

18 March 2010

**Response to Discussion Paper: A Working with Children and other Vulnerable People
Checking System for Tasmania**

I have reviewed the Discussion Paper and make the following comments.

1. 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.
2. In particular, the proposal to include access to documents within the definition is problematic from a Department of Justice perspective. Many of our staff have access to prisoners 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.
3. So far as the Corrective Services function is concerned, comprehensive checking to ensure that the workforce is cleared to deal with vulnerable people is already taken. We currently require potential staff to undertake significant pre-employment checks and ongoing training. Details of checking processes and training for people in community corrections and in the Tasmanian Prison Service are at Attachment A.
4. Similarly, there are a number of volunteers and external service providers within Corrective Services. These people must also undergo police checks and induction training.
5. I therefore consider that employees and other categories of people working within Corrective Services should be exempted from any checking system as currently proposed.
6. Detailed comments are set out at Attachment B.



Robert Williams
Deputy Secretary and Director of Corrections

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Attachment A

Employment checks and training	TPS	Community Corrections
Pre-employment checks for prospective employees		
	Police check for all staff	Police check for all staff, national and international if necessary
	Physical fitness testing Psychological profiling for Correctional Officer role Literacy and numeracy	Team Leaders and Probation Officers undergo psych testing through the Australian Institute of Forensic Psychology. Those meeting the required standard progress to interview and a structured interview is conducted in accordance with the psych results.
Induction courses		
	Includes: <ul style="list-style-type: none"> ○ Acquired brain injury ○ Cultural awareness [aboriginality] ○ General protection issues including the range of prisoners who may require protection from general prison population ○ Men's and women's health in prison ○ General roles and responsibilities regarding case officer roles and function, including assessment of inmates, recording/sharing of information and referrals of special needs to service providers. 	No formal program as yet however, this is about to change. CC Probation Officers, and other staff, have undertaken training with Correctional Officer recruits in the past and may therefore have been exposed to the training provided at the prison
Ongoing training		
	Provided on a largely ad hoc basis	CC provides 'ad hoc' training as part of professional development such as working with people of different cultural backgrounds (we ran some Sudanese training last year) and working with sex offenders, etc. Once again this ad hoc approach is set to be replaced with a proper professional development program.

Employment checks and training	TPS	Community Corrections
Volunteers, NGO or external service providers		
	They must undertake a police good character check and then participate in the Level 1 and Level 2 Induction process	N/A

Working with Children and other vulnerable people checking system for Tasmania: Comments on Discussion Paper

The major issues which we might wish to comment on from a Corrective Services perspective are:

- i) The scope of the definition of 'vulnerable adult';
- ii) the services to be defined by regulation;
- iii) who will need to be registered;
- iv) liability for the fees payable for registration under the scheme.

However, as a threshold comment, it is noted that the scope of people/activities likely to be caught by the proposed scheme is very wide. Many departmental employees are likely to be caught by the definitions and will be required to be registered. The workload in assessing all eligible people is likely to be significant.

Comments on specific aspects of the proposal follow.

(i) Definition of 'vulnerable adult':

The proposed definition of vulnerable adult is set out as follows:

"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.

The word "that" should be amended to "who".

Any definition is going to be problematic; however, this definition does not specifically capture all prisoners, only those who choose to access services. While prisoners as a category are specifically included in Annex B, Regulated Activities, the definition does not capture prisoners on an individual basis.

(ii) Services to be defined by regulation

The list is comprehensive and includes services delivered in adult justice facilities.

(iii) The scope of the program – who must be registered

The WWCVP system is designed to be generally applicable. If a person participates in a regulated activity, is a regulated person and no exemption applies, then they are required to register. The regulated activities are set out in Annex B. Regulated persons are determined by engagement type, contact type or supervision level.

Engagement type

The scope of potential regulated persons is very wide and is defined according to the range of ways in which people may work with VP, ie engagement type, contact type and supervision arrangements [p23]. Not only are employees and volunteers caught, but also such people as contractors, students, board members, religious officials and trainees.

The paper argues that by being specific about the categories there is less chance that an individual can claim special status. However, the reverse argument could equally apply, ie if a person is not in a specified category then they are not required to register. It is difficult to be specific about every category of person who might come into contact with VP and it is probably unwise to try to define the categories precisely.

Contact

Contact needs to be 'regular' and 'systematic' and can involve any of the following:

- physical contact;
- communication;
- working within close proximity to VP;
- working with records relating to VP; and
- making decisions affecting VP.

The reach of the scheme is considerably widened when it includes such people as those who work with records relating to vulnerable people. From an agency perspective, this will include the majority of staff.

Further, while the first paragraph of section 8.3.2 states that the checking system will only apply to people who are in contact with vulnerable people, it appears that the scope of "contact" is comprehensive. So far as the Department of Justice is concerned, it is conceivable that not only staff and volunteers working within the prison facilities will be required to register, but also others who, although they do not have direct contact with VPs, do have access to records held on them.

Payment for registration and responsibility for registration

At present payment and responsibility for background checking is with the 'employer/service provider'. Under the proposed system the responsibility for registering will lie with the individual to minimise delays and administrative burdens. This additional burden may be enough to deter certain categories of people from undertaking say volunteer functions, either because the fee is onerous or because they are unwilling to formally register.

On the whole, the registration scheme is likely to have an impact in that both correctional employees and volunteers are likely to be required to register under the scheme. There are therefore likely to be financial implications for the corrections service and a possible negative impact on volunteer numbers.

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