

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.

In the discussion paper it is proposed that position based assessments will be provided in specific circumstances.

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.

Should a hybrid system that allows for the option of either a position based assessment or registration system be explored?

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.

When to check?

In the discussion paper it is proposed that applications are submitted after a person has been offered employment or a volunteer activity, and that the application be supported by information provided by the prospective (or current) employer or organisation. Several respondents argued that the system should allow for applications to be considered independent of imminent employment.

Should a WWCV check be available for people prior to employment or volunteer activities being secured?

Yes, given the administrative requirements, timing may frustrate starting the position. A person interested in working-volunteering for work with children should be able to apply for either a position based or registration based system however this must be conditional on confirmation that card is valid prior to starting a position. Further the onus of confirmation should not rely upon the applicant but the employer.

At present Victoria allows for a WWCC application prior to job offer, however Q'land, WA and NSW do not.

Should a volunteer or employee be able to commence prior to the risk assessment being finalised?

In the discussion paper it is proposed that unregistered people will be required to submit an application prior to commencing duties. Applicants may work in a position pending the outcome of their application, but must cease duties immediately if the WWCV Unit issues a negative notice. In recognition that there is some inherent risk in engaging a person prior to their results being known individual employers and organisations will be free to require that the results are known before a person may act in the position.

There were 21 comments. Eleven respondents supported the proposal. Three respondents supported the proposal conditional to employers retaining discretion. 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.

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?

No, there are too many risks both to children/yp and also organisationally-industrially.

SCP advocates that no involved personnel are to begin without satisfactory check. Further that organisations stipulate clear safeguarding children expectations, including WWCC prior to start, to applicants in job adverts, position descriptions and employment contracts.

If the check is positive, the check is a simple administrative exercise in that there is no assessment or analysis as such, simply an administrative tick and data entry.