



## Working with Children and Vulnerable People Discussion Paper

### HOW TO USE THIS FEEDBACK FORM

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The question numbers below relate to those in the Discussion Paper. Please include your response in the area relevant to your question.

*Any or all of the questions can be answered.*

If you decide not to use this form, please include the number of the question you are answering, as it appears in the discussion paper in your submission.

### SUBMISSION OF RESPONSES

Responses can be emailed to [wwwcvpconsultation@dhhs.tas.gov.au](mailto:wwwcvpconsultation@dhhs.tas.gov.au) or posted to the following address: -

**WWCVP Consultation  
Department of Health and Human Services  
GPO Box 125  
HOBART TAS 7001**

Any telephone enquiries about the review can be made to Bruce Kemp on 6233 2259 during office hours.

### Deadline for submissions:

*Please provide all submissions by close of business Friday 12 March 2010.*

### FEEDBACK AFTER CONSULTATION AND USE OF INFORMATION

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A paper will be published and available on the DHHS website which will provide an overview of the feedback received through consultation. If you would like to place your name on a register to receive a copy of the feedback paper please complete the form below.

#### The use of personal information

The personal information you provide will be used for the purpose of notifying you when the public feedback paper (prepared after the close of the consultation period) is available.

De-identified information may be used in an analysis of all responses, eg, the geographical area from where responses are received.

## **Section 8.0 VULNERABLE PEOPLE IN THE TASMANIA**

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

*Comment: Yes, the proposed definition is supported, however would urge consideration be made to a situation where a service provider is undertaking assessment of a person in relation to their suitability to access services. This person is not yet accessing services and would therefore fall outside the definition.*

## **Section 9.0 WHO WILL BE CHECKED?**

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?

*Comment: The Child Care Category requires some modification in relation to consistency of terminology. It would be preferable to read "Child Care Services defined under the Child Care Act 2001." (without including the dot points). Alternatively all current forms of child care should be listed, ie Long Day Care, Outside School Hours Care, Occasional Care, Play Centres, Family Day Care and In Home Care (currently not listed)*

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?

*Comment: The range and scope of the categories listed is considered appropriate.*

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

*Comment: The scope of the engagement types listed is considered appropriate.*

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

*Comment: The list is considered appropriate.*

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

*Comment: It is entirely appropriate that checks be applied to **all** persons who have contact with children and vulnerable persons, whether supervised or unsupervised. It is further appropriate that supervisors also be subject to checks.*

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

*Comment: Consideration needs to be given to students undertaking practical placements in a child care setting. It is entirely appropriate that these students do undertake a check prior to a placement, as in the case of Diploma students they may be designing and delivering a program with children. Under the current definition, these students would not be subject to checks, however should be. In some instances the students assume casual staff roles during placements.*

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?

*Comment: The application of an exemption for people in contact with vulnerable people for infrequent or short periods is supported, however the proposed method requires further consideration. A person volunteering at a 5-day camp once a year would be exempt, yet this is a high-risk activity. Further, a scenario could occur where a person is in contact with children or vulnerable persons under the auspices of one organisation for 7 days, then be in contact with the same group under the auspices of a second organisation for a further 7 days, and under some circumstances a third organisation for a further 7 days.*

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?

Comment:

*Yes, the concept of an exemption for people who are "closely related" to the child or vulnerable person they have contact with. An anomaly though would be in a Family Day care setting, the grandmother of a child in care may accompany a carer on an excursion. Whilst she is a "close relative" of one of the children, she isn't of all children. It would be assumed she would not be left alone/ in charge of the group at any time. We would see this as a situation where she would be exempt from having a screening.*

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?

Comment:

Yes

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

Comment: *The exclusion is appropriate.*

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

Comment:

*What would constitute a “State or National event” ?*

*We don’t understand why people volunteering in State or National Events should be exempt from a check. Under this clause, CanTeen would be exempt from having their volunteers being checked when they go on state or national camps.*

### **Section 10.0 : APPLICATIONS**

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

*Comment: It is not appropriate that any person be engaged in child care prior to receiving a satisfactory check, therefore it is imperative that this system be efficient to enable new applicants to receive registration within three weeks of application being lodged. In relation to child care, most people considering employment within the sector are aware of the current safety screening requirement and make a safety screening application several weeks prior to employment. However it is not appropriate that any person be engaged and start work until the outcome of the application is known.*

*In the case of a child care worker transferring from interstate it would be appropriate for their current “Safety Check” be recognised whilst obtaining a Tasmanian check. Portability across jurisdictions would be beneficial.*

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

*Comment: It is appropriate that current or potential employers provide a declaration indicating that the applicant is or will be working in a role that requires a check.*

### **Section : 11.0 WHAT WILL BE CHECKED?**

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

*Comment: In relation to child care, all types of information that enable assessment of the risk to children in care should be included in the checking process. This includes past employment records, particularly where an employee has been dismissed from a previous employer due to documented and evidence-based safety concerns.*

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?

Comment: *The requirement is appropriate.*

## **Section 12.0 RISK ASSESSMENT PROCESS**

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

Comment: *The risk assessment principles are appropriate.*

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

Comment: *Serious traffic-related infringements should be included, particularly when the person is responsible for transporting children or vulnerable persons in relation to the role they perform (eg family day care carer transporting children, disability services worker transporting clients to/from respite services, etc). A person with consistent, repeated infringements relating to excessive blood alcohol levels would not be an appropriate person to be performing these duties. The transportation of children could be considered as “inherent requirements” of the job.*

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

Comment: *The questions are considered appropriate.*

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

Comment: *The additional considerations are appropriate.*

## **Section 13.0 ASSESSMENT OUTCOMES**

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

Comment: *The five year registration period is considered appropriate.*

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

Comment: *Yes. It is imperative that any employer or organisation is contacted if a negative notice is imminent, so that the employer has the opportunity to take whatever actions are necessary to manage the situation in relation to the person's employment.*

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

Comment: *Yes.*

#### **Section 14.0 PROHIBITED PEOPLE**

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?

Comment: *It is considered appropriate that Tasmanian Courts have the power to make such orders.*

#### **Section 15.0 REVIEW AND APPEAL**

Q25) Do you have any comments on the proposed right of internal review by the WWCV Screening Unit and the right of external merits review by the Administrative Appeals Division of the Magistrates Court and the proposed grounds for merits review?

Comment: *The proposed review is considered appropriate.*

#### **Section 16.0 PENALTIES**

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

Comment: *This is considered appropriate.*

#### **Section 17.0 COMPLIANCE CHECKS**

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

Comment: *The proposed compliance checks are considered appropriate, however in the case of children's services is a duplication of the Child Care Unit Licensing Officer's role. It may be*

appropriate that these compliance checks are removed from the Licensing Officer's responsibilities if the WWCVP becomes responsible for compliance.

## **Section 18.0 THE WWCVP SCREENING UNIT**

Q28) Do you have a view of where the WWCVP unit should be located?

Comment: *The WWCVP Unit should preferably sit administratively within the DHHS. The physical locality of the office is irrelevant, although should be physically located within the state of Tasmania. As photos need to be taken at the "office" the shop front could be administered within Service Tasmania.*

Q29) Do you have any comments on employees or volunteers being charged a fee for a WWCVP check?

Comment:

*In relation to family day care/in home care, any costs associated with a WWCVP check will be a further barrier to potential workers entering this sector of the workforce. Several funded projects are currently under way to attract and retain a professional workforce and additional costs may have a negative impact on these projects. Currently, safety screening applications submitted by a Coordination Unit for a carer and all adult members of the carer's household, coordination unit staff and board of governance members are processed free of charge.*

*If the fee for a WWCVP check is \$100, it would translate to additional costs of approximately \$11,500 to an average-sized 50-carer coordination unit. If this is borne by the Coordination Unit, this equates to approximately 6% of the total commonwealth funding received by the coordination unit to monitor and support carers. Most coordination units would not be able to absorb these additional costs*

*Family day care and in home care carers are deemed self employed. Carers would be expected to assume the cost of the WWCVP checks. Our more pressing concern would be the cost that all family members (over 18 yrs of age) and frequent visitors would have to bear. While it is at "no charge" at present there is no issue with these people applying for a Safety Screening.*

*If a cost is levied then it is probable that many family members/ frequent visitors would try and avoid paying/or applying for a WWCVP check. Is there a possibility that one charge be levied per "household" in the case of family day care? I.e. The carer and any family member/ frequent visitor charge one amount slightly higher than a single application.*

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

Comment: *Further to comments in question 13, the estimated timeframes are considered appropriate. Consideration should be given to the inference that may be drawn where an*

*application is taking longer than the estimated 5 days turnaround time. An assumption could be made that if an application is taking longer than the estimated 5 days, that there is significant criminal history to consider and a potential employer may reconsider any potential offer of employment. Safeguards will need to be put in place to ensure that no person is unfairly disadvantaged.*

## **Section 21.0 IMPLEMENTATION PLAN**

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

*Comment: Priority should be given to existing sectors that require mandatory safety checks so that continuity is maintained.*

## **Section 22.0 ACCOUNTABILITY**

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

*Comment: A body such as an “industry reference group” could be established and maintained to ensure that the requirements of the community continues to be maintained. For example, in the past, changes to the process for issuing safety screening clearances for child care employees were implemented without prior consultation of the sector, resulting in confusion in the sector and a loss of confidence in the process. This could be avoided by ensuring that any process changes are supported by consultation and good communication to the sector.*

## **23.0 ADDITIONAL QUESTIONS**

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

**Comment:** *Re: 10.3 – Self-disclosing and ongoing monitoring. It is felt that there needs to be provision for an employer or relevant authorised person to report any serious event or matter that may impact on a person’s suitability to remain registered. An example of the type of incident that could be reported would include a preventable “life-threatening near-miss” situation, such as transporting a child or vulnerable person with a blood alcohol reading above the legal limit. This would likely result in instant dismissal, however may be overlooked when seeking re-employment at a different service.*

### **23.1 Vulnerable People and the Community**

Q34) Do you have any specific comments which you wish to raise about the proposed checking system?

*Comment:*



### **23.2 Employees and Volunteers**

Q35) Do you have any specific comments which you wish to raise about the proposed checking system?

Comment:

### **23.3 Employers and Organisations**

Q36) Do you have any specific comments on the proposed role of employers or organisations in the application process?

Comment: *It would be helpful for an employer to have available a system for checking if an application has been lodged by a particular potential employee. This would enable the employer to have an indication of when a result could be expected.*