

ISSUE AREA 2: Regulated Activities

A generic framework has been proposed to assist in determining who should be subject to background checks and risk assessment. It is proposed that background checking will generally apply to:

- certain regulated activities;
- certain forms of contact;
- certain regulated people/organisations; and
- certain general or specific exemptions.

Activities

The first step in determining whether or not an individual is subject to screening relates to 'Regulated Activities'. Regulated activities are the occupations or services that will attract screening, subject to other considerations. To promote national consistency, the proposed activities have been developed with reference to the activities that currently attract checking in other Australian jurisdictions.

Children: Regulated Activities

It is proposed that overnight camps for children be a regulated activity.

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

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

Yes, 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.

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?

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'.

Vulnerable Adults: Proposed regulated activities

In the discussion paper it was proposed to exclude services covered by the *Commonwealth Aged Care Act 1997*.

Comments on this are divided. Some respondents support the exclusion on the basis that existing provisions are adequate and duplication should be avoided.

Others do not support this, commenting that existing requirements are less rigorous than those proposed.

It is possible that people who have a police clearance that meets existing aged care requirements will require a State based check should they wish to work with children or other vulnerable people.

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?

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.