies to make the offence harder to commit or inconvenient to perform. With reference to preventing the maltreatment or sexual abuse of children, increasing effort primarily involves implementing strategies and safeguards which make it more difficult for offenders to obtain <u>access</u> to children and limiting the <u>opportunities</u> for abuse to occur.

In practice, child safe policies and procedures effectively limit the ability of proven or potential abusers to <u>access</u> children by restricting entry into settings where children are located:

- employment screening practices deter individuals who have a previous history from seeking employment opportunities as they know their prior history will be detected

- the blue card system disqualifies individuals with convictions for specified offences from applying to work or volunteer with children

- individuals with histories which indicate that they pose a high-risk to children are detected and prevented from providing services to children, and

- individuals who subsequently engage in behaviour which indicates they pose a risk to children are identified and immediately removed from any regulated environment.

Further, the <u>opportunity </u>for individuals to offend in regulated service environments is limited by child-protection risk management strategies which:

- require the development of a code of conduct which establishes appropriate and inappropriate behaviour for all organisational stakeholders, as well as personal and professional boundaries

- establish staff management procedures to ensure that interactions between all employees and children are appropriately managed, including necessary supervision, and

- outline plans for high risk activities and special events to ensure that opportunities for motivated offenders to victimise children are prevented from occurring.

4.1.2.   Increasing the risk of child maltreatment detection

Research indicates that increasing the risk of detection has a deterrent effect on offending (Finkelhor, 2009, p. 177).

Under the blue card system regulated organisations are required to:

- develop and implement policies for identifying and reporting disclosures or suspicions of harm, and

- develop procedures for managing any reported breaches of their child-protection risk management strategy.

In practice, these strategies assist to increase the risk of detection of child maltreatment by:

- implementing an organisational culture where it is clearly understood that maltreatment will not be tolerated and that staff and volunteers have a responsibility to identify and action disclosures in a specified way, and

- assisting children and young people to understand that inappropriate behaviour is not acceptable and encouraging disclosures of any concerns.

4.1.3.   Controlling prompts associated with organisational child maltreatment

Key research indicates that the sexual abuse (Wortley & Smallbone, 2006; Wurtele, 2012) and other maltreatment of children can be prompted by situational factors which act as 'triggers' for an escalation of behaviour where certain conditions exist (Coldrey, 2001; Marsh & Evans, 2006; Smith & Bowman, 2009). These include environments where a child or young person appears to be particularly vulnerable, or those:

- which permit the deterioration of appropriate interpersonal boundaries between adults and young people (a situational trigger for an escalation of behaviour into sexual abuse),or

- which promote a reliance on punitive discipline to resolve behavioural problems (a situational trigger for an escalation into physical abuse).

Within the context of reducing organisational risks of harm to children, controlling prompts primarily concerns removing situational triggers of concerning behaviour and setting expectations of positive behaviour (Wortley & Smallbone, 2006). Situational crime prevention theorists have posited that while "this strategy may be particularly important in the offending of situational and opportunistic offenders … even the behaviour of predatory offenders will be mediated by environmental cues" (Wortley & Smallbone, 2006, p. 27).

Accordingly, the blue card system addresses these situational risk factors through the legislative requirement for organisations to implement a child-safe policy framework which includes:

- staff management procedures and plans for high risk activities and special events – these strategies can mitigate against the risk of situational triggers, such as the development of unsafe interpersonal relationships, through the careful supervision, monitoring and evaluation of staff interactions with children and young people

- ongoing training and education to increase staff knowledge, skills and capacity to manage challenging behaviours of children and young people with a positive, strengths-based approach, and

- a code of conduct which sets appropriate boundaries and behavioural expectations for all adult stakeholders interacting with children.

4.1.4.   Reducing the permissibility of organisational child maltreatment

Studies have shown that offenders tend to diminish the harm caused by their behaviour by referring to a range of excuses to "free themselves from the inhibitory effects of self-blame" (Wortley & Smallbone, 2006, p. 28). Further, situational crime research and theory suggests that "environmental conditions can

also blur for the offender the link between their behaviour and the harm done" (Wortley & Smallbone, 2006, p. 29).

Reducing permissibility strategies aim to combat erroneous cognitive processes which allow offenders to commit behaviour which is ordinarily prohibited (Leclerc et al., 2009), such as implementing policies and procedures which establish an organisation-wide culture of commitment to child safety (Wortley & Smallbone, 2006). According to situational crime prevention theorists, specific techniques that are effective in reducing the permissibility of organisational child sexual abuse and maltreatment include clarifying responsibility for child-safety, personalising victims, rule setting and clarifying consequences (Wortley, 2006).

The blue card system addresses these factors by requiring organisational child-safe policies (at 2.2.3), which:

- Clearly assign the responsibility for child-safety to all members of the organisation through the requirement for a statement of commitment which guides the development of the entirety of the organisation's policies and procedures in creating safe and supportive service environments for children and young people

- Personalises all children and young people within the organisation and sets rules for appropriate staff behaviour through the legislative requirement for a child-focused code of conduct which ensures that appropriate rules are in place to guide staff interactions with children and young people and ensure that they are aware of the impact of their behaviour

- Clarifies consequences of non-compliance with the rules of a child-safe environment through the legislative requirement for all organisations to clearly articulate a plan to manage breaches of their child-safe policies and procedures, and

- Ensures that all stakeholders, including staff, parents, visitors, children and young people are aware of the organisation's commitment to child-safety and the policies and procedures by which this will be achieved through the legislative requirement to include policies for the communication of the organisation's child-safe policies and support for all stakeholders to actively engage in promoting a child-safe environment.

4.2. Stakeholder feedback

The requirements under the blue card system for regulated organisations to develop and implement child-safe policy frameworks (which meet the eight minimum legislative requirements of the blue card system) are consistent with the principles of situational crime prevention.

This approach is further supported by feedback from stakeholder organisations which outline how the minimum requirements and essential principles of the blue card system child-safe policy and practice framework assist them to create safer service environments for children in practice:

> *"Ensuring that strategies and policies which address the importance of training and volunteer screening has enabled a safe and professional volunteering environment within our organisation. With the development of these policies and procedures for key events like Schoolies, applications and registrations for volunteering with the Red Frogs has ensured that a high standard and legal requirement is met". (Red Frogs)*

> *"The [Risk Management] Strategy is important as it provides clubs with a structured and documented way of monitoring and managing the protection of children and youth within their care. The roll out of the strategy to clubs in QLD ensured state wide consistency and compliance*

which assists us as a state body meet our legislative requirements knowing that clubs have the tools to mitigate harm and manage breaches should they occur". (Surf Lifesaving Queensland)

"[A Risk Management] strategy has the capacity to complement the blue card by identifying offenders who do not have a prior criminal record or other records which might declare them as unsuitable for working with children and young people". (Queensland Catholic Education Commission)

Question 5

Should there be a universal framework for a 'child safe organisation' or should strategies be specifically tailored to particular types of institutional settings?

As outlined at the responses to questions one, two and four of this paper, there is a substantial knowledge and evidence base in existence which identifies:

- the need for organisations to implement rigorous safeguards to mitigate risks to children and young people,

- the overarching requirements of organisational child-safe policy frameworks that are necessary to create child-safe service environments, and

- the essential principles underpinning the development of a child-safe policy framework.

However, the nature of services provided to children and young people, both within and across jurisdictions is as diverse as the structure of the organisations that provide them. As such, the level and type of organisational risks to children will vary according to both the nature of the service provided and the size, structure, funding and staffing levels of the business or organisation providing the service.

Accordingly, the Community and Disability Services Ministers' Conference (CDSMC) has determined that in order for child-safe policy frameworks to be effective, each organisation's approach "should be developed in consultation with stakeholders to ensure that it makes sense to the organisation's circumstances, and can be implemented" within the specific service environment (CDSMC, 2005, p. 2).

In keeping with this guidance, a key strength of the blue card system is that while the legislation outlines eight minimum requirements which must be addressed in the development of organisational child-safe policy frameworks, the specific policies, plans and procedures under each of the mandatory components are individually determined, developed, and implemented by the organisations themselves.

This approach ensures that a strong and consistent foundation for the promotion of a child-safe environment is established through the presence of mandatory minimum safeguards, while also providing the flexibility for organisations to develop appropriate, service-specific strategies which reflect:

- the diversity of services provided

- the risks specific to the service environment, and

- the particular needs of the children and young people engaged with the organisation.

While organisations are ultimately responsible for the development and implementation of their child-safe policy frameworks, peak inter-jurisdictional working groups, such as the CDSMC and the ACCG have highlighted the important role of State and Territory government agencies in assisting child-related organisations increase their capacity to provide a child-safe environment.

Accordingly, the Queensland Children's Commission plays an active role in assisting relevant government, non-government and community service providers understand how they can effectively foster safer environments for children through the implementation of organisational child-safe policy frameworks.

On a practical level, the Queensland Children's Commission provides targeted education and training activities to organisations, individuals, and relevant government staff. Feedback from stakeholders on the value and utility of this service has been consistently positive to date. For example, of the participants surveyed in 2012/13:

- over 97% reported that the Commission's workshops and education activities increased their knowledge about the requirements of the blue card system and how they applied to their organisation

- over 93% reported that they assisted them in understanding the importance of having, and continuously improving, a child-safe policy framework to manage risks of harm to children and young people within their organisation, and

- over 90% reported that the Commission's workshops and education activities had provided them with ideas on how to develop or amend their organisation's policies to better safeguard children and young people in their service environment.

The Commission also maintains an up-to-date website to assist organisations and stakeholders meet their obligations under the blue card system, in addition to providing web-based child-safe policy framework resources which may be tailored to the specific requirements of a wide range of organisations, including a toolkit suitable for the use of sole-traders or small community organisations providing services to children. Internal performance statistics show that stakeholders regularly access this information, with the Queensland Children Commission's blue card website pages recording over 1,870,000 page views in 2012/13, while its child-safe policy framework toolkit, providing organisations with child protection policy advice and templates, was downloaded over 3,900 times.

Question 6

The role of staff performance management systems and disciplinary processes in a 'child safe organisation'.

The available literature on the prevention of organisational child maltreatment has consistently concluded that the safeguard provided by employment screening of individuals working with children is strengthened through the implementation of additional management systems, including the ongoing supervision and monitoring of staff performance, skills and interactions with children (Beyer et al., 2005; Davidson, 2010; Wortley & Smallbone, 2006; Wurtele, 2012).

In an organisation, a safe and supportive environment is sustained through the people who work or volunteer there. Supportive management systems, supervision and ongoing training can further assist in retaining appropriate staff and promoting a child-safe culture. Effective staff performance management systems can also mitigate situational risk factors associated with organisational child maltreatment, as outlined at the response to question four of this paper. For example, the ongoing supervision of staff performance and interactions with children can be effective in:

- reducing the opportunities for motivated individuals to offend against children (increasing effort)

- limiting the possibility for high-risk conditions and triggers associated with abuse perpetrated by situational offenders from developing (controlling prompts), and

- where child abuse or maltreatment has or is occurring, increasing the likelihood that it will be detected (increasing risk).

Ongoing staff performance evaluations and feedback processes can also contribute to reducing the permissibility of beliefs, attitudes and behaviours associated with the maltreatment of children by reinforcing the role of staff members in protecting children from harm, clarifying the organisation's rules for interactions with children, and reinforcing the consequences of noncompliance.

The combined staff performance management processes of supervision, evaluation and performance feedback can also assist organisations to establish a cumulative, holistic view of an individual's pattern of behaviour where concerns may not otherwise become apparent.

Accordingly, the implementation of processes to ensure the effective and accountable documentation of the incidence and outcomes of staff disciplinary processes can also allow for relevant disciplinary information to be used by appropriate agencies in an employment screening assessment of an individual's eligibility to work with children.

For example, under the Queensland Children's Commission's Act, the Commissioner may consider a range of assessable information as part of the employment screening process, including disciplinary information held by professional organisations for:

- teachers

- child care service providers, and

- foster and kinship carers.

Disciplinary information is limited to that which has led to immediate suspension, the imposition of conditions or deregistration and where the disciplinary body believes the information is relevant to the Queensland Children's Commission's decision-making about child-related employment. This means that should a card holder or applicant be found by a disciplinary body to have engaged in behaviour which is harmful to children and young people the blue card decision about this person could take this information

into account. This process allows information that has been tested by a disciplinary body and which may not have led to criminal charges to contribute to the robustness of employment screening decision-making.

It is the view of the Queensland Children's Commission that the implementation of formal staff performance management systems and disciplinary processes can contribute to creating safer service environments for children through the combined processes of:

- mitigating situational risk factors associated with organisational child maltreatment

- creating a cumulative and comprehensive record of an individual's behaviour in relation to their interactions with children and young people, and

- providing a source of additional information which may inform an assessment of the individual's eligibility to work with children where performance management and disciplinary outcomes have been appropriately documented, tested, and subject to natural justice principles of appeal and review.

Question 7

The role and characteristics of governance and management leadership in creating and maintaining a 'child safe' organisational culture.

Research into institutional abuse has found that guidelines to protect children from harm "are only effective if there is (an organisational) commitment … to implement them fully in a concerted and coordinated fashion" (Beyer et al., 2005, p. 48).

An organisational "culture of silence" is fostered where "a condition is known to exist, but by unspoken consensus is not talked about or acknowledged" (Wurtele, 2012, p. 2445). Maladaptive cultures then become sustained and entrenched in organisational environments where leaders do not act to address concerning staff behaviour, practices, or reports of harm (Wurtele, 2012).

The link specifically between inadequate organisational policies, governance, leadership, maladaptive cultures and the presence of situational risk factors associated with the abuse of children is supported by the available literature (Beyer et al., 2005), and the findings of national and international inquiries into the institutional abuse of children (Australian Senate Community Affairs Reference Committee, 2004; Davidson, 2010; Sen, Kendrick, Milligan & Hawthorn, 2008).

For example, an independent Scottish inquiry into allegations of institutional child abuse in a residential care setting identified the "controlling and silencing culture" of the organisation itself as the "fundamental cause" of a number of factors which contributed to producing and perpetuating organisational child abuse over a 25 year period (Davidson, 2010, p. 406). This inquiry specifically linked the culture of the organisation to the presence of deficiencies in governance and leadership which resulted in the abuse of children, including:

> "senior and external management failures which contributed to lost opportunities for change … a toxic culture contributed to … ineffective complaint systems … and behaviour management interventions that were applied at times abusively within a culture that tolerated and produced poor practice" (Davidson, 2010, p. 406).

Other inquiries into the organisational abuse of children have repeatedly shown a link between the ongoing abuse of children and organisations which "lacked transparent and shared responsibility for decision making; where leaders made decisions secretly and internally, and where the emphasis was on protecting the institution's reputation over the safety and welfare of children" (Wurtele, 2012, p. 2445).

Similarly, the lack of effective direction and leadership provided by external oversight agencies was found to be a factor in organisational abuse in Australian children's homes, where staff were "not held accountable for their actions because inspections by child welfare authorities were infrequent and ineffective" (Beyer et al., 2005, p. 44).

The available literature suggests that a number of strategies can mitigate the risk of maladaptive organisational cultures from developing and can encourage the establishment of effective governance and management leadership practices, including:

- a well-defined and organisation-wide commitment to providing a safe and supportive service environment for children and young people, including policies and procedures which mitigate situational risk factors (Beyer et al., 2005; Irenyi et al., 2006).

- ensuring that appropriate complaints-management practices are in place which provide both staff and children with the assurance that disclosures of harm or suspected harm will be suitably and promptly dealt with. Communication and organisational support of these practices to all

stakeholders is particularly important as the literature suggests that the development of child-safe environments "rely equally on the organisation's openness to staff members' concerns, complaints and feedback … as to those of the children they serve" (Davidson, 2010, p. 416).

- the implementation of structured governance and decision-making practices which highlight the role and responsibilities of organisational leaders by allowing the process for reaching decisions about the administration of the organisation, the services it provides, and the consequences and outcomes of any breaches of its child protection policies to be clearly evident and understandable to all stakeholders (Davidson, 2010; Irenyi et al., 2006).

Accordingly, in Queensland the blue card system requirement for organisations to include in their risk management strategy an overarching statement of commitment to child safety, a code of conduct for interacting with children and young people, a plan for managing breaches of organisational policies, and a plan for communication and support fosters a culture focused on protecting children from harm and provides a foundation for the implementation of a transparent, accountable and continuous framework for decision-making on child-protection matters by organisational leaders.

Research also indicates that the involvement of external agencies "facilitates transparency and reduces insularity which are important safeguarding components" (Davidson, 2010, p. 410). In line with this, the Queensland Children's Commission also takes action in response to information received from the public that raise employment screening or risk management strategy compliance issues in relation to any organisation or individual whose activities are regulated by the Commission's Act. In 2012/13, the Queensland Children's Commission:

- corresponded with 1,297 regulated businesses and organisations to provide information in relation to legislative requirements and to increase compliance with the requirements of the blue card system, and

- conducted compliance checks of 533 organisations and over 19,200 individuals.

The Queensland Children's Commission's compliance activities initially focus on educating and building the capacity of organisations and individuals to achieve compliance with their accountabilities with respect to the blue card system. However, where the Commission suspects or identifies a serious breach which requires immediate escalation, or has been unable to engage with an individual or employer, the matter is referred to the Queensland Police Service (QPS) for investigation and possible prosecution.

 The Queensland Children's Commission recognises the important role of effective child protection policies, organisational governance and management leadership in creating safer service environments for children. It is the view of the Queensland Children's Commission that:

- organisations should be supported in the development and implementation of policies and practices that encourage the creation of child-safe organisational cultures, accountable governance practices, and committed management leadership, and

- existing safeguards for children and young people are strengthened by external oversight and compliance mechanisms.

Question 8

Should there be any additional enforceable requirements for institutions or particular institutions to maintain a 'child safe' environment?

8.1. Mandatory, essential and developmentally focused service environments

According to the Australian Institute of Family Studies, "all children are at risk of abuse merely by virtue of being children. Some children however, particularly when in high risk organisational environments … are more vulnerable and thus at heightened risk" (Beyer et al., 2005).

In Queensland, the scope of the blue card system is currently limited to screening people providing services to children in specified environments. The rationale underpinning the blue card system is that Government has a role in assisting parents to create safe environments for children where they are receiving certain types of services:

- mandatory services - services that children are required by law to attend (e.g. school, foster care, youth detention)

- essential services – services that are regulated by law or otherwise essential (e.g. child care centres), and

- developmentally focused services - activities which are good for the development and wellbeing of children (e.g. sporting, cultural and recreational activities).

These are often environments where because of the nature of the service being provided (e.g. school or child care), parents are unable to exercise parental responsibility to ensure the safety of their children.

Other environments, such as amusement parks, where children receive services which are not essential and/or developmentally focused, are not currently within the scope of the blue card system as they have been seen to be areas in which parents can and should exercise parental responsibility.

Research has also shown that extra-familial child-sex offenders deliberately target "vulnerable groups of children such as those with learning disabilities, special needs or those in care" (Beyer et al., 2005, p. 21). Specifically, studies have found that risk factors associated with children being taken into the care of the State "are the same as those that make them more vulnerable to further abuse outside the family, including being targeted by child-sex abusers" (Beyer et al., 2005, p. 22). Accordingly, the employment screening of individuals working with children under the blue card system in Queensland includes environments where children may be especially vulnerable such as foster care, residential care, detention and mental health facilities.

It is the view of the Queensland Children's Commission that the following should be enforceable requirements within mandatory, essential and developmentally focused service environments (where children are particularly vulnerable to maltreatment and sexual abuse):

- a mandatory requirement for organisations to develop and implement a child and youth risk management strategy, which is regularly reviewed

- a mandatory employment screening program for all staff and volunteers conducting activities with children

- a system which provides for the ongoing monitoring of individuals subject to employment screening, and

- a compliance framework which ensures that child and youth risk management strategies are developed and implemented, and appropriate employment screening is undertaken in accordance with legislative requirements.

8.2. Privacy of information

The right to privacy of children and young people has been recognised by the United Nations and ratified by the Australian Government.[26] Queensland has also enacted legislation recognising certain children and young people's right to privacy.[27]

Accordingly, in 2010 representatives of the member agencies of NOF identified a number of key elements for national consistency to promote child-safe organisations, and sought to map those against the best practice principles identified by CDSMC in the 'Guidelines for Building the Capacity of Child-Safe Organisations'. Included in these key elements was the requirement for "child-safe organisations to establish policies and procedures that provide safeguards regarding the collection, use and disclosure" of children's private information (CDSMAC, 2005, p. 4).

The Queensland Children's Commission is of the view that the right to privacy is not exclusive to adults, and that children and young people are entitled to the same rights as adults. At a minimum, privacy regimes should, where possible, require consultation and informed consent from children and young people, or their guardian, before personal information is released. All decisions about sharing children and young people's information should always be subject to the overriding principle of considering the best interests of the child or young person.

In accordance with Section 6 of the Queensland Children's Commission's Act, the fundamental principles of the administration of the Act include the entitlement of every child to be treated in a way that respects their dignity and privacy. The Queensland Children's Commission actively promotes this principle through the provision of feedback on organisational child-safe policy frameworks by advising child-related organisations to consider privacy and confidentiality principles and practices in the development of policies and procedures for reporting and recording disclosures or suspicions of harm. Further, the Commission is currently engaged in the development of updated policy advice to assist organisations implement additional safeguards, specifically to protect the collection, use, storage and disclosure of children's private information.

Accordingly, where there is a conflict between a child or young person's right to privacy and their right to safety (for example, the need to report a disclosure of abuse to the appropriate agency), the right to safety and well-being is the paramount consideration.

It is the view of the Queensland Children's Commission that a consistent approach to policies and procedures in relation to the protection of children's private information by regulated organisations should be implemented, based on the foundational principle that the collection, use, storage and disclosure of children and young people's information must be in the best interests of the child or young person.

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[26] *Convention on the Rights of the Child*, 20 November 1989
[27] Schedule 1 "Charter of rights for a child in care", *Child Protection Act 1999* & Schedule 1 "Charter of Juvenile Justice Principles" *Juvenile Justice Act 1993*

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