

Volunteering Tasmania's response to "A Working with Children and other Vulnerable People Checking System for Tasmania" discussion paper

March 2010

Volunteering Tasmania (VT) supports the plan by DHHS to establish a Working with Children and Vulnerable People (WWCVP) Screening Unit, particularly the inclusion of vulnerable adults in this system. The creation of a WWCVP screening system is a significant development for the volunteer sector as many aspects of the sector will be affected by this legislation - volunteers are a stated group within the list of 'Regulated People', and volunteering would occur as part of many of the 'Regulated Activities' listed in Annex A of the discussion paper.

There is currently no legislation that requires organisations to screen volunteers in Tasmania although many choose to do so as part of their internal risk management strategies. Current practice among volunteer-involving organisations varies considerably when it comes to the available screening checks (i.e. National Police Criminal History Check). Often volunteer-involving organisations realise that they need to conduct a police check as part of screening volunteers, but they are likely to have no clear policy and procedure in place to guide how this is done, how the results are interpreted and how exclusionary decisions are made based on the results of the police check. Responsibility for making these decisions is often held at a program manager level, possibly an inappropriate degree of responsibility for someone in that position. Therefore the establishment of an external, standardised agency to conduct the checking, risk analysis and decision-making in relation to working with children and vulnerable adults is a positive step in alleviating this substantial responsibility from organisations and their staff members.

The discussion paper states that "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." This is of crucial importance in relation to the volunteer sector – any addition financial or psychological barrier to volunteering could result in significant recruitment issues for volunteer-involving organisations and threaten their ability to continue to function and deliver services to the community. It is stated that the costs "will be fair and equitable and not present a barrier for employment". It is our concern that participation in volunteering, more so than the paid workforce, is very vulnerable to the imposition of costs. Costs can present a barrier in two ways – firstly, if there is a cost incurred by individuals in order to become volunteers many may be excluded from volunteering because they are unable to meet that cost, or they may be deterred to another volunteering option that does not involve an out-of-pocket expense. This would have serious implications for organisations that rely on volunteers to deliver their service. Secondly, if organisations that involve volunteers are required to meet the new expense for screening volunteers under the WWCVP Checking System they may not have the capacity to do so within their current funding

arrangements. It may be that they will need to re-negotiate with their funding bodies to gain additional funding to meet this expense. Or in a worst case scenario, they may be forced to entirely reconsider the involvement of volunteers in their organisation or program and choose to discontinue that involvement in the face of insurmountable costs. The issue of cost is further discussed below in our response to Q29.

The fact that the WWCVP Checking System will provide a transferable registration such that registered persons will be able to move between organisations without the need to be rechecked is an excellent development for the volunteer sector and will significantly reduce duplication and costs.

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

VT questions the different arrangements for volunteers and paid employees in terms of whether checking will be required for people under the age of 18 years. Why should there be a difference in requirement of screening between paid and volunteer work? What is different about the nature of volunteering that would exempt a volunteer under the age of 18 from being appropriately screened? One consideration that would appear to come into play here is the costs and administrative burden. However, as it could be assumed that the number of people fitting into this category (volunteers under the age of 18 who would require screening) would be fairly minimal, this could be seen to constitute a valid reason for inclusion rather than exclusion, i.e. the minimal cost involved is more than balanced by the possible risk of not screening this category.

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?

VT share the Tasmanian Government's preference for a model of exemption that is 'simple and practical'. In regards to duration and frequency of contact, it is likely that the exemptions covered by the proposed threshold of 7 days in any twelve month period will apply to a range of short-term, one-off or event-based volunteering opportunities. It is an important consideration that the requirement for WWCVP checking in these instances doesn't present a significant barrier to recruiting volunteers such that the program/event is jeopardised. However, it would be fair to say that even a short-term or one-off event could present a significant opportunity for harm to be perpetrated on a vulnerable person, particularly a child. The list of regulated activities includes "all overnight camps" for children, which seems to imply that the 7 day threshold will not apply in relation to overnight camps, a recognition that the risk of harm can be very high even within a short time frame. While shortening the period of exemption from 7 days in a 12 month period to 5 days, or even 3 days, would mitigate the risks somewhat, nothing short of discarding this exemption will completely solve the issue. VT would urge

that in this case it is preferable to err as much as practical on the side of caution and would be in favour of a period of exemption shorter than 7 days.

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?

While VT would support the application of an exemption for people who are 'closely related' to each (and every) vulnerable person they have contact with, we do not agree with this second exemption specifically for volunteers. The fact that a volunteer is 'closely related' to a vulnerable person/people involved in the activity does not remove the potential risk of harm that they pose to other vulnerable people involved in the activity. The requirement to be registered for a volunteer activity that is probably being undertaken in association with a family commitment (e.g. volunteering at the aged care facility in which your mother resides) may present a potential barrier or inconvenience for the volunteer, but that does not outweigh the importance of consistent, reliable screening for the protection of all participants. Bearing in mind the fairly broad definition of 'closely related', numerous examples can be brought to mind that clearly represent a situation in which the possibility for harm is simply too high, for example a mid-twenties male coaching the sports team of his 13 year old step sister. If you were the parent of another child on that team, you would want that person screened through the WWCVP Checking System. Therefore, VT does not support this exemption for volunteers.

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

The cost of WWCVP checking mentioned in the discussion paper is \$100 – if this is the proposed fee to be charged, either to individual volunteers or to the organisations who are engaging volunteers, VT strongly believes it is prohibitively high. As recognised in other jurisdictions where fee exemptions or substantial reductions in the fee are applied to volunteers, the imposition of such a significant fee would have an immediate and lasting effect on the sustainability of many volunteer programs. If individual volunteers are liable to pay for their own WWCVP screening in order to engage in volunteering, \$100 will be an insurmountable barrier to for the vast majority of people. These potential volunteers may then seek other volunteering opportunities that do not require WWCVP screening or they may be deterred from volunteering altogether. Both these situations would have serious ramifications from the sustainability of certain parts of the volunteer sector and, indeed, the volunteer sector as a whole. Currently in relation to National Police Checks it has been recognised that the full fee of \$45 presents a significant barrier to participation in volunteering and a reduction of the fee to \$5 is applied to volunteers. VT would strongly promote a fee reduction of a similar magnitude for the WWCVP checking.

The discussion paper suggests that “if there are different costs/subsidies for people in paid employment and volunteer work, transferability of registration will be more administratively cumbersome.” While this may be the case, fee reduction arrangements for volunteers are currently in place for National

Police Checks and, as mentioned in the paper, are already in place in many other jurisdictions who conduct working with children screening. Clearly it is possible to devise a process that encompasses a varied fee structure for volunteers and paid employees. Losing the contribution made by the volunteer sector in all the regulated activities affected by the WWCVP screening will certainly constitute a much greater administrative and financial burden on our communities.

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

VT supports the proposal to phase in the WWCVP Checking System over a period of 5 years. The inclusion of a grandparenting clause in the legislation will have major implications for the many volunteer-involving organisations/programs that currently undertake the regulated activities covered by the legislation. The process of having all current volunteers undertake WWCVP screening will require significant administrative and financial investment from those organisations and programs, and may involve adjustments to current funding arrangements or mean that new and additional funding must be sought. Therefore, a phasing in period will support organisations to adequately prepare for this new system and make any necessary adjustments.