

A Working with Children and Other Vulnerable People Checking System for Tasmania

Consultation Report

April 2010

1.0 EXECUTIVE SUMMARY

On, February 1 2010 the Tasmanian Minister for Human Services released a discussion paper on 'A Working with Children and other Vulnerable People (WWCVP) Checking System for Tasmania' and invited submissions from potentially affected stakeholders.

The consultation period concluded 12 March 2010.

There were 30 submissions received from interested stakeholders. One of these submissions incorporated the individual views of twelve State Service employees.

Respondents recognised the need to protect children and vulnerable adults in the Tasmanian community and were highly supportive of the development and implementation of the proposed WWCVP checking system. In particular, most respondents were supportive of the proposed extension of checking to include people working with vulnerable adults as part of a single, card-based registration system.

Thirty six questions were posed in the WWCVP discussion paper. The questions that attracted the most stake holder interest related to:

- the definition of vulnerable adult (*requires further consideration both strong support for and against. Concern relating to the underlying assumption that to access services is an indicator of vulnerability*);
- the exemption of volunteers under the age of 18 years (*generally not supported*);
- the potential impact that the cost of screening could have on volunteering, and the preference for costs to be met by Government;
- concern that screening may result in inappropriate discrimination against offenders;
- the regulated activities for people working with vulnerable people (*generally supported, with some additions proposed*);
- the exemption for short or infrequent periods of contact (*generally not supported, many modifications proposed*);
- the exemption for volunteers closely related to a participant in a regulated activity (*generally supported*);
- whether or not unregistered persons can be engaged in a regulated activity pending the outcome of their application (*generally supported so long as organisations' independence in decision making is respected, strong arguments for exempting some activities*);
- the involvement of employers in the application process (*generally supported*);
- the inclusion of non-conviction information in the assessment process (*generally supported, provided that risk assessment tools and appeals processes are robust*);
- the provision of a statutory declaration that applicants have not been convicted of certain offences outside of Australia (*generally supported*);
- the five year registration period (*generally supported, however strong alternative views held by some organisation*);

- that the Unit to be based within Tasmania (*generally supported with many submissions commenting on the importance of independence, some submissions commenting that having some functions on the mainland may offer protection of privacy*);
- the screening unit advising employers of the issuance of an interim negative notice (*strongly supported*).

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Respondents also raised a range of other issues including those relating to:

- concern that screening needs to be one of a number of strategies to ensure safe environments for vulnerable people, and a desire for the screening unit to have broader responsibilities including building capacity in organisations to minimise risk;
- desirability for a hybrid model, allowing for either registration or position based assessments;
- need to ensure policy coalescence, particularly relating to Elder Abuse and Justice System reform agenda;
- the desirability of national harmonisation and mutual recognition of checking systems;
- proposed implementation timeline too protracted;
- ongoing monitoring and self-disclosure of criminal records; and
- concern as to the difficulty of accessing Service Tasmania for the purpose of photos, and a desire to broaden options. (Mainly relates to rural communities).

Following the submission process a discussion forum was convened. The purpose of the forum was to enable members of the Steering Committee to consider issues in greater detail. Participants in the discussion forum included a cross section of organisations that had provided submissions, steering committee members, and representatives of issue areas not captured through the submission process. The forum considered 12 issue areas. Issues that had evoked strong and disparate comment through the submission process were selected for discussion. It was not intended to be a decision making forum or to seek consensus on the issues. Comments made in the discussion forum are reported against specific questions within this report.

Comments from the forum included:

- Acknowledgement of the importance to strike the right balance between assessing risk to children and other vulnerable people whilst not over regulating, keeping an eye on what is fair and reasonable and not intruding unnecessarily into the family way of life.
- Supported the importance of ensuring the safety of other vulnerable people, and the inclusion of other vulnerable people in the screening requirements. It was suggested that there may be three target groups, being children, aged and other vulnerable people. It was suggested that each target group may require some specific assessment criteria. It was also suggested that there may be common criteria across target groups.

- Concern was expressed that the complexity created through the inclusion of “other vulnerable people” could delay the implementation. It was also suggested that if this was not well managed it could compromise outcomes for children.
- There is a need to be clear on the purpose of the screening process, and its relationship to broader organisational responsibilities including selection processes. Participants identified that the screening is an assessment of the risk that an individual may pose when working with children or other vulnerable people and that this assessment does not diminish an organisations responsibility to ensure a client safe environment.
- That a WWCVP screen does not mitigate an organisations responsibility to undertake rigorous staff and volunteer selection and management processes,

A list of discussion forum participants and a summary of the issues discussed is attached. (Attachment 3)

2.0 BACKGROUND

The Tasmanian Government supports, and is participating in, a National Framework for the exchange of criminal history information on people working with children. In support of this commitment the Government is developing and introducing a checking system to screen people who are working with children. It is also considering the possibility of extending this to include people who work with vulnerable adults¹ in our community.

The aim of the WWCVP Checking System will be to reduce the incidence of sexual, physical, emotional or financial harm or neglect of vulnerable people in Tasmania. Vulnerable people should expect to be safe within the Tasmanian community, especially when receiving services that are required to relieve any relative disadvantage they may experience.

In January 2005, the (then) Commissioner for Children, Mr David Fanning, released a consultation paper entitled *Screening of Individuals who Work with Children in Tasmania*. The Commissioner’s paper proposed the design of a system for screening individuals in Tasmania that would build upon practices already implemented by many organisations. The proposed screening process included all people who work with children in a volunteer and paid capacity in both the public and private sectors. The Commissioner also recommended the establishment of a Central Screening Agency, supported by legislation, to manage the screening process.

The introduction of the WWCVP Checking System will address these recommendations and will also address obligations arising for Tasmania under the *National Framework for Creating Child Safe Environments – Organisations, Employees and Volunteers*. Tasmania has also committed, through the Council of Australian Governments, to establishing a unit and legislation to screen people working with children and participate in a national exchange of criminal history information on people working with children.

¹ The definition of ‘vulnerable’ adults is discussed in section 7 of the discussion paper.

The checking system will require employees and volunteers who work with vulnerable people to undergo periodic background checking and risk assessment. Individuals deemed to pose an unacceptable risk will be ineligible to work with vulnerable people.

If the scope of the program in Tasmania is implemented as proposed, Tasmania will be one of the first Australian jurisdictions (along with the ACT) to establish a checking system that applies to people working with children and to people working with vulnerable adults.

At this time the role of DHHS is limited to acting as the lead agency, responsible for managing the release of the discussion paper and to progress the implementation of a checking system for Tasmania. DHHS will coordinate the provision of advice for Cabinet's consideration. The comments contained within this consultation report will inform the development of the advice. Details of the model including budget, governance and budget will be determined by Cabinet.

Following Cabinet's decision legislation will need to be developed to support the centralised screening system.

3.0 SUBMISSIONS RECEIVED

There were 30 formal submissions received from interested stakeholders. Submissions have been received from:

Acting Anti-Discrimination
Commissioner

Anglican Diocese of Tasmania

Australian Army Cadets

Council on Ageing Tas

Aged and Community Services
Tasmania

Scripture Union Tasmania

Community and Public Sector
Union

Coastal Family Day Care

Staff Member - DHHS

Tasmanian Council of Social
Service

Hobart Women's Health
Centre

Relationships Australia
Tasmania

Member of Public

Tasmanian Youth Government
Association

Catholic Women's League

Volunteering Tasmania

The Salvation Army

Tasmanian Fire Service

Member of Public

Advocacy Tasmania

Australian Childhood
Foundation

Scouts Australia

Anglicare Tasmania Inc

Cosmos Inc

Department of Justice

Child Care Unit, Department
of Education

Ministerial Child Care Advisory
Council

Tasmanian Branch of Early
Childhood Association

Two Anonymous submissions

4.0 SUMMARY OF STAKEHOLDER SUBMISSIONS

A summary of the proposals and requests for comment contained in the WWCV discussion paper is included in each relevant section below.

However, it is recommended that stakeholder comments contained in this consultation report are considered in the full context of the original proposals, as presented in the WWCV discussion paper.

5.1 General Comments

Respondents recognised the need to protect vulnerable people in Tasmania, including children and vulnerable adults. Many submissions were congratulatory of the Tasmanian Government for considering the additional protection of vulnerable Tasmanians.

Many submissions also commented on delays in the establishment of the changes in screening processes, and encouraged Government to a speedy implementation. Submissions also identified the need for adequate resourcing to minimise the impact on volunteers and community based organisations, and to ensure considered processes are adopted.

5.2 Other Matters Raised

Harmonisation and Mutual Recognition

Several respondents raised issues related to harmonisation or mutual recognition of checking systems across jurisdictions.

While respondents held different views as to whether existing systems should be harmonised or replaced with a single national system, all recognised that there was an unnecessary administrative burden associated with dealing with the different checking systems in different jurisdictions, particularly for national organisations.

One respondent also commented that any State level scheme should be at least consistent with or exceed requirements in place under Commonwealth funding agreements.

One respondent expressed concern that the current requirements for screening of people working in the Aged Care industry are set at a lower level than those working with children (relates to exemptions from the Annulled Convictions Act 2003 for those working with children)

Two respondents noted that it would be desirable for the protections afforded under the Tasmanian scheme to vulnerable adults to be extended into other jurisdictions.

The need for harmonisation and mutual recognition of checking systems is already recognised by Australian governments and work is continuing in this area. For example:

- the National Framework for Protecting Australia's Children 2009-2020 includes a strategy for "*developing a nationally consistent approach to working with children checks and child safe organisations across jurisdictions*" (Strategy 2.2). It is anticipated that work undertaken in this area will increase the possibility of harmonisation and mutual recognition of existing checking systems; and
- Recommendation 10.1 of the draft Productivity Commission Report on the Contribution of the Not-for-Profit Sector recommends that "*Australian governments should explore the feasibility of establishing a system of 'Working with Vulnerable People Checks' similar to that proposed by the ACT. These checks should be portable between organisations for a designated time period*".

Compliance with the Anti Discrimination Act 1998

The Office of the Anti Discrimination Commissioner administers the Anti Discrimination Act 1998 (The ADA). The ADA prohibits discrimination on the ground of irrelevant criminal record in a number of public areas of life including employment.

The ADA (Section 50) allows a person to discriminate against another person on the ground of an irrelevant criminal record in relation to education, training or care of children if it is reasonably necessary to do so in order to protect the physical, psychological or emotional wellbeing of children in regard to the relevant circumstances. This provision relates only to children, and not others such as vulnerable adults.

The Office of the Anti Discrimination Commissioner agrees that background checking for employees or volunteers who are in contact with children and vulnerable people is an important part of creating a safe working environment.

Barriers to employment

Four respondents expressed concern that a universal screening model could have the unintended consequence of creating a barrier to employment of, and reintegration for ex prisoners and ex offenders.

One respondent commented that “the unspoken assumption behind calls for screening systems based on police checks is that our corrections system punishes but does not correct- that those who have previously offended are likely to re-offend”. The respondent argues that it is crucially important that Tasmania’s screening framework does not solely rely on evidence of past offences.

One respondent states “it is essential that the checking system does not function as a general barrier to employment, or deter potentially valuable employees from applying for jobs”.

Status of Checking Outcomes

Two respondents stated that employers should be able to override checking outcomes.

Under the current proposal, employers may not override negative decisions, but will remain free to apply their own standards with regard to people who have received a positive notice. In the event of a negative notice, employers may also cooperate with applicants to make a supplementary application for a position based check.

Position Based Assessments

Section 11.5 provides for position based assessments in specific circumstances. Whilst the Discussion paper did not contain a question relating to the position based assessment four respondents provided detail comments.

In the discussion paper it is noted that “it may be considered beneficial for an employee or volunteer with a criminal history or a behavioural history to be registered to work with vulnerable people. It is not intended that the WWCVP Checks System hinder the recruitment and retention of suitable employees or volunteers or to constrain the delivery of suitable services to vulnerable people.

For these reasons it is proposed that the registration system will be supported by an optional position based assessment

In practice, applicants who have been unsuccessful in becoming registered with the WWCVP Screening Unit will have the option of making a further application for a position based risk assessment. The position based assessment will not be available to all applicants and will be restricted to situations where:

- ***the applicant has the express written support of a prospective employer or organisation to be engaged in a particular position;***
- ***the employer or organisation provides a thorough description of the proposed position including:***
 - ***the risk to vulnerable people inherent in the employing organisation;***
 - ***the risk inherent in the position being offered to the applicant;***
 - and***
 - ***any risk management strategies in place;***
- ***the applicant is able to demonstrate benefits for the applicant, the employer/organisation and vulnerable people if the WWCVP Screening Unit was to grant a specific approval to work in the particular position;***
- ***the applicant consents to ongoing monitoring and compliance checks by the WWCVP Screening Unit; and***

- ***the applicant and the employer or community organisation agree in writing that the applicant would not be moved to any other position or change the nature of their work within the organisation for the period of any approval granted by the WWCVP Screening Unit.***

After an assessment of all required information, the WWCVP Screening Unit may make a determination concerning the suitability of the applicant to work in a specific position for a specific period (Section 12.4)”.

Four respondent’s support this provision however disagree that applicants should be required to fail a general assessment first. It is suggested that the model should include the option of a position based assessment as a first step.

Respondents provide two rationales to support this request.

Agencies with a philosophy of support and empowerment of consumers in health and community services wish to ensure opportunities exist for service users to grow and develop and possibly become part of the workforce. Concern is also expressed in relation to self help groups such as Alcohol Anonymous and support structures for people living with mental illnesses.

The second rationale related to discrimination against a person where participation in restricted activities would not pose a risk to the safety and well being of vulnerable people.

It was proposed that the registration system will be supported by an optional position based assessment system.

The discussion forum considered this issue in further detail. In this forum there was general support for the development of a hybrid system with a number of caveats. These included:

- an acknowledgement that certain offences should result in total exclusion

- the importance of providing people with “lived experiences” the opportunity to apply for a position based assessment in the first instance.
- That this option should not be provided in all industries, for example if a person failed a general WWCVP check then no position within the Child Care industry should be considered.

Participants identified the need for clarification on employer’s right to engage an employee/volunteer regardless of the outcome of the risk assessment. Some participants expressed the view that whilst it is the role of Government to assess risk that an individual may represent, it is an organisations prerogative to choose to engage a person and in what ever capacity.

One respondent commented that *“We would recommend a system that allowed for a position based assessment in specific circumstances and only following a negative application and subsequent appeal decision. In the appeals system operating in Victoria and WA there is no provision for a card to be granted for specific positions only. This means that a person convicted of a category 1 offence can appeal a negative decision, be granted a clearance by the tribunal and receive a card that then allows them to work with children under any circumstances. In this situation it would be preferable to see a position based card granted as the risk posed by the individual could be weighed against the risk posed by the particular position. In addition, if the system does not allow organisations to apply a check to non-regulated positions (Vic is the only state that allows this) then it would be preferable to at least allow the organisation to apply for a position-based check”*

Flexible Approvals

In the discussion paper it was proposed that the WWCVP Screening Unit would be able to issue either a broad approval for a registered person to work in any regulated activity or a position based approval that restricted a registered person to a particular position.

One respondent suggested that it should be possible for the WWCVP Screening Unit to issue conditional approvals, including:

- restrictions on driving a motor vehicle in which vulnerable people are present;
- for people from overseas with no available criminal records; and
- a controlled environment approval (i.e. can only work under supervision).

The option of flexible approvals was considered at the discussion forum. Forum members were generally not supportive. Comments included:

- if a person is assessed as representing an unacceptable risk to children there should be no compromises.
- issues relating to traffic infringements should be addressed through employment probity checks.
- General concern relating to transferability of restricted provisions between positions.,

Is it intended to specify services in Regulations?

One respondent questioned whether the proposed regulated activities would be specified in Regulations.

The use of Regulations provides a legal basis for the provisions whilst allowing amendments without full Parliamentary scrutiny.

Supporting Safe Environments

It was noted that WWCV checks are only one component of reducing the abuse of vulnerable people in Tasmania. A large part of the onus of supporting the creation of safe working environments rests with organisations and individuals who work with vulnerable people.

In the discussion paper it was proposed that the WWCV Screening Unit will promote awareness of the *National Framework for Creating Safe Environments for Children* and will support employers and organisations by entering into a partnership with interested bodies to:

- **establish a web link to the National Framework;**
- **produce and distribute fact sheets concerning the National Framework;**
- **develop materials to assist individuals and workplaces to adhere to the National Framework; and**
- **monitor voluntary compliance with the National Framework.**

Several respondents suggested that the screening unit should have a greater role in promoting and supporting safe working environments. Suggestions included that the screening unit should provide:

- online information and guidelines about best practice risk management procedures;
- specific advice concerning how to manage large numbers of spontaneous volunteers; and
- training and topic specific workshops targeted at different types of organisations.

One respondent commented that “We are concerned that the WWCV Check will be perceived to be the only screening requirement for working with children and vulnerable adults, rather than being seen as only one component of an effective checking system. We would suggest that a criminal history check is the least effective screening tool for eliminating risk to children and vulnerable adults. We would like to see an emphasis on encouraging organisations to 1) establish appropriate policies and procedures with an identified code of conduct and a culture of safe practices and

accountability, 2) to provide effective training and supervision and 3) to use other screening tools.....

- A further respondent recommended that DHHS include in its WWCVP framework a program of organisational capacity building that targets risk management skills and understandings in service providing organisations. This program should have a specific focus on staff/volunteer selection approaches that can be appropriately deployed to augment the work of the WWCVP Screening Unit. The capacity building efforts should specifically include training for organisations so that they can appropriately identify opportunities for the use of position based assessments.
- One respondent commented that: “For many community members and organisations seeking information and advice in relation to child abuse and prevention, the Working with Children Check web site is frequently a first point of reference. It is important that this site also provide associated information and links to assist people to locate the support or resource needed. The SCP is designed specifically to provide organisations with a wide range of resources to implement safeguarding children and young people policies, practices and procedures against 7 nationally accredited standards.

Ongoing Monitoring and Self-disclosure of Criminal Records

It was proposed that registered people will be required by law to immediately self-disclose any relevant change in their criminal record to the WWCVP Screening Unit. It was also suggested that ongoing monitoring of criminal records may be introduced for registered people in Tasmania in the future but that the establishment of such a capability is a significant project and would take some years to develop.

Several respondents indicated a preference for the registration system to be supported by a ‘live update’ mechanism that would notify the screening unit automatically of any change in a registered person’s criminal history.

One of these respondents also suggested that information be provided to registered persons advising them of their self-disclosure obligations.

One respondent suggested significant penalties for non disclosure as a strategy to ensure a high level of compliance.

One respondent highlighted the need for the screening unit to have current employment/volunteering details to ensure that any changes/convictions are passed on to the employer. The respondent comments that “this is also relevant to ongoing monitoring of new charges and convictions as it is the only way that monitoring can be effective (bearing in mind that the TAS model does not include ongoing monitoring at this stage). Most systems require the employee/volunteer to notify the unit of change of employment details, but QLD have just introduced a back-up measure which also requires employers to notify the unit when they employ a card-holder. In leaving this solely as the card-holder’s responsibility there is the danger that a new offender could change jobs in order to avoid detection.

Accordingly, in order to monitor the status of employees/volunteers, the screening unit also requires a working protocol that sees the courts-police informing the screening unit data base, of all new charges-offences.”

External Input into the Risk Assessment Process

It was proposed that provision would be made in legislation to allow the WWCVP Screening Unit to seek confidential external advice from relevant experts.

Several respondents supported the proposal that the screening unit could seek advice from external experts when making risk assessments. In general, respondents suggested that greater expertise may be required for some complex assessments than may be available within the screening unit.

One respondent noted that any experts engaged would need to be subject to the same privacy safeguards as staff within the screening unit.

One respondent suggested that costs of external consultants should be included in the budget.

Ongoing funding requirements of community based organisations.

Several respondents indicated that community based organisations did not have the capacity to absorb additional costs, and suggested that additional funding would be required if this was intended. One organisation indicated that this may also disadvantage many volunteer organisations currently operating without Government grants.

Many respondents recommended that Government meet the full cost of screening for volunteers suggesting that the funding model would need to offset these costs.

Adequate funding levels for the screening Unit

Several respondents raised the need to resource for success.

Three respondents indicated that the likely quality of assessment, particularly for complex and sensitive considerations would require significant resourcing.

Three respondents indicated that during the implementation stage additional capacity would be required to develop and distribute educational information. Three respondents recommended the establishment of a toll free telephone information service.

Seven respondents commented on the importance of adequately funding the broader community capacity building roles of the screening unit.

Produce Card upon Request

Three respondents commented on the proposal to issue a card to successful applicants. While one respondent supported the proposal that employers could

validate cards, two other respondents suggested that it would be reasonable for card holders to be required to carry cards while on duty.

Information Requirements

It was proposed that applicants will be required to supply the following information to the WWCVP Screening Unit or agent:

- **personal information (e.g. name, previous names);**
- **contact details, including previous addresses;**
- **sufficient proof of identity;**
- **a description of the work to be undertaken by the applicant;**
- **consent for background checking and ongoing monitoring to be undertaken (if applicable);**
- **consent for the WWCVP Screening Unit to contact the applicant's employer in limited circumstances (e.g. if the application is withdrawn or unsuccessful); and**
- **a signature.**

One respondent recommended that the system include a requirement to verify the identity of the applicant, for example through a 100 point identity check.

Privacy Impact Assessment and Guidelines for Information Handling

It was noted that records will be held securely within the WWCVP Screening Unit in compliance with existing privacy legislation.

It was also noted that applicants will have a right to request access to their own information used by the WWCVP Screening Unit as part of the risk assessment process.

One respondent suggested that:

- staff of the screening unit should receive training in the specific Privacy Legislation; and
- guidance material be developed and made public for the collection, handling and security of personal information collected by the screening unit.

Attendance at Card Office

Four respondents were concerned about the proposed requirement that applicants attend Service Tasmania for a photo to be taken. It was generally felt that this was an onerous requirement for busy people, elderly people or those residing in rural communities without easy access to Service Tasmania outlets. Two submissions suggested that alternative arrangements should be available, such as allowing photos to be supplied from Australia Post Offices.

5.3 Questions Posed in the Discussion Paper

Q1: Do you support the proposed definition of vulnerable adult? Are there any other types of definition that should be considered?

In the discussion paper it was proposed that the following definition of vulnerable adult would be used:

“Vulnerable Adult” refers to people aged 18 or over that access services in Tasmania, as defined under Regulations, to alleviate the effects of physical, social, financial and/or psychological disadvantage.

There were 30 responses. Twenty respondents supported the proposed definition as adequate for the intended purpose, seven did not comment. A further three did not support the definition.

Many submissions' indicate that the definition of Vulnerable Adult needs to be considered in the context of the proposed regulated activities.

One stakeholder was concerned as to the inclusion of aged people within the vulnerability definition. This stakeholder commented that matters concerning elder abuse and the abuse of adults with disability fall into quite a different category with little overlap between the abuse of children and the abuse of elder persons. A further stakeholder, whilst generally supporting the inclusion of vulnerable adults, argued that there should be discreet processes for adults and children, claiming that there are differences in terms of both risk assessment and risk management. Two stakeholders questioned the assumption underlying the proposed definition, challenging whether access to services was a useful indicator of vulnerability. One submission proposed that the most vulnerable were those not accessing services, whilst another felt that access to services diminished vulnerability. One submission also suggested that the proposed definition inaccurately labelled service users in a way that many will find patronising and offensive.

A further submission supported the linking of the definition to the receipt of services; particularly given the subject under discussion is the appropriate checking of people delivering the services.

One submission commented that people undergoing assessment to determine whether they were eligible for services were vulnerable however the definition did not cover these people.

Some stakeholders would prefer to establish a definition that could be used more generally, either by listing broad groups of vulnerable people under a UK style definition. A number of submissions requested inclusion of cultural disadvantage.

A number of submissions proposed amended or alternative definitions including:

- *Vulnerable Adult to cover a person over the age of 18 who uses services to alleviate the effects of ill health or physical, social financial and or psychological disadvantage.*
- *Any act occurring within a relationship where there is an implication of trust which results in harm to an older person.*

A combination of the NT and QLD definitions;

“vulnerable persons” includes children, aged persons and persons with a physical or intellectual disability or mental illness.

For the purposes of this policy the department has identified vulnerable people to include:

- *Aboriginal and Torres Strait Islander people;*
- *Children, young people and their families;*
- *People with a mental illness, intellectual disability, acquired brain injury, or cognitive impairment;*
- *People who are affected by domestic or family violence;*
- *People from culturally and linguistically diverse backgrounds and in particular*
- *people who have English as their second language; and*
- *People who are homeless.*

Consideration be given to reworking the British “No Secrets” definition that:

- *People aged 18 and over who:*
 - *need community care services due to a mental disability, other disability, age or illness; and*
 - *may be unable to take care of themselves or protect themselves against serious harm or exploitation.*

Some respondents suggested that the proposed definition might be too narrow, too broad, or may not capture certain vulnerable groups. In light of these suggestions, it might be preferable to simplify the definition to not specify the types of disadvantage that are sought to be addressed (i.e. simply refer to 'disadvantage'). The various types of disadvantage may be better catered for via the inclusion of the particular services in Annex A and Annex B of the discussion paper.

Does access to services indicate vulnerability?

An underlying assumption is that access to services is a reasonable indicator of vulnerability.

Two submissions directly challenge this assumption indicating that access to services does not necessarily indicate vulnerability. The example of public Housing tenants is used, claiming that to label all tenants of public housing vulnerable is likely to be seen as patronising and offensive.

A further submission comments that the most vulnerable may be those who are in need of but have not accessed services.

A further submission supported the linking of the definition to the receipt of services; particularly given the subject under discussion is the appropriate checking of people delivering the services.

The discussion forum also considered whether it is appropriate to assume that access to services is a reasonable indicator of vulnerability for the purpose of establishing a screening system. This concept was largely supported with a number of caveats. These included

- The need for detailed descriptors of occupations and roles within the regulations. Participants expressed concern that some services organisations, such as mowing and garden maintenance services, may choose to be screened to instil public confidence.
- The interest of Insurance companies was flagged. There was a view that insurance companies will require organisations to ensure that employees meet screening requirements, and that they may set requirements beyond the prescribed activities.

Is the scope too broad?

One respondent has expressed concern that when the definition is read within the context of the Regulated activities and contact type the scope may be broader than intended.

The respondent submits that *“The system as proposed and the definition in particular may have the unintended consequence of capturing a wider range and number of people than might be reasonable and practicable, given the objectives of the program. The extent to which the adult population in Tasmania will require to be registered may need to be more closely examined. In particular the proposal to include access to documents within the definition is problematic from the Departments perspective. Many of our staff have access to documents and personal details. To make such access a form of contact type which triggers the necessity for a check is to broaden the scope of the system to such an extent that whole agencies may be captured.”*

A further respondent comments that *“People working with records require clarification.*

The safety issue relates to the level of risk a position poses to children and young people safety. Within the SCP standards, organisations are obliged to include all “involved personnel” This includes all staff with direct contact, supervisory and management roles, programmatic and policy decision making and responsibility, and applies to paid and volunteers alike.

The regulation is functionally an organisational one consistent with the organisational commitment to safeguarding. The danger of restricting eligibility to apply for a WWCC, disallows organisations to undertake an appropriately comprehensive screen of all involved personnel.”

A further concern was expressed that the inclusion of “other vulnerable people” could , in some circumstances, compromise the safety of children . This respondent comments that “We do not support the proposal to include vulnerable people in the same check and this issue highlights one of the problems. The definition of vulnerable people is highly contentious and could involve the regulation of endless categories of people – our concern is that this has the potential to shift the focus from protecting children and may in future place too great a demand on the service, requiring cuts that would in turn compromise the safety of children.

Should aged people/services be excluded?

Two respondents argue for the exclusion of those working with and supporting the aged based on:

- Most aged care providers in Tasmania already observe best practice in screening employees, as required under the Aged Care Act 1997. Many members are approved providers under the Commonwealth Act and also provide services administered by the State (e.g. Home and Community Care). This could mean that they have to comply and be administratively set up for two systems.
- Elder Abuse. Evidence indicates that the greatest incidence of elder abuse occurs within the community and is often perpetrated by family members or significant others. The system proposed excludes family members caring for elderly relatives and therefore not pick up on a significant source of abuse.
- National Health and Hospital reform. It is possible that the Australian Government will assume responsibility for all aged care service provision. One respondent suggests that resolution of the inclusion or otherwise of the Aged should wait till the broader policy environment has been clarified.
- Three respondents recommend that the proposed system be amended to only cover children and that older persons are dealt with via other strategies.

Is Child Abuse and Elder Abuse fundamentally different, requiring different responses?

Three submissions claim that there are fundamental differences between the nature of child and elder abuse, requiring significantly different risk assessments.

One respondent, whilst generally supporting the inclusion of vulnerable adults, argued that there should be discreet processes for adults and children, claiming that there are differences in terms of both risk assessment and risk management. The respondent believes that if decision making relating to children is based upon adult processes and structures there is a risk that children's rights and safety may be compromised. The respondent also argues that there is a risk that over time the original intent of the check (safeguarding children) would be inadvertently compromised in favour of an adult paradigm.

The respondent noted that the Australian Childhood Foundation (ACF) provides organisations with a child safety risk management model called safeguarding children. The ACF has recommended that all organisations are referred to this nationally accredited program.

Two respondents were concerned as to the inclusion of aged people within the vulnerability definition. Both respondents commented that matters concerning elder abuse and the abuse of adults with disability fall into quite a different category with little overlap between the abuse of children and the abuse of Elder persons.

At the discussion forum participants were asked to consider whether the screening requirements should also apply to those working with other vulnerable people. The notion was supported with some caveats. Caveats included:

- That indicators of risks that volunteers and employees represent to children, aged people, and other vulnerable people could vary across target groups, The need to have a proportion of assessment criteria as specific to each target group was strongly supported
- Concern that the inclusion of "other vulnerable people" could delay the implementation, it was suggested that an incremental implementation be considered, establishing the scheme for children first.
- That the legislation should allow for the inclusion of other vulnerable people, however not specify timeframes for implementation to specific target groups.
- One respondent argued that the inclusion of other vulnerable people could potentially compromise the efficacy of the system for the protection of children.

The discussion forum also considered whether the background checking and risk assessment for those working with children and other vulnerable people was fundamentally different, and whether separate systems should be established. There was broad support to having the one screening system, however the risks arising from the additional complexity of expanding to other vulnerable people were emphasised. Messages from the discussion forum included

- Include other vulnerable people
- Acknowledge differences between target groups
- Implement incrementally, with those working with children to be first.

One participant expressed concern that the expansion to include other vulnerable people could compromise the safety of children, primarily due to the risk of resources being spread too thinly.

Q2: Are there any activities that should be included or excluded from Annex A? Do you have any comments specific to any of the listed categories?

Annex A of the WWCVP Checks discussion paper contained a proposed list of services for children that will attract background checking. (A copy of Annex A is attached).

There were 16 comments received. Five respondents supported Annex A in its current form. Other stakeholders proposed additional clarifications or inclusions such as:

- including additional detail relating to child protection such as identifying Separate Representatives, Family Group Conference Facilitators, Legal Representatives;
- including a broad Human Services category covering children's support groups and Children's Contact services;
- families where young people reside if they are not immediate family and there are no Child Protection Orders in place;
- commercial entertainment (where a store employs entertainment for children whilst parents shop);
- private businesses such as children's dance school or drama classes
- After School Care, School Holiday Activities;
- Need to clarify the Clubs, Associations and Movements to clarify whether Tasmanian Fire Service Cadets and Juniors program will be included;
- Child Care terms should reflect definitions within the *Child Care Act 2001*;
- special considerations for playgroups so that parents are not included;
- include Youth at Risk in Annex A;
- inclusion of child related refugee services; and
- specific listing of services for children with a disability.

One respondent recommended that provision be made for a wider range of activities to be conducted on a private and domestic basis, without being covered by the WWCVP checking system.

A number of submissions sought clarification as to whether overnight camps could be exempt in the context of a State or National event, sporting events or activities organised by the Army

The discussion forum considered whether all overnight camps be included, and if not what exemptions should be considered.

The forum:

- supported the inclusion of all overnight camps as a regulated activity;
- did not support incorporating exemptions into the regulations; however

- did support making a provision for the Minister or Secretary of the responsible department to be able to grant exemptions for State and National events.

The discussion forum also considered the proposed inclusion of Clubs, Associations and Movements as regulated activities. A range of views were expressed including that:

- screening should be required for both volunteers and employees from the age of sixteen onwards; and
- the need to find a balance between assessing and minimising risk and preserving the family way, maintaining what is good.

Following the discussion forum one participant submitted the following additional information: “, *all overnight camps should be included. Victoria, NSW, QLD and WA all include overnight camps for children as a regulated activity. The WA check goes even further in requiring volunteer parents to obtain a check (in other circumstances when parents volunteer for an activity involving their child they would be exempt). This recognises the particular vulnerability of children under such circumstances. We strongly advocate that this measure is also adopted.*

In other states where clubs, association and movements involving children are defined as regulated activities, the legislation does not require that all participants are screened. Screening applies to those who ‘work with children’ (in a paid or volunteer capacity). Co-participants in an activity are not required to be screened, therefore screening would not apply to all 4600 volunteers, only to those in a supervisory role ie; ‘working with children’. QLD check includes a specific category for their ‘emergency services cadet program’ and volunteers in that program only require a check if they are ‘teaching, coaching or tutoring one or more children’.

Q3: Are there any activities that should be included or excluded from Annex B? Do you have any comments specific to any of the listed categories?

Annex B of the WWCVP Checks discussion paper contained a proposed list of services for vulnerable adults that would attract background checking. (Copy attached)

There were 10 comments received. Three respondents supported Annex B in its current form. Other suggestions were to:

- under the category of older persons be more specific to include volunteers visiting nursing homes to provide pastoral care;
- include adventure therapy;
- commercial entertainment;
- include religious services for people with special needs;
- clarify emergency services, (should this relate to positions likely to have recurrent contact with individuals with special needs?);

- establish a stand alone category for refugees, migrants and asylum seekers (including all forms of support);
- establish a process through which organisations or employers can seek a formal determination on whether or not checking should apply;
- concern as to the exclusion of volunteers and employees engaged under the Commonwealth Aged Care Act 1997 potentially creating duplication of processes for employees and volunteers engaged in a range of activities;
- potential impact on consumers involved in the delivery of services (such as self help groups including Alcoholics Anonymous, support for people living with Mental illness.); and
- more clearly define 'special needs'.

The discussion forum considered whether participants in consumer self help groups should be required to be screened. There was general acknowledgement of the complexity, with the debate considering how to strike the right balance without imposing barriers to participation.

Suggestions included:

- participants of self help groups should be exempt, however if there is a formal facilitator the facilitator should be screened
- if employees in a funded organisation or building facilitates or supports the group that person should be screened;

One respondent commented that “*participants in self help consumer groups should not be required to undergo a check. These people are co-participants in an activity, and are not undertaking a position of responsibility in relation to children or vulnerable people. Again, this highlights the difficulty of including vulnerable people in a check that was primarily designed to protect children. The original aim of protecting children may be lost in an effort to categorise and cover all vulnerable people.*”

Q4: Are there any engagement types that should be added or removed from the proposed list?

It was proposed that the following categories of engagement would be included as part of the checking system:

- **Employees;**
 - **self-employed;**
 - **contractors;**
 - **sub-contactors;**
 - **agents;**
 - **religious officials;**
 - **volunteers;**
 - **the performance of unpaid community work after a court order;**
 - **board members;**
 - **students; and**
 - **trainees.**
-

There were 9 comments. Four respondents supported the engagement types as proposed. Other significant comments were as follows:

- one respondent promoted the notion of involved personnel : defining involved personnel as all paid and voluntary personnel who may have any direct or indirect contact or communication with children and young people, or hold any position of responsibility, control, authority or decision making capacity for their safety and wellbeing;
- One respondent questioned whether owners of businesses should be included
- One respondent believed that the scope was too broad, and expressed concern as to possible proportion of employees within State Public Service agencies that would be included; and
- One responded identified that many community members have multiple roles, often both voluntary and as employees, and questioned as to who would be required to meet any associated costs, and, if the individual registered, how the issues of subsidies for volunteers will be dealt with
- One respondent commented on the administrative difficulties that will arise with employees and volunteers being charged at different rates, primarily relating to the transportability between paid and voluntary activities?

Q5: Are there any other forms of contact that should be included?

In the discussion paper it was proposed that people will be checked when 'contact' with vulnerable people is 'regular and systematic' and involves:

- **any form of physical contact;**
 - **any form of communication;**
 - **working within close proximity to vulnerable people;**
 - **working with records relating to vulnerable people; and/or**
 - **the making of decisions affecting vulnerable people.**
-

There were nine comments. Six respondents supported the contact types as proposed. Two of these commented that:

- the key is regularity of contact so that it can cover all forms of contact and remain workable;
- support the notion of nature and frequency.

Further comments included:

- to include reference to current and emerging technologies;
- include family members of home tutors;
- to include people who are making decisions about who can work with children and vulnerable people.

One respondent did not support the definition expressing concern about the inclusion of people working with records relating to vulnerable people in circumstances where they do not have direct contact with the vulnerable persons.

The issue of including people who work with records relating to children and other vulnerable people was considered at the discussion forum, A broad range of views was canvassed, including:

- People working with records should not be required to be screened where there is no direct contact or possibility to groom,
- Could look at including those working with the records of, and make decisions relating to children, but exclude the categories of aged and other vulnerable people;
- Include those involved in the administration of the *Children Young Person and their Families Act* and the *Disability Services Act 1992*

Q6: Do you have any comments on the checks that will be applied to supervision?

In the discussion paper it was proposed that checking will apply to:

- **all people in contact with vulnerable people whether or not they are supervised; and**
 - **people who are responsible for undertaking supervision of people in contact with vulnerable people.**
-

There were seventeen comments. Sixteen respondents supported the proposal. One respondent was opposed to the application of checking to people who are responsible for undertaking supervision of people in contact with vulnerable people.

Q7: Do you have comments on the general exemption for age?

In the discussion paper it was proposed that checking would not be required for volunteers aged less than 18 years. It was also proposed that employees under the age of 18 would be subject to checking, however that it would not be common for employees under the age of 15 years.

There were 13 comments. Three respondents supported the proposed exemption. Support from two of these respondents was conditional on volunteers being under close supervision.

All other respondents were opposed on the grounds that patterns of abusive behaviour can become evident well before a person is aged 18 and that if there is a sound case checking people under 18 employees and volunteers should be treated equally.

Specific consideration of students on placement were raised in their submissions. Two recommended that all students on placement within the child care industry be required to undergo checks, one submission suggested that all mature aged students on placement be subjected to checks. Strong arguments were presented that if an exemption of volunteers under 18 is included, there should be specific requirement for students undertaking placements within the child care industry to be screened.

Three submissions argued that to include volunteers under the age of 18 would be an important acknowledgement of their contribution and the importance of the services provided, and enhance the volunteers credibility.

It was recognised that checking very young people was not appropriate and respondents generally felt that checking should commence at age 15 or 16 years. The discussion forum considered the issue of exemptions in greater detail. The forum

- Did not support the exemption of volunteers under the age of 18;
- Supported the screening of both volunteers and employees from the age of 16 and beyond;
- Called for the exemption of peer support programs within schools
- Debated the relevance of the level of supervision provided when considering whether a person should be required to be screened, proposing that given the screening is an assessment of personal risk and not agency risk, the level of supervision becomes an agency risk management issue, not a screening issue;
- Supported the requirement to screen all secondary students on work experience participating in regulated activities;
- Expressed caution that screening requirements should not capture normal family relationships, needing to strike a balance that is fair and reasonable.

Q8: Do you support the application of an exemption for people in contact with vulnerable people for infrequent or short periods? Do you support the proposed threshold of 7 days in any 12 month period?

In the discussion paper it was proposed that checking will not be required for people who undertake regulated activities in Tasmania on no more than 7 days in any 12 month period.

There were 22 comments. The notion that an exemption is required for infrequent or short periods of contact was supported by 18 respondents. Four respondents were opposed to any such exemption. Two submissions did not provide a rationale for their position, one commented that evidence suggests that a brief access to children can provide opportunity to commence grooming; one organisation has an existing policy that requires all volunteers and employees to be subjected to checking, regardless of frequency or duration.

Six respondents, who were otherwise supportive of the proposal, suggested that the exemption should not apply to high risk activities such as overnight camps. A further respondent indicated that given the list of regulated activities includes “all overnight camps” that it was assumed the 7 day exemption would not apply in relation to overnight camps.

There were mixed views on the actual threshold that should apply. While the majority of respondents were supportive of the 7 day threshold proposed:

- Five respondents suggested that frequency of days, duration of contact and level of supervision were important considerations.
- Four respondents suggested that days should not be consecutive
- Two respondents suggested an increase in the number of allowable consecutive days to either 10 or 14 days
- Two respondents argued that the total number of days should be reduced to either 3 or 5
- Five respondent suggested that exempted people undertaking regulated activities should be supervised at all times.
- One respondent suggested that the threshold should be expressed as 3 days in any 30 day period; and
- Three respondents focused on administrative challenges in recording and tracking numbers of days a person is undertaking regulated activities suggesting that some people may undertake activities across multiple agencies.

The discussion forum considered this issue in further detail. Views expressed included:

- The nomination of seven days is irrelevant, and dangerous territory
- That it is sensible to have some capacity for short term exemptions.

Three stakeholders expressed some concern about the difficulty and administrative burden associated with recording and enforcing compliance with the threshold.

Q9: Do you support the application of an exemption for people who are 'closely related' to each (and every) vulnerable person they have contact with?

It was proposed that checking will not be required for people who are 'closely related' to each (and every) vulnerable person they have contact with.

There were 19 comments. Fourteen respondents broadly supported the proposal.

Twelve respondents, whilst broadly supportive, expressed concern as to how to ensure that the exempted person would not also have contact with other non related children and vulnerable people.

Two respondents were opposed to the exemption on the grounds that research indicates that sexual assault is often perpetrated by people known to and trusted by the victim, including family members. Both respondents expressed concern that exemption would probably not be appropriate where the activity occurs in a structured service program under the auspice of an agency.

Three respondents were supportive of the concept, however felt that the proposed list was too broad, and suggested limiting it to immediate family members.

Q10: Do you support the application of an exemption for volunteers engaged in a regulated activity who are 'closely related' to a vulnerable person who ordinarily participates in that regulated activity?

It was proposed that checking will not be required for volunteers engaged in a regulated activity who are 'closely related' to a vulnerable person who ordinarily participates in that regulated activity.

There were 22 comments. Ten respondents supported the proposed exemption. Three of these offered support contingent on tightening the definition of "closely related" to include immediate family members only.

All other respondents opposed the proposed exemption on the grounds that the volunteer will also have access to other vulnerable people to whom they are not related and that there is evidence that abuse has occurred in these circumstances.

Q11: Do you have any comments on excluding normal employee / employer relationships?

It was proposed that checking will not apply to employers of vulnerable people or supervisors of volunteers who are vulnerable people, unless those people are also carrying out a regulated activity.

There were 13 comments. Eleven respondents felt it was reasonable to exclude general employee / employer relationships. A number of respondents commented on the inherent risks and noted that there were industrial and antidiscrimination provisions to mitigate these risks. Two respondents were concerned that to broaden the system may limit employment and rehabilitation options.

Two respondents stated that the exclusion should not apply. One respondent evidenced their position with research that indicates 35% of employees in the fast food industry reported experiencing bullying or violence in the workplace, demonstrating that this is an area of distinct vulnerability for children. Another respondent commented on the vulnerability and powerlessness of some employees.

Q12: Are there any other exemptions that should be considered?

In the discussion paper it was proposed that checks will not be required for:

- **sworn police officers (who have not been suspended);**
 - **secondary school students on work experience placements;**
 - **people volunteering in State and National events; and**
 - **other groups as specified under regulations.**
-

There were 14 comments on a range of topics.

Five respondents supported the proposed exclusions with no further additions.

One responded questioned the appropriateness of excluding secondary school students on work experience if the student was a mature aged student.

The issue of excluding State and National events stimulated extensive comment. Three respondents were not supportive, five respondents requested further information on the definition of State and National events and an explanation of the logic; two respondents were supportive with one of these suggesting that both employees and volunteers be exempted.

Clarification was sought on the nature of events, with specific consideration of whether events included overnight activities. One respondent suggested that interstate visitors for events should be exempt if they have been checked in their home State or Territory suggesting that the model include provisions for mutual recognition;

It was also suggested that:

- spontaneous volunteers required during declared emergencies should be exempt;
- some clarification of the exemption for co-participants is required;
- exemptions should only apply to select activities, with no exemptions applicable to high risk activities; and
- health professionals registered under the anticipated National Registration and Accreditation Scheme should be exempt, as checking requirements will be similar in nature and overlap.

Q13: Do you have any comments on the proposal that unregistered persons can be engaged in a position pending the outcome of their application?

It was proposed that unregistered people will be required to submit an application to the WWCVP Screening Unit prior to commencing duties. Applicants would be permitted to work in a position pending the outcome of their application but must cease duties immediately if the WWCVP Screening Unit issues either a negative notice or an interim negative notice.

There were 21 comments. There were mixed views on this issue.

Eleven respondents supported the proposal. Three respondents supported the proposal conditional to employers retaining discretion as to the appropriateness. One respondent commented that the proposal mitigated some of the additional disincentives for volunteers.

All other respondents were against or expressed some level of reservation. Many of the concerns related to duty of care.

Of those expressing reservations, there were four clear schools of thought:

- the proposal is reasonable only if checks are conducted within a reasonable time frame;
- a one-size-fits all approach is not appropriate (i.e. persons should not commence work pending a clearance in higher risk positions),
- persons should only be able to commence work in supervised positions pending clearance; and that
- within some regulated activities a person should not be able to commence work until a clearance has been given. For example child care, child protection.

This issue was considered in further detail at the discussion forum. General discussion included concern as to the need for balance between assessment of risk to children and the potential impact on recruitment.

Forum participants held a broad range of views including:

- Where job descriptions specify WWCVP clearance the applicants should have finalised this in advance. It was suggested that clearance could be an essential selection criteria.
- From a human resource management perspective commencement of employees prior to clearance presents unnecessary risks.
- The child care industry already allows this practice where the positions are suitably supervised
- It was noted that if applicants and volunteers were able to seek a risk assessment in advance of engagement, there should not be a need for people to be engaged in regulated activities prior to screening being finalised.
- Some participants expressed the view that this should be left to individual employers discretion.(noting that applicants could sign a Statutory Declaration in advance)

Q14: Do you have any comments on the involvement of employers or organisations in the application process?

It was proposed that the WWCVP Screening Unit will contact employers or organisations in the event that an application is unsuccessful and that applicants must also provide information from a prospective (or current) employer or organisation which includes:

- **a declaration that the applicant has been offered, or is working in, a position which is likely to require that a check be undertaken;**
 - **the contact details of the employer or organisation; and**
 - **a signature of a responsible person in the organisation.**
-

There were 13 comments. Ten respondents were generally supportive of the proposal.

Three respondents were not supportive. Concerns included the need to allow for freelance/consultants that may require a card independent of immediate employment; that for some being able to obtain a check prior to securing employment may be a significant step in a persons path to employment in terms of increasing confidence and self belief; and that volunteer organisations typically struggle with management and that any additional burden will have a negative impact.

Other comments were as follows:

- two respondents thought that there would be advantages in allowing employers some level of access to the information obtained by the screening unit;
- one respondent comments that the expectation that employers will provide a signed declaration that they intend to use a person as a volunteer is an additional administrative impost on employers.
- Several respondents requested that there should not be additional administrative burdens imposed of employers.
- one respondent stated that the administrative burden for applicants could be significant. This respondent felt that it would be important for an employer to provide assistance to volunteers through out the application process. two respondents suggested that employers should be required to supply a job description rather than a description of the work to be undertaken by the applicant; and
- two respondents were supportive however also suggested that provision be made for individuals to make applications independent of an employer with the express aim of removing the employer from the application process for privacy reasons and to enable a person to be “employment ready” before an employer was lined up
- several respondents argued that the system should provide an alterative allowing for applications independent of imminent employment.

Q15: Do you have any comment on the inclusion of other types of information such as Apprehended Violence Orders, Child Protection Orders and past employment records in the checking process?

In the discussion paper it was proposed that checking will include a national criminal history check that will contain any disclosable information concerning convictions, findings of guilt, certain spent convictions (to the extent allowable under the legislation in other States and Territories), pending matters and limited other information (such as being listed on a register of sex offenders).

Views were also sought on the possible inclusion of other types of information that may be useful in determining whether or not there is a risk that an individual may harm a vulnerable person, such as:

- **expanded criminal history information relating to charges, acquittals and factual information concerning the circumstances of individual cases;**
- **Apprehended Violence Orders;**
- **Child Protection Orders; and**
- **past employment records.**

There were 18 comments. Twelve respondents supported the inclusion of a broad range of information, including non-conviction information, where it is required to protect the public interest. Five respondents expressed unreserved support, noting that the checking of the additional information as a major strength of the proposal.

A number of these respondents, whilst expressing broad support, also raised specific concerns.

Three respondents were against the collection and consideration of non-conviction information. Other comments were as follows:

- nature and accuracy of previous employment history, and lack of detail about processes that will be established to ensure procedural fairness
- difficult to agree without the detail of risk assessment process and an indication of the resources that will be allocated.
- an acknowledgement that there will be many sensitivities associated with assessment of risk requiring sophisticated assessments which may require a high level of skill and judgement, and may be resource intensive
- three respondents suggested that the screening unit should check the specific skills required to perform duties (e.g. qualifications);
- four respondents were concerned that the inclusion of matters such as those suggested above would result in the exclusion of people from participation in self help groups and other personal development opportunities presented through employment.
- A number of respondents noted the importance of considering driving offences especially where the functions include transportation of children and other vulnerable people. One further respondent noted that traffic offences, including infringement notices, form part of the Tasmanian police records, and are currently released in accordance with relevant legislation.
- One respondent noted that some information such as Child Protection, animal welfare charges, traffic infringements will only be available at the State level.
- Two respondents argued that the initial assessment of the individual without consideration of the functions to be undertaken may lead to some applicants receiving a negative notice, where as if the option to be assessed to undertake specific functions was offered applicants may be found suitable without the otherwise protracted and potentially damaging administrative processes.

This question was further considered at the discussion forum. Key points made include:

- Participants challenged the validity of using any employment records that were untested,

- That employment records should only be considered where there are other indicators of concern.
- Traffic Infringement notices. Current practice in some areas includes an assessment of driving history. Discussion included cautionary comments that the WWCV check is an assessment of the risk that an individual represented to children and other vulnerable people, and that it would not meet all organisational requirements. An example of a person with an extensive traffic infringement history was considered. This person's traffic infringement history may be assessed as not impacting on the risk that this person represents to children. However if this person also was requesting assessment for a public vehicle license responsibility for assessment sits outside of the WWCV check.
- Weighting place on criteria assessed may vary between target groups.

Q16: Do you have any comments on the proposal that applicants be required to provide a statutory declaration that they have not been convicted of certain types of offences outside of Australia?

It was proposed that:

- **applicants will be required to provide a statutory declaration that they have not been convicted of certain types of offences outside of Australia; and**
 - **individual employers or organisations may ask applicants to provide a police certificate from their country of origin, if concerns still exist.**
-

There were 14 comments. Eleven respondents supported the proposals. Other comments were as follows:

- Three respondents suggested that Australians who were born and/or raised overseas, or have travelled overseas, should also be required to sign a statutory declaration to assist with the assessment process.
- Two respondents thought that the provision was inadequate, indicating that international police checks can and should be done, and called on the Government to improve the exchange of criminal data between countries.
- One respondent disagreed with the suggestion that individual employers or organisations may ask applicants to provide a police certificate from their country of origin if concerns still exist was inappropriate, and would better be a function of the Screening Unit

Q17: Are there any additional risk assessment principles that should be applied

It was proposed that the principles guiding risk assessment will include:

- **the paramount consideration is the wellbeing of vulnerable people and their protection from harm;**
- **risk assessment will be conducted by people who are appropriately trained and properly supported;**
- **risk assessment will be recognised as one of a range of organisational strategies to protect vulnerable people;**
- **risk assessment will be evidence based, where evidence exists;**
- **in all situations risk assessment will be ethical and defensible;**
- **assessment and decision making processes will be efficient and timely;**
- **assessment and decision making processes will follow principles of natural justice and procedural fairness;**
- **the risk assessment procedure will be transparent, documented, and consistently applied;**
- **risk assessment processes will be accompanied by provisions for review and appeal against decisions; and**
- **the privacy of people will be strictly protected, and sensitive and personal information will be protected from inappropriate disclosure.**

There were 9 comments. While respondents were generally supportive of the risk assessment principles proposed, most were of the view that it is difficult to ascertain whether or not the risk assessment process will be adequate until a risk assessment manual is available. Other comments were as follows:

- one respondent noted that the quality and capability of people undertaking the process will be critical, and called for more information of the training requirements and support provisions for the staff of the screening unit
- one respondent indicated that risk assessment should clearly differentiate and account for the developmental disadvantage of children and young people in relation to safety and well being. This respondent also submitted that if decision making is based on adult processes and structures there is a risk that children's rights and safety may be compromised;
- one respondent noted that , under current Anti Discrimination Legislation it could be discriminatory to prevent people from working with vulnerable people based on irrelevant criminal records; and suggested that amendments may be required to the current provisions.
- one respondent requested that specific guidelines be developed for the consideration of juvenile convictions.

- Q18: Do you have comments on the proposed list of relevant criminal offences?

In the context of criminal history information, it was proposed that relevant offences would include:

- **sexual offences;**
- **offences against a person;**
- **offences involving violence;**
- **offences involving dishonesty or fraud;**
- **offences relating to property;**
- **offences involving possession of, or trafficking in, a drug of dependence or controlled drug;**
- **arson;**
- **firearms offences;**
- **offences against an animal; and**
- **Incitement, conspiracy or intent to commit any of the above offences.**

There were 16 comments. While 15 respondents appeared to broadly support the proposal, some qualifying comments were made as follows:

- six respondents suggested that an applicant's driving record should be considered in cases where driving vulnerable people is required for the position. Respondents indicated that repeated driving offences involving alcohol and loss of licence should be considered. One respondent suggested the provision of a restricted card, indicating that the person was not approved to transport clients.
- one respondent suggested the inclusion of telecommunication and other high tech crimes, such as internet misuse, noting the difficulty of legislation keeping pace with social trends.; and
- One respondent questioned the relevance of these offences to situations where trust was implicit.....challenging why a person who has at some time committed a property or fraud offence should be assumed to be in capable of caring for a vulnerable person
- One respondent believed that the check was too narrow and should also include psychological harm and neglect. .

Q19: Do you have any comments on the list of questions to be considered as part of the risk assessment process?

It was proposed that the following questions would be considered as part of the risk assessment process:

- ***What is the nature, gravity and circumstances (where known) of the offence or charge and how is this relevant to employment/volunteering with vulnerable people?***
- ***How long is it since an alleged offence occurred?***

- **What was the age of the victim of the offending behaviour?**
 - **What was the age difference between the person and any victim?**
 - **How serious is the applicant's criminal history based upon all the information available (for example, whether there is a pattern of offending)?**
 - **Have the applicant's circumstances changed since an offence was committed?**
 - **What is the attitude of the applicant to their previous offending behaviour, and what relevant information can be provided by the applicant?**
 - **What are the findings of any assessment reports following attendance at treatment or intervention programs?**
 - **Has the offence been decriminalised in Australia or was it an offence overseas but not in Australia?**
-

There were 7 comments. All respondents were broadly supportive of the proposed questions. Three of these respondent provided support based on consideration of the following:

- One respondent indicated that the process should provide appropriate weighting to rehabilitation so as to ensure that those people who are "deemed to be safe" are able to reengage with their community.
- One respondent identified that the *Child Care Act 2001* requires a number of declarations, and suggests that the one process should meet both requirements
- one respondent stated that special consideration needs to be given to juvenile offences;
- one respondent noted that a more detailed decision making manual was required

One respondent whilst supporting the notion of "past behaviour being a reasonable indicator of possible future behaviour" as a broad generalisation, notes that it will not be applied to the general population but to individuals., and that the discussion paper does not identify at what point past behaviour ceases to be a reasonable indicator of future behaviour.

Q20: Do you support the additional considerations applicable to non-conviction information? Are there any other considerations that should be included?

It was proposed that the additional considerations applicable to non-conviction information would include:

- **The credibility of the person who made the original allegations or provided the original information;**
- **The scope and outcome of any investigation conducted;**
- **Views of officials who conducted the investigation;**
- **The answers (if any) of the person to police during interview, the formal statement (if any) to police and the evidence (if any) of the person in cross-examination;**

- **Whether the alleged conduct was a “one off” or part of a pattern; and**
 - **Any other information which might point to good character or the fact the allegation or information is inaccurate or untrue.**
-

There were 11 comments. Five respondents supported the additional considerations applicable to non-conviction information.

A further five respondents, whilst supporting the provisions, also highlighted the importance of transparency, procedural fairness (including providing the applicant with opportunity to provide additional information and comment to be taken into account throughout the assessment process.)

- One respondent did not support the proposal indicating that common sense should make such a listing unnecessary.

Q21: Do you have any comments on the proposed registration period of five years?

It was proposed that registrations will remain valid for a period of five years.

There were 18 comments. Five respondents supported a five year registration period without additional comment. Four respondents supported the five year period dependent on the self disclosure provisions being rigorous, a further respondent offered support dependent on a flagging process being established allowing police to notify the screening unit of new offences.

Other comments included:

- Four respondents called for reductions in the time period suggesting either two or three years.
- Two respondents argued that the time period should be aligned with existing schemes such as Safeguarding Children and accreditation requirements under the Commonwealth Aged Care Act.
- One respondent indicated that their agency policy was for more frequent checks and suggested that ongoing monitoring was important
- One respondent indicated that they found their existing requirement of three years to frequent, and that they were considering implementing a five year time frame
- One respondent suggested a three year period until such time that continuous checking system has been established (after which a five year period was supported)
- One respondent suggested that there be provision for flexibility so as to allow for short term restrictions

- A further respondent suggested that if the cost for volunteers be subsidised, the registration period be reduced to reflect the cost differential
- Five respondents commented on the need for Police to be able to notify the screening Unit of new offences (where appropriate)
- Two respondents queried how the screening Unit could notify employers of deregistration or serious new concerns if the Screening Unit does not maintain a employment register
- One respondent argued that there may be a need to provide registrations for a reduced period.

This issue was also considered in the discussion forum. Participants were of the view that registration should be for a three year period, until such time there is capacity to provide continuous checking of charges. It was felt that once this capacity has been established the registration period will become less important.

Victoria and Queensland have 5 year registration; with a requirement that screening be undertaken should the card holder change positions.

Q22: Do you support the proposal for the WWCVP Screening Unit to contact the employer or organisation to advise of the issuance of an interim negative notice or in the other circumstances proposed?

It was proposed that the WWCVP Screening Unit will inform the employer or organisation nominated on an application form of the proposal to issue a negative notice and advise that the applicant must be removed from all contact with vulnerable people pending a final determination. It was also proposed that the WWCVP Screening Unit will contact the employer if:

- **there is some doubt as to whether or not the applicant has actually been offered a position;**
 - **the application is withdrawn;**
 - **the application is deemed withdrawn due to irregularities or lack of a response from the applicant;**
 - **a negative notice is subsequently issued; or**
 - **a positive notice is subsequently issued.**
-

There were 13 comments. Twelve respondents supported the proposals commenting that the provision was imperative and strongly supported..

One respondent raised concerns relating to the privacy of applicants in cases where the employer is informed that an interim negative notice has been issued and suggested bland generic reasons be provided to protect confidentiality.

Comments in the Australian Capital Territory consultation identified far more concern about procedural fairness and applicants rights It is felt that this section requires greater consideration than the comments received.

Comments made in the ACT consultation included:

- one respondent suggested that there may need to be some discretion exercised in the case of interim negative notices in some cases;
- one respondent noted the importance of ensuring that organisations must not judge an applicant on the basis of a negative notice, but should manage risk by removing that person from all contact with vulnerable people pending a final decision;
- one respondent requested that clear guidelines be issued to employers concerning actions they may take to manage situations where interim negative notices are issued; and
- this regard:
 - two respondents were strongly opposed to the screening unit contacting employers to advise of an interim negative notice;
 - one respondent stated that under no circumstances should employers be advised of the basis for an interim negative notice;
 - one respondent suggested that privacy concerns could be allayed by simply allowing applicants to make an application independent of an employer. It was further suggested that frivolous applications could be deterred via the imposition of an application fee; and
 - one respondent recommended that applicants provide informed consent for the screening unit to contact the employer in the case that an interim negative notice is issued as part of the application process.

This issue was considered further at the discussion forum.

Views presented included:

- the need to seek applicants consent for information to be provided to the employer at the time of the application
- a general concern as to how employers may use the information, and some guidance as to appropriate responses
- a suggestion that the steering committee consider not having interim negative , unless continuous checking on charges is established.

It was also noted that the screening Unit would need to maintain a register of individuals' employment and volunteer commitments. It was suggested that it be a requirement that the employer verify card details at the point of employment, and that this information be used to update the data base. Further suggestions included establishing a dual system, requiring both the employer and the employee/volunteer to register details.

Q23: Do you support the application of a five year prohibition on re-applying for a WWCVP Check unless there has been a material change in the information upon which the negative notice was issued? If not, why not?

It was proposed that people who have received a negative notice will be prohibited from reapplying to the WWCVP Screening Unit for registration for a period of five years unless there has been a material change in the information upon which the negative notice was issued.

There were 13 comments. Twelve respondents generally supported the proposal. Other comments were as follows:

- so long as the appeals process being fair and timely;
- that the time frame should be aligned with the registration period;
- that the period of prohibition should be at the discretion of the screening unit;
- flexibility should also be provided for juvenile and driving offences and ;
- two respondents suggested that prohibition periods should be determined on a case-by-case basis or that different prohibition periods should apply to different regulated services;

One respondent commented that the proposed prohibitions were unreasonable, arguing that individuals should be able to reapply on an annual basis if they so choose, and that they should be provided with support to do so. This respondent states that the WWCVP Screening Unit must be compelled to apply a full risk assessment in response to reapplications for registration and to provide reasons for any further denial of registration.

At the discussion forum there was general support for a fixed term prohibition, with provision for appeals/reviews to be revisited where new information is available. Consideration was also given to changes in an applicants circumstances when convictions become annulled or ‘spent’ in those assessments that do not include annulled convictions.

Position based assessments. It was commented that refusal on one position based assessment shouldn’t exclude a person from applying for subsequent position based assessments.

Q24: Do you have any comments on the inclusion of a mechanism for courts to make orders barring people from applying for or holding an approval to work with vulnerable people for specified periods of time?

It was proposed that the exclusionary framework supporting the introduction of WWCVP checks will be based on the following fundamental tenets:

- **People seeking to work or volunteer with vulnerable people in specified positions must apply to be registered with the WWCVP Screening Unit and undergo a risk assessment;**
- **People who have received an interim negative notice or negative notice from the WWCVP Screening Unit, will not be registered and will be ineligible to work with vulnerable people; and**
- **People who have been issued a negative notice will be prohibited from reapplying for registration for a period of five years, unless there has been a material change in the information upon which the negative notice was issued (e.g. a conviction has been quashed or pending charges have resulted in an acquittal).**

It was also proposed that Tasmanian courts should have powers to make orders barring people from applying for or holding an approval to work with vulnerable people for specified periods of time.

There were 8 comments. All respondents supported the proposal, provided that a workable and transparent mechanism could be developed. Two respondents thought the Courts were well placed and believed that the inclusion of the judiciary sent an important message as to the seriousness of the issues.

One respondent commented that “**We would advocate a prohibition period of at least 5 yrs. We cannot see any justification for allowing an annual reassessment. UK system has different prohibition periods depending on age of applicant: 1yr, 5yrs, 10yrs Prohibition should apply in relation to any negative assessment. Such an assessment would be based upon serious risks to children and young people and likely apply to serious child sex offending. Regardless of the period of prohibition, if an applicant is able to reapply, it should be conditional upon the applicant providing a formal report conducted by an acceptably accredited-qualified professional attesting to the level of risk the applicant poses to the position. The report would include specific reference to all relevant circumstances leading to the negative notice plus identified risks inherent in the position applied for.**”

Q25: Do you have any comments on the proposed right of internal review by the WWCVP Screening Unit and the right of external merits review by AAD and the proposed grounds for merits review?

The principles of procedural fairness and natural justice demand that the decisions of the WWCVP Screening Unit are open to independent scrutiny and review.

It is proposed that any decision made by the WWCVP Screening Unit may be subject to an internal review by the WWCVP Screening Unit or to merits review by Administrative Appeals Division (AAD) of the Tasmanian Magistrates Court (and ultimately judicial review in the Supreme Court) upon the request of the applicant.

It is proposed that the grounds for internal and merits review in AAD will include:

- **inaccuracy of the information on which the WWCVP Screening Unit has relied;**
- **relevance of conviction information, non-conviction information or other information;**
- **the availability of new information that was not previously considered by the WWCVP Screening Unit; and**
- **whether the WWCVP Screening Unit decision is correct and preferable.**

It is proposed that the procedure for review will include:

- **a right of access to all information used by the WWCVP Screening Unit, except in circumstances where, in AAD’s view, disclosure**

- would, or could be reasonably expected to, prejudice, an existing investigation of a breach of criminal law;
- a power of AAD to compel the production of information from the relevant law enforcement bodies or WWCVS Screening Unit;
 - both rights above to extend to “circumstances” information and to relevant inter-jurisdictional bodies;
 - a right for the applicant to independent representation; and
 - a right of the applicant to supply additional information or witnesses to support their case.
-

There were 13 comments. All respondents were supportive of the proposals. One respondent supported rigorous internal and external reviews and noted that applicants should not incur additional costs through the review process.

The importance of sound and transparent review and appeals processes to the integrity of the model underpinned responses to many questions throughout the submissions.

Respondents highlighted the importance of ensuring that there are robust and consistent processes for handling complaints (including safeguarding privacy) and that the screening unit should publish material outlining the complaints process and the steps that applicants can take if they are unhappy with the response of the screening unit. One respondent suggested that support should be available to assist or represent applicants throughout review or appeal processes.

This issue was considered further at the discussion forum. Participant’s views included:

- that the process of administrative review should include an expert body rather than lay people
- Consideration is given to features of the NSW model which includes not issue a negative notice, moving straight to not issuing a card. In this State the appeals process is then focused the decision not to issue the card.
- Should support be provided, apply the same processes /principles as Legal Aid (demonstrated merit, otherwise user pays.)
- A possible role for the Commissioner for Children in reviews.

One respondent commented that “Support should not be offered without the applicant being able to demonstrate a reasonable level of merit in terms of improper process or new supporting information such as a credible clinical report that specifically addresses the applicant’s level of risk in relation to their background and the particular position and circumstances. Review should be sufficiently independent of initial decision to issue negative notice, however as the screening unit decision is based upon high levels of training, knowledge and expertise, the review process needs to be able to ensure even greater expertise involving academics and clinicians’ expert in the relevant field.”

Q26: Do you have any comments on the proposed list of offences and the application of penalties for the proposed offences?

In line with other jurisdictions, it is proposed that the legislation for the **WWCVP** checking system will include specific penalties for certain matters that aim to protect the integrity of the checking system. These matters could include:

- **forging or altering of a WWCVP Card;**
- **inappropriate use of a WWCVP Card (including using someone else's card or loaning a card to another person);**
- **failure by employer or organisation to validate WWCVP Card;**
- **providing false or misleading information to the WWCVP Screening Unit;**
- **making multiple and simultaneous applications for assessment;**
- **working with vulnerable people without a valid assessment notice (or without having applied for an assessment notice);**
- **failure to immediately cease working with vulnerable people after withdrawal of application, receipt of an interim negative notice, receipt of a negative notice or cancellation of registration;**
- **failure of employer or organisation to remove a person from working with vulnerable people if it is known that person has withdrawn an application, has been issued with an interim negative notice, issued with a negative notice or has had their registration cancelled; and failure of registered person to disclose a new criminal offence to the WWCVP Screening Unit.**

There were 9 comments. All respondents generally supported the proposal.

Comments were as follows:

Two respondents suggested additional offences. These were

- penalties for non compliance with self disclosure provisions
- Penalties for failing to return a cancelled card within a stipulated time frame.
- Consideration of penalties for self employed (such as Home Based Carers) where dismissal is not an option)
- One respondent suggested that penalties should correspond to the level of risk represented by the breach
- Two respondents proposed that the penalty provisions include capacity for discretion, proposing that there will be some ambiguity as to whether some activities are regulated.
- One respondent recommended that Tasmania consider the West Australian provision requiring employers to monitor the validity of employee and volunteer cards.
- One respondent suggested high penalties for the failure to self disclose.

General comments included the need to clarify some of the offences (such as the failure by the employer to validate the WWCVP card) and the need for community education program within the implementation process.

Q27: Do you have any comments on the proposed compliance activities?

It was proposed that the WWCVP Screening Unit would undertake certain compliance activities, including:

- **sending letters to select employers/organisations seeking confirmation that:**
 - **all people that are required to have checks have been checked and approved;**
 - **people with negative notices are not employed; and**
 - **prohibited people are not employed.**
 - **physical spot checks of select employers/organisation;**
 - **investigating public complaints or information that allege a breach of WWCVP legislation; and**
 - **referring breaches of WWCVP legislation for prosecution.**
-

There were 8 comments. Seven respondents were generally supportive of the proposal. One respondents was opposed to the provision for spot checks

Other comments were as follows:

- Two respondents indicated that the Child Care Act 2001 contains provisions for authorised Officers to undertake spot checks, and that the relationship between the two pieces of Legislation requires consideration.
- One respondent suggested that all employers and organisations working with children should be referred to the nationally accredited Safeguarding Children Program
- Two respondents questioned how the provisions would be managed and resourced, whether it as intended that WWCVP staff would also be trained investigators, or whether alleged breaches would be referred to the police or Work Place Standards for investigation.
- One respondent was not supportive of the notion of spot checks, due to the potential for these to undermine the relationship between the screening unit and the employer
- One respondent questioned who would be responsible to pursue prosecution.

Q 28 Do you have a view on where the WWCVP unit should be located?

The location for the WWCVP Screening Unit is yet to be determined. The location of State/Territory units for screening people working with children has varied from jurisdiction to jurisdiction, with locations within Departments/Commissions of Justice, Families and Communities, Child Protection and Police.

There are legitimate reasons for locating the Unit within an independent Office that is outside the direct line management authority of the public service or Minister. The Office of the Commissioner for Children may provide a suitable location although the extension of checks to people working with vulnerable adults (as well as children) could make this location inappropriate.

Alternatively, the Office could be independently established and located while still being administratively within a government agency. For example, the process for reviewing and determining claims under the Adults Abused as Children in Care process is administratively within the DHHS. However, the office is located at an independent site and claims are determined by an independent Assessor.

A further option is to engage a screening unit in another state to manage the screening process for Tasmanian employees and volunteers who have contact with children and vulnerable adults. This option could result in savings especially establishment costs. This option would require a small unit in Tasmania to manage any policy issues and to promote the requirements for WWCVP checks.

There were 15 comments. Common themes across all responses were the need for the Unit to be independent of existing Government agencies and that safeguards protecting privacy must be of the highest order.

Nine respondents supported the screening unit being based within Tasmania. Comments included

- Three respondents suggested within Tasmania, in an independently established and located office and administratively within a government agency;
- One respondent suggested within Tasmania, administratively in DHHS, with Service Tasmania as a shop front;
- Two respondents proposed within Tasmania, however not in the Commissioner for Children's Office
- Two respondents proposed within Tasmania and within the Commissioner for Children's Office;
- One respondent suggested within Tasmania, with matters relating to children to be managed through the Commissioner for Children's Office, and other vulnerable people either through a Commissioner for Older Tasmanians or the Social Inclusion Commissioners office.
- One respondent suggested consideration of models in other jurisdictions such as **the Ombudsman's Office in NSW and the Commissioner for Children and Young People Queensland.**
- One respondent commented that given the number of State Government employees that will require screening, it was important to ensure that the Unit is independent, outside of the public service.

Accessibility and responsiveness were often noted as essential requirements

Five respondents provided support for all or some of the screening Unit functions to be outsourced to another State.

Comments supporting an outsourced model included:

- Possible cost benefits
- Increased perception of independence
- Importance of privacy and confidentiality, and the difficulties in maintaining this in a small State. One respondent suggested a model where the Police Information checking occurred interstate, and policy was administered locally.

This issue was further considered at the discussion forum. A broad range of views were expressed by participants.

- There was a general acknowledgement that distributing functions across jurisdictions could present organisational challenges.
- There was not a clear sense as to which functions could be outsourced. Some participants suggested that the 87% of checks that do not require further assessment could be outsourced; however Police have indicated that given the proposed upgrades within Tasmania this would provide little benefit. Other participants suggested outsourcing the card production.
- Participants were of the view that appeals, reviews, detailed assessments and organisational capacity building should occur within Tasmania.
- Concern was expressed at the reduction in the critical mass for the screening unit should function be outsourced.
- A common theme was for the need for the Unit to be independent of direct and indirect Ministerial influence.
- Participants suggested that administrative responsibility for the Unit could equally sit within Department of Police and Emergency Management Department of Education or Department of Health and Human Services.

Q29 Do you have any comments on employees or volunteers being charged a fee for a WWCV check and the impact of costs on employment and participation of volunteers?

The following information was provided in the discussion paper

“In addition to the administrative costs to manage National Police Criminal History Check (NPCHC) there are standard fees charged by the Department of Police and Emergency Management (DPEM) to conduct the national police check.

It is estimated that on average it will cost \$100 for a central agency to screen an individual as a suitable person to work with children or vulnerable others. In some jurisdictions, the screening unit charge individuals who require a good character check a fee to undertake the check. In many jurisdictions, volunteers are not charged a fee or the fee is substantially reduced.

If there are different costs/subsidies for people in paid employment and volunteer work, transferability of registration will be more administratively cumbersome.”

The following is also stated within the Discussion Paper.

“The Tasmanian Government recognises that it is vitally important that the new WWCVP Checking System does not unnecessarily increase financial costs, liabilities or administrative burdens on individuals or organisations. While the overall aim of the WWCVP Checking System will be to reduce the risk of harm to vulnerable people, this must be achieved without discouraging individuals or organisations from providing much needed services to vulnerable people in the Tasmanian community.”

Currently there is a charge for national police checks. This is \$45 for employees and \$5 for volunteers. State Government agencies receive national police checks at a negotiated rate.

There are a range of practices as to who meets these costs. Many employers and organisations meet all screening costs for volunteers and employees. Some employers and organisations meet volunteer costs and expect employees to meet their own costs.

Some organisations currently expect volunteers to meet the costs associated with the screening.

Twenty five respondents commented on the issue of cost.

Many respondents assumed that it was Government's intention to fully recover cost. Comments indicate extensive concern for the potential impact that any increase in cost on volunteerism will have. Concern is also expressed as to the likely impact increased charges will have on the recruitment of employees and community based organisations.

Thirteen respondents recommended that volunteers incur no costs
Comments fell into three main categories being:

That Government to meet all costs;

- One respondent commented that the benefit of the WWCVP will be shared by all Tasmanians and that it is appropriate that the costs be shared as with other public goods
- Three respondents were concerned as to the impact charging could have on the recruitment and retention of staff
- Three respondents indicated that there was limited capacity with community based organisations to absorb additional cost, and that it would be unfair to impose the cost on people seeking employment or offering their services as volunteers.

That current charges be retained and Government absorb any cost increase;

Six respondents supported continuing with the current charges,

- One respondent stated that any increased fees or charges should be borne by the government, and that the screening Unit should be funded at the level required to undertake its work.
- One respondent noted that the current costs are accepted, and reflected that if full costs were charged there would be a high level of resistance
- One respondent indicated that charging volunteers may lead to a barrier for less wealthy from participating in volunteerism.
-

That volunteers be exempt and employees be charged part or full costs;

- Many respondents expressed concern as to the impact that costs could have on rates of volunteerism , and the impact that this would have on vulnerable people,
- Nine respondents stated that volunteers should be exempt from all cost volunteering and did not comment on charging employees.
- Three respondents commented that volunteers could be exempt and employees charged a proportion of the costs
- One respondent commented that the introduction of a new system, unless managed exceptionally carefully, may have a similar effect to the public liability insurance difficulties; when much voluntary effort ceased because of the inability to cover increased insurance costs.
- One respondent noted the transferability issue of cards and the administrative infrastructure required to implement a fee for service.
- One respondent indicated that the WA Model allows one card for both volunteers and employees (WA combines volunteer and employees in the one card, so a card-holder can legitimately apply as a volunteer then use the card later when in paid employment. If the card-holder is still in paid employment when the card is to be renewed then they pay the relevant employee fee.)

Discussion forum participants presented the following views:

- Subsidise volunteers costs
- Aim for one card for both volunteers and employees, which is interchangeable
- Government should bear all costs of the screening and risk assessment as the benefit is enjoyed by every tax payer and citizen with no one being disadvantaged. If a charge is levied many members of the community will be disadvantaged,
- From an employers perspective there will be additional administrative costs, noting that the employer will still have responsibility for probity checks. A dual purpose screening model was requested.

A number of other variables were also raised. These included:

- Providing the option for registering for a shorter duration with a pro-rata reduction in cost
- Government increase funding for community based organisations to meet the increased costs for volunteers

- Government subsidise the cost for some employees and self employed providers (such as Home Based Care and Family Day Care) where there are recruitment difficulties

Q30: Do you have any comments on the estimated processing times for the risk assessment process?

Based on data obtained from comparable screening jurisdictions, it is anticipated that:

- **87% of applicants will have no criminal history. These applications will be processed within 2 days from the date of receipt by the WWCVP Screening Unit – however total turnaround time will be subject to the time taken to receive the national criminal history check;**
 - **12% of applicants will have a minor offence recorded. These applications will be processed within 5 days - however total turnaround time will be subject to the time taken to receive the national criminal history check;**
 - **1% of applicants will have a significant criminal history which may require a complex risk analysis. In these cases, assessments may take up to 28 days to be completed.**
-

There were 13 comments. While respondents were supportive of the proposed processing times, some expressed a view that these may be optimistic. Other comments were as follows:

- Two respondents stated that a firm and reliable total turn around time was required
- Five stated that, whilst supporting the proposed time frames, they were likely to be unrealistic given the current experience being a four to six week turnaround for National checks
- Three respondents indicated that they thought the proposed timeframes were reasonable and appropriate
- One respondent raised that the risk associated with interim approvals increases if approvals are not completed in a timely manner
- One respondent noted that National Police checks often takes four weeks, and urged the Tasmanian Government to work with other jurisdictions to speed this up
- One respondent commented that deadlines should be set, and that applicants should be notified of these timeframes.

There were a number of issues raised in the Australian Capital Territory consultation that we should also consider

- one respondent suggested that the estimate of 3% of people requiring a check because they work with vulnerable adults is likely to be underestimated;
- one respondent suggested that some provision must be made for spontaneous volunteers in emergency events. (This could include Child Protection).

Q31: Are there other factors that should be considered when determining the priority in which checks are phased in?

It was proposed that the WWCVP Checking System will be implemented in a number of phases over 5 years having regard for the:

- **categories of people and activities regulated under legislation;**
 - **risk of harm to vulnerable people;**
 - **level of checking already undertaken (if any); and**
 - **operational capacity of the WWCVP Screening Unit.**
-

There were 10 comments. Most comments were related to how to approach prioritising implementation.

One respondent disagreed with the proposed five year implementation, concerned that the current level of risk was unacceptable.

Some respondents also commented on the need for the screening unit to support the implementation process through promotional and educational activities. Other comments were as follows:

- one respondent suggested that priority should be given to sectors requiring mandatory checks;
- three respondents stated that priority should be given to renewing exiting checks as they expires
- one respondent suggested that implementation be based on target groups, and that given the complexity associated with extending the checks to those working with vulnerable people, those working with children be prioritised.;
- one respondent requested that implementation be delayed for consumer groups and volunteer self managed groups to allow a greater understanding of the system to develop.
- one respondent requested that education and promotion activities be ongoing

Q32: Are there any other mechanisms to improve accountability that should be considered in this section or elsewhere in this discussion paper?

As with all public regulatory activities, it is important to ensure that operations are transparent and open to public scrutiny.

The WWCVP Screening Unit will be required to report annually as part of the DHHS Annual Report. The report will include data relating to the number of checks conducted, rejection rates, reviews and appeals as well as the outcomes of any reviews or appeals.

It is proposed that a review of the operation of the WWCVP Screening Unit will be undertaken three years after the commencement of operation, and periodically thereafter.

There were 7 comments. There were mixed views on the adequacy of the proposed accountability measures.

While some respondents supported the accountability measures as proposed, other respondents offered the following suggestions:

- three respondents recommended that a Industry Reference Group of community representatives (with expertise in recruitment and risk assessment) be established to provide input into:
 - implementation issues
 - communication and
 - review.
- one respondent proposed that the annual report include an annual survey of user organisation satisfaction
- one respondent requested that the annual report be made publicly available
- one respondent suggested that reviews and appeals could be conducted by another States Screening Unit.
- One respondent suggested that the model build in funding capacity for an independent evaluation, and that consideration be given to either the Ombudsman or the Commissioner for Children to have responsibility for the evaluation
- One respondent believed that it would be essential that information considered in the assessment is made available to the applicant free of charge.

At the discussion forum the following suggestions were made:

- Adopt similar accountability requirements to those in place for the Ombudsmen's office
- Annual report to Parliament
- Screening Unit to be an independent unit with a Board of Management with fixed term appointments
- Review the operation every two to three years, evaluations to include a user satisfaction survey.

Q33-36: Are there any other issues you wish to raise that have not been addressed in this discussion paper?

Most issues raised are captured under "other matters raised"

The relationship between the screening unit and organisations was commented on frequently through out submissions. The following comment captures the sentiments of many submissions

“Our current system is meeting our needs although the additional checks available in the new system will be valuable. What we don’t want is a bureaucratic screening unit or one that is inaccessible and not accountable to the organisations affected. What we need is a culture where Volunteer Organisations are seen as valued clients and where privacy of the individual is not seen as more important than our duty of care to our clients. This has been a problem in other jurisdictions.”

6.0 WHERE TO FROM HERE

The comments contained in this consultation report will inform the development of a WWCVP checks policy that will underpin the drafting of a WWCVP checks Bill.

It is anticipated that WWCVP checks Bill will be introduced into Parliament in 2010.

It is currently expected that checking will be phased in over a number of years commencing Mid 2011.

Annex A

PROPOSED REGULATED ACTIVITIES: PEOPLE WORKING WITH CHILDREN

| Category | Proposed Regulated Activities |
|---|--|
| Child Protection and Community Services | <p>Child protection services, community services or accommodation provided for children or young people under the Children, and Young Persons and Their Families Act 1997.</p> <p>Including, for example:</p> <ul style="list-style-type: none"> • Member of Children and Young Persons Advisory Council; • Family group conference facilitator; • Kinship carers (the family relationship exemption will not apply to kinship carers); • Foster carers; • Residential care service; • Therapeutic care; • Researchers; • Assessors; • Performance of duties by officers of the Tasmanian Government. |
| Youth Justice | <p>Youth justice places or services, including for example:</p> <ul style="list-style-type: none"> • Remand centres; • Detention centres; • Transfer of detainees; • Youth residential centres; • Youth supervision centres; • Youth detention officers; • Health service appointments; • Probation services. |
| Child Care Services | <p>Child care services defined under the Child Care Act 2001, including:</p> <ul style="list-style-type: none"> • Child care; • Family day care schemes. <p>Commercial baby sitting or child minding (not</p> |

| | |
|--------------------------------------|--|
| | including an informal arrangement entered into for private or domestic purposes). |
| Educational Institutions | <p>Educational institutions for children, specifically:</p> <ul style="list-style-type: none"> • Pre-schools; • Public schools; • Non-government schools; • Other institutions providing secondary school subjects; • Other institutions providing children's study or training programs; • Other registered training organisations. |
| Accommodation Services | <p>All forms of residential accommodation, including for instance:</p> <ul style="list-style-type: none"> • Social housing; • Homestays (e.g. student exchange); • School boarding houses; • Refuges; • Hostels; • Respite services; and • Supported accommodation. |
| Health | Health services as prescribed by the Minister for Health. |
| Clubs, Associations or Movements | Clubs, associations or movements (including cultural, recreational, sporting) that provide services or activities for, or directed at, children or whose membership mainly comprises children. Includes cadet programs. |
| Religious Services & Representatives | Religious organisations |
| Transport Services | <p>Publically funded or commercial transport services specifically for, or that may be used by, children.</p> <p>Includes driving instructors</p> |

| | |
|--|--|
| Coaching and Tuition of Any Kind | Commercial coaching or tuition services of any kind for children (not including an informal arrangement entered into for private or domestic purposes) |
| Counselling and Support Services | Counselling or support services for children |
| Overnight Camps | All overnight camps for children |
| School Crossing Services | School crossing services |
| Commercial Entertainment or Party Services Specifically for Children | Providing commercial entertainment or party services for children that are not merely incidental to, or in support of, other business activities |
| Commercial Gym or Play Facilities Specifically for Children | Providing commercial gym or play facilities for children that are not merely incidental to, or in support of, other business activities |
| Commercial Photography Services Specifically for Children | Providing commercial photography services specifically for children that are not merely incidental to, or in support of, other business activities |
| Commercial Talent or Beauty Competitions Specifically for Children | Commercial talent or beauty competitions for children that are not merely incidental to, or in support of, other business activities. |
| Other | Any other contact prescribed by regulation. Administration of the Act supporting the establishment of Working with Vulnerable People Checks. |

Annex B

PROPOSED REGULATED ACTIVITIES: PEOPLE WORKING WITH VULNERABLE ADULTS

| CATEGORY | PROPOSED REGULATED ACTIVITIES |
|-------------------------|--|
| Homelessness | <p>Services provided to persons who are homeless, including:</p> <ul style="list-style-type: none"> • Crisis accommodation; • Short/Medium term accommodation; • Accommodation support; • Provision of transport; • Provision of food; • Drop in centre; and • Support/coordination/brokerage/referral. |
| Home and Community Care | <p>Services provided to enhance the independence of persons and to avoid their premature admission to long term residential care, including:</p> <ul style="list-style-type: none"> • Domestic assistance • Social support; • Nursing care; • Allied health care; • Personal care; • Centre-based day care; • Provision of food; • Case management; • Case planning, review and co-ordination; and • Transport counselling, information and support. |
| Disability Services | <p>Services provided to disabled persons, including:</p> <ul style="list-style-type: none"> • Accommodation support; • Community support; and • Community access/advocacy information and print disability information and other services. |
| Housing | <p>Housing services, including:</p> <ul style="list-style-type: none"> • Public housing (including tenancy management, asset management, administration of housing assistance); • Community housing; |

| CATEGORY | PROPOSED REGULATED ACTIVITIES |
|-----------------------------------|--|
| | <ul style="list-style-type: none"> • Advice/advocacy; and • Community linkages and support. |
| Family Services | <p>Community services delivered to families in need of assistance, including;</p> <ul style="list-style-type: none"> • Provision of support; • Assessment/counselling; • Network development; • Crisis intervention; • Provision of information and advice; • Provision of emergency relief; • Parenting skills; and • Foster care. |
| Alcohol and other Drug Treatments | <p>Services delivered as part of alcohol or drug treatments:</p> <ul style="list-style-type: none"> • Residential services; • Needle and syringe projects; • Healthcare; • Counselling/methadone treatment/withdrawal services; <p>and</p> <ul style="list-style-type: none"> • Detox support. |
| Mental Health | <p>Mental health services, including:</p> <ul style="list-style-type: none"> • Assessment/treatment/care; • Support/assistance; • Supported accommodation; • Crisis assessment; • Respite; • Rehabilitation; • Residential support; • Information/referral; • Education/training; • Enhance mental health capabilities; • Social/recreation; • Suicide awareness; • Counselling/advocacy; • Early intervention; • Health care; • Self help; and • Representation service. |
| Vocational Education and Training | <p>Vocational education and training (VET) for persons with special needs, including:</p> |

| CATEGORY | PROPOSED REGULATED ACTIVITIES |
|--|---|
| | <ul style="list-style-type: none"> • Pathways to employment; • Adult English Language, Literacy and Numeracy Service; and • Industry Training Service. <p>Does not include VET services accessible to all Tasmanian residents.</p> |
| <p>Older Persons</p> <p>Services provided to persons with age related needs involving a level of care, assistance or dependency.</p> | <p>Does not include services covered by the Commonwealth <i>Aged Care Act 1997</i>.</p> |
| <p>Health</p> | <p>Health service as prescribed by the Minister for Health.</p> |
| <p>Youth at Risk</p> | <p>Services for persons aged 10 -17 that aim to reduce the likelihood of involvement in crime.</p> |
| <p>Respite</p> | <p>All respite services.</p> |
| <p>Coaching and Tuition of Any Kind</p> | <p>Commercial coaching or tuition services of any kind for, or directed at, persons who have special needs (not including an informal arrangement entered into for private or domestic purposes).</p> |
| <p>Adult Justice</p> | <p>Services delivered in adult justice places, including:</p> <ul style="list-style-type: none"> • prison; • remand centre; • young offender institution; • secure training centre; • detention centre; and • probation services. |
| <p>Clubs, Associations or Movements</p> | <p>Clubs, associations or movements (including cultural, recreational, sporting) that provide services for persons with special needs or whose membership mainly comprises persons who have special needs.</p> |
| <p>Community Services</p> | <p>General services provided to relieve disadvantage, including:</p> <ul style="list-style-type: none"> • Advocacy; • Counselling; |

| CATEGORY | PROPOSED REGULATED ACTIVITIES |
|--------------------|--|
| | <ul style="list-style-type: none"> • Facilitation of community links; • Support; • Education; • Information; • Financial relief; and • Refugee assistance. |
| Emergency Services | Emergency services personnel. |

Attachment 3 Discussion forum participants

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|------------------|---|
| Mark Byrne | Chief Executive Officer, DCYFS, Department of Health and Human Services |
| Jeremy Harbottle | Directorate Manager, DCYFS, Department of Health and Human Services |
| Len Armsby | Director Legislation Development and Review Department of Justice |
| Scott Tilyard | Assistant Commissioner Crime and Operations Tasmania Police Headquarters |
| Kerrie Moss | Chief Executive Officer Teachers Registration Board, Tasmania |
| Meg Webb | Policy Officer Volunteering Tasmania |
| Sarah Davidson | Client Manager, Sport and Recreation Tasmania, Department of Economic Development, Tourism and the Arts |
| Alison Lai | Manager, South, Sport and Recreation Tasmania, Department of Economic Development, Tourism and the Arts |
| Wendy Burgess | Education – Child Care Centres |
| Kathy Baker, | A/Manager Service Tasmania Unit, Department of Premier and Cabinet |
| Andrew Edwards | Project Officer, Service Tasmania, Department of Premier and Cabinet |
| John Hooper | Executive Officer, Tasmanian Association of Community |

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| | Houses Inc |
| Robert Williams | Deputy Secretary, Director of Corrective Services, Department of Justice |
| Michelle Lowe | Senior Policy Advisor, Department of Justice |
| Heather Sweetlove | HR Consultant, Department of Justice |
| Kate Prenter | Manager, Information Services, Department of Police and Emergency Management |
| Neil Ward | Department of Police and Emergency Management |
| Kath McLean | Policy and Research, Tasmanian Council of Social Service |
| Tracey Mulcahy | Manager, Recruitment Services, Department of Health and Human Services |
| Elaina Deayton | Crime Traffic Policy Executive Support, Department of Police and Emergency Management |
| Paul Mason | Commissioner for Children |
| Colleen Moran-Ford | Senior Policy Officer, Office of the Commissioner for Children |
| Wayne Moore | Inspector, Crime & Traffic Policy Services, Department of Police and Emergency Management |
| Mike Patten | Scouts Association |
| Cathryn Ackroyd | Representing ECA (Tasmanian Branch) |
| Ann Hughes | Policy and Research Officer, TasCoss |
| Kim Jones | Team Leader, Child Care Unit Department of Education |
| David Owen | Policy Officer Advocacy Tasmania Inc |
| Greg Sutor | Teachers Registration Board |
| Jo Walsh | Ministers' Child Care Advisory Council |
| Craig Hensworth | Manager, Safeguarding Children Program, Australian Childhood Foundation |
| Geraldine Harwood | Optia – Representing NDS |
| Kate Gillham | Langford – Representing NDS |
| Janelle Brennan | Family Day Care |

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| Alison Jacob | Deputy Secretary, Human Services, Department of Health and Human Services |
| Bruce Kemp | Project Manager, Department of Health and Human Services |

Attachment 4 Issue areas considered at the discussion forum.

ISSUE AREA 1: WHO TO SCREEN

Government has committed to establishing a centralised screening and risk assessment system for people working with children. Do you agree that people working with other vulnerable people should also be included?

Is it appropriate to assume that access to services is a reasonable indicator of vulnerability for the purpose of establishing a screening system?

Do you agree with the proposed definition of vulnerable people?
If not, what is the preferred definition?

Is the background checking and risk assessment procedure for those working with children and vulnerable people fundamentally different? If so why?

Should separate systems be established or can the purposes of screening be achieved by one screening system?

ISSUE AREA 2: Regulated Activities

Activities

Children: Regulated Activities

Should all overnight camps be included, if not what exemptions are proposed?

Activities of Clubs, Associations and Movements have been proposed as regulated activities. Areas of uncertainty have been identified. (For example should active under age fire fighters who are members of the Tasmanian Fire Service Junior or Cadet program be screened, if so 4600 volunteers and 470 staff in contact with these young people will also require screening). Should the provision be tightened or, should such cases be determined and approved by the Minister on an individual basis?

Vulnerable Adults: Proposed regulated activities

Should people employed in programs supported under the Commonwealth Aged Care Program be exempt?

Not all residents of public housing are vulnerable people. Should Housing Services be a regulated activity? Is it reasonable to expect that staff and volunteers involved in the provision of public housing, and meet the contact type criteria, should be included in the background screening and risk assessment?

Issue Area 3 : Exemptions

A number of exemptions were proposed in the discussion paper.

Volunteers under the age of 18. Is an age based exemption supported, if so what is an appropriate age?

Secondary school students on work experience. Should all secondary students on work experience participating in regulated activities be screened?

Volunteers at State and National Events .In the discussion paper it was proposed to exempt volunteers at State and National events. What criteria could be used to determine whether exemption of volunteers at State or National events is appropriate?

Professional Registration and Accreditation Schemes. Allied health professional are moving towards a National Registration and Accreditation Scheme. This scheme will require participants to undertake background checks and risk assessments at a standard equivalent to those required nationally for working with children.Should Allied Health Professionals

registered or accredited through the National scheme be exempt from a state based risk assessment?
Are there other professional registration and accreditation schemes that should be considered for exemption?
Exemption for people in contact with people or infrequent or short periods. Should the number of non consecutive days allowed to undertake regulated activities without a WWCVP Check remain as proposed?
Are there additional criteria that should be met?
Family Members. Should family members be exempt from screening requirements when they are only providing support to closely related family members? What criteria should be applied ?

Issue Area 4: Engagement types/forms of contact.

Should people working with records relating to vulnerable people be screened? If so should criteria be developed to assist in the identification of when this is appropriate?
Self Help Groups and personal development
Should participants in consumer self help groups be required to undergo a WWCVP check. If not, under what circumstances should participants be exempted?

Issue Area 5: Applications and Risk Assessment Process

Throughout Australia there are two types of screening systems in operation: position based systems and registration based system.
The system proposed in the discussion paper is a registration based system with limited capacity for position based assessment in specific circumstances.
Position Based Assessments.
Should a hybrid system that allows for the option of either a position based assessment or registration system be explored?
When to check?
Should a WWCVP check be available for people prior to employment or volunteer activities being secured?
Should a volunteer or employee be able to commence prior to the risk assessment being finalised?
Is it appropriate to allow employees and volunteers to commence prior to knowing the outcome of the assessment? Should some regulated activities be excluded from this provision? If so which ones?

Issue Area 6: What will be checked?

At the State level it is also proposed to consider Family Violence Orders, Child Protection information, and past employment records.
Should past employment records be considered? If so what criteria could be used to ensure the appropriateness of material considered?

Issue Area 7: Assessment Outcomes.

Notification to be provided to employers and organisations. Should employers and organisations be provided with the reasons for an interim negative notice?
Should consent be sought from the applicant within the initial application?
Flexible approvals. Should provision be made for conditional approvals? If so, are there other circumstances where conditional approval may be appropriate?
Registration Period. In the Discussion Paper it is proposed that Registrations should be for a five year period.
Should the registration period be for five years at commencement of the scheme, or should the period be for three years until such time systems have been established that allow for continuous checking?
Should provision be made for variations to the registration period? If so under what circumstances would this be appropriate?

Issue Area 8: Prohibition

It was proposed that people who have received a negative notice will be prohibited from reapplying to the WWVP Screening Unit for registration for a period of five years unless there has been a material change in the information upon which the negative notice was issued. Should there period of prohibition be fixed? If so should it be tied to the period of registration? If there is to be provision for flexibility, what criteria could be used to determine the length of prohibition?

Issue area 9: Review and Appeal

It is proposed that any decision made by the WWCVS Screening Unit may be subject to an internal review by the WWCVS Screening Unit or to merits review by Administrative Appeals Division (AAD) of the Tasmanian Magistrates Court (and ultimately judicial review in the Supreme Court) upon the request of the applicant.

Issue Area 10: Screening Unit Details

Location. The location for the WWCVS Screening Unit is yet to be determined. Are there functions that it is important to ensure are delivered from within Tasmania. If so which ones? Should some of the functions be outsourced to an interstate Screening Unit? If so which ones?

Supporting Safe Environments for children and vulnerable people.

It was proposed that the WWCVS Screening Unit will promote awareness of the *National Framework for Creating Safe Environments for Children* and will support employers and organisations by entering into a partnership with interested bodies to:

- establish a web link to the National Framework;
- produce and distribute fact sheets concerning the National Framework;
- develop materials to assist individuals and workplaces to adhere to the National Framework; and
- monitor voluntary compliance with the National Framework

Establish and maintain an employment and volunteer register.

In the discussion paper it is proposed that the Screening Unit will notify employers and organisations interim negative notices, and of any deregistration resulting from self disclosed information. For this to occur it may be necessary for the screening unit to have details of card holders employment and volunteer arrangements.

Is it appropriate that the WWCVS Unit maintain a register of cardholder's employment and volunteering commitments? If not, is there an alternative way that the WWCVS can ensure that employers and organisations are notified when required?

Compliance

It was proposed that the WWCVS Screening Unit would undertake certain compliance activities, including:

- sending letters to select employers/organisations seeking confirmation that:
 - all people that are required to have checks have been checked and approved;
 - people with negative notices are not employed; and
 - prohibited people are not employed.
- physical spot checks of select employers/organisation;
- investigating public complaints or information that allege a breach of WWCVS legislation; and
- referring breaches of WWCVS legislation for prosecution.

Are there additional compliance activities that should be included?

Is it appropriate that WWCVS undertake the compliance activities listed above?

If not are there functions that should be provided by other authorities such as the police, authorised officers under the Child Care Act 2001 or Workplace Standards?

Should the WWCVS Screening system include the provision of support for applicants seeking reviews? If so what form should this support be in?

Issue Area 11 Accountability

As with all public regulatory activities, it is important to ensure that operations are transparent and open to public scrutiny. Are there any other mechanisms that could be considered to ensure an appropriate level of accountability?

Issue area 12: Cost recovery options

If Government was to subsidise the cost for volunteers, and charge employees at a higher level, what steps could be taken to create a system with one card for both?