



*everyone's family*

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

### **Response to Issues Paper regarding Working with Children Check**

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### **Introduction**

The Smith Family welcomes the opportunity to respond to the Royal Commission's consultation process regarding the system of Working with Children Checks in Australia. We are pleased to see this important issue being given consideration in the context of an inquiry into child-safe environments.

Our comments below do not seek to respond to each question posed in your issues paper consultation paper, but rather to comment on those areas where we feel we have a contribution to make regarding this important national issue.

### **About The Smith Family**

The Smith Family is a national, independent charity committed to increasing the educational participation and achievement of Australian children and young people in need. Our belief is that every child deserves a chance and our mission is to create opportunities for young Australians in need, by providing long-term support for their participation in education.

The Smith Family provides holistic and long-term support to children and young people, from pre-school, through primary and secondary school and on to tertiary studies. In 2012/13, we supported over 113,000 children, young people and parents/carers nationally. This included close to 50,000 children, young people and parents/carers through our suite of *Learning for Life* programs. Over 34,000 young people were supported through an educational scholarship, of whom 15.1% were of Aboriginal or Torres Strait Islander background.

Our model of program delivery brings children and young people who participate in our programs, including those in receipt of financial scholarship, into contact with more affluent Australians who have the capacity, through positive programmatic engagement to positively influence longer term educational outcomes for program participants. This contact is through direct sponsorship of a child or young person, or through volunteer tutoring support or/or mentoring support.

In 2012/13 more than 6,500 volunteers supported our work, contributing over 396,000 hours of volunteer time.

## **Should there be a national Working with Children Check?**

As a National organisation The Smith Family recruits paid and unpaid staff in every State and Territory. All staff who have direct, unsupervised contact with children or young people, or access to their data currently undertake a Working with Children Check (WWC). In States or Territories which do not support a WWWC for voluntary positions, a police records check is undertaken. Whilst differences in legislation across States and Territories are often slight, they necessitate regular review and updating processes to ensure that we are complying with requirements. This is a complex and resource intensive process. A National framework would ensure that the same measures are being implemented across our organisation, which has the potential for cost and time efficiencies.

However, The Smith Family would argue that consideration needs to be given to the efficacy of the current Working with Children Check system and the extent to which it may provide an unwarranted sense of safety and result in ineffective risk management in organisations bringing adults into contact with children.

Over the 2012/13 year, TSF carried out over 2,000 Police Records checks, and over 500 Working with Children Checks for our volunteers. Additionally, we conducted more than 3,500 reference checks. These are resource intensive activities, and no concerns or issues were surfaced.

The central premise of our current Child Protection Framework is to manage the risk associated with bringing potentially vulnerable Australian children into contact with the broader public and our aim is to support our staff to identify, assess and control risk of harm to children in all areas of operations. Our aim is to ensure that risk controls are understood, put in place and regularly updated This includes monitoring of our online mentoring 'chats', ensuring that children are not in unsupervised one on one activities. To support a culture which promotes child safe-environments we also provide briefing to children and young people participating in our programs about keeping their personal information safe, and limiting the boundaries of their contact with mentors or tutors. See attached <http://www.thesmithfamily.com.au/site/page.cfm?u=572>. We are happy to provide a copy of our full Child Protection Framework and associated documents on request.

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

As noted above, nationally consistent approaches would reduce the impost for national organisations endeavouring to keep abreast of the various legislation across jurisdictions. However, shortcomings in the current system should be acknowledged and organisations supported to ensure that they provide child safe environments in their own right. Current shortcomings include:

- Inconsistent transfer of information regarding convictions across jurisdictional borders;
- No information regarding offenders from overseas; and
- An obvious inability to pick up potential or first time offenders.

In addition, individuals who have been charged for non-child related misdemeanors may be discouraged from applying for child-related work given the lack of transparency or information regarding how decisions and recommendations are made.

Pertinent information relates to findings of misconduct involving children including:

- consideration of whether a person is a respondent to or subject to an application for a child protection prohibition or disqualification order; or whether a person is subject to reporting obligations under the Child Protection.
- disciplinary information from professional organisations associated with teachers, childcare service providers, foster carers, nurses, midwives and certain health practitioners; and
- information from police investigations into allegations of serious child-related offences should be taken into account even if no charges were laid because the child was unwilling or unable to proceed.

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

Our recommendation would be to consider a stratified approach to the provision of clearances, if this process is to be continued. Clearances could be granted for differentiated amounts of time contingent on an individual's history of working with children without incident. It is important to find a balance between risk management and process and cost management

## **How should child-related work be defined?**

In the context of ensuring child safety, a relevant definition should relate to our knowledge and understanding of the motivation and activities of potential perpetrators. In seeking to provide clarity for organisations, a number of current definitions can include staff or volunteers who have access to

limited data about a child or young person, and who have very little scope to develop the sort of relationship inherent in a 'grooming' process.

The current variances in definition across jurisdictions are confusing and do little to provide real clarity about what constitutes child-related work.

## **To what degree should the WWCC minimise the need for institutions to establish clear processes for responding to inappropriate behaviour of staff in child-related positions?**

The Smith Family is committed to Child Safe practices and has a framework for Child Safety that is implemented nationally. This includes codes of conduct, Risk management, recruitment of paid and unpaid staff, and reporting of incidents or disclosures.

The WWCC check should not minimise organisational responsibilities to have suitable processes in place to risk mitigate, monitor and report inappropriate behaviour. The checks are only effective if such behaviour has been historically recorded. There have been many documented examples of individuals with a proclivity toward inappropriate behaviour who hold a WWCC/police check and still work with children, where past actions have been covert. <sup>1</sup>

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<sup>1</sup> (<http://www.theaustralian.com.au/news/breaking-news/online-sex-squad-nabs-trainee-wa-teacher/story-fn3dxiwe-1226666489647>), a dance coach (<http://www.smh.com.au/nsw/betrayed-top-dance-coach-arrested-20130518-2jtp1.html>) and a junior AFL coach (<http://www.coffscoastadvocate.com.au/news/local-sports-coach-arrested-child-grooming-charges/1868157/>) in May, a teacher in March (<http://www.adelaidenow.com.au/news/south-australia/man-woman-arrested-over-alleged-rape-of-daughter/story-e6frea83-1226587753575>), and a childcare worker in November 2012 (<http://www.northernstar.com.au/news/police-arrest-child-care-worker-over-rapes/1622606/>).