



## 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.

### **The use of comments you provide**

The comments you provide in response to the paper will be used to inform the Legislative reform required to support the establishment Screening Unit. **Quotes from your submission may be used in public documents however no identifying details will be associated with the quotations.**

### **The Freedom of Information Act 1991**

Your submissions may be accessible under normal FOI provisions.

<b>Full name</b>	Elaine Sarah Mary McDonnell
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	Member of Public, current and past member of various voluntary organisations dealing with Children and Young People.
<b>Date</b>	12 March 2010
<b>Company name/organisation</b> (if applicable):	n/a
<b>Address</b>	5 Athol Street Toowoomba Qld
<b>Postcode</b>	4350

**Section  
PEOPLE IN THE TASMANIA**

**8.0 VULNERABLE**

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

Comment:

**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:

Include families with whom a young person aged between 16 and 18 resides if not immediate family and when the young person has no orders attached to them. In these situations there may be no formal foster, kinship or other arrangements in place.

A number of youth groups will cater for persons aged between 13 and 26. Where these are daytime activities under supervision no check need be applied, but where overnight camps occur then the elder members of the group should be checked or alternative accommodation and supervision regulations need to be put in place for those under vs overage.

Commercial Entertainment – however if a store etc, employs someone to entertain/supervise children whilst the parents shop then that person should hold a WWCVCP card.

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: Commercial Entertainment –if a store etc, employs someone to entertain/supervise children whilst the parents shop then that person should hold a WWCVCP card.

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

Comment:

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

Comment:

Should look at the families of people conducting child related businesses within their own home, eg. Tutor, music teacher. The person themselves will be checked but the family with whom the child may have regular contact at that home are not included on the list.

Look at contractors, sub-contractors and employees of those in the trades who regularly do business with educational institutions or who have a long term one off contract. This will come into play with the tradesman who is the regular supplier of emergency repairs to a school(s) (in older schools with aging electrical/plumbing systems etc this could be more than 7 days / 12 month period) or those working on things such as the current BER scheme where they may be in school grounds for a 6 month one off contract.

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

Comment: Agree

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

Comment: All persons, whether volunteer or employed, should be checked from the same age whether this be 15 or 18 years. Organisations/employers should, as appropriate to their particular needs, be able to request that persons between the age of 15 and 18 be checked before employment, either paid or voluntary, is granted.

If overnight placements or private home contacts are occurring then all household members over the age of 13 should be checked.

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: Yes

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: No, this is too broad. Limit to immediate family (spouse, parents, siblings [including step, defacto, half etc]) and other related persons who have some custodial care of the child or vulnerable person.

8.4.1.3 is too confusing – it leaves a hole for misinterpretation to occur either deliberately or accidentally. Eg a school, sports organisation may insist on “each and every” causing an increase in unnecessary checks.

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: Agree. Should be noted that this extends to those working alongside children and vulnerable people in same exempt employment as employee/employer relationships.

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

Comment: Query why State and National Events are exempted? If they would need it at a regional/lower level why exempt them at a State one.

### **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: For lower risk or shorter term activities, engagements then I could agree. However for higher risk permanent or long situations (eg early child care services, overnight supervision) then would disagree should not be left to the individual or organisation to decide. Outcome should be determined before work in the higher risk situation commences. Exception for waiting for outcome could apply if the employee/volunteer has a similar card from another State.

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

Comment: Not enough comment has been made with regards to self-employed people.

### **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: Agree.

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: Should also be asked to provide copies of passport details if in Australia for limited period of time (5 years?) to assist in locating overseas records. Where feasible then overseas records should be checked with authorities from that country as well as immigration. Interim positive notices could be advanced if cleared nationally, but awaiting international clearances.

## **Section 12.0 RISK ASSESSMENT PROCESS**

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

Comment:

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

Comment: Driving records should be checked. Eg. Would not like to see someone with numerous speeding offences over past couple of years being in charge of driving children to a scouts camp or elderly people to the doctor. As majority of positions would probably not include the transportation of vulnerable people, this could become an additional check which is positionally based. Or could look at a second class of card where one would include ability to drive someone and one where it does not or add an exemption to card to exclude the holder from transporting children or vulnerable people.

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

Comment:

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

Comment:

## **Section 13.0 ASSESSMENT OUTCOMES**

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

Comment: For employees with no exemptions on the card agree as long as the card is a "Live" card which can be regularly checked as is the case in WA rather than the "dead - out of date" system in place in Qld.

If exemptions (eg driving) are placed on the card then there should be the option of obtaining a card with a shorter registration period so that full card may be obtained earlier.

For volunteers would suggest a shorter registration period to balance out the lower fee charged. (see Q29)

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 as long as some sort of bland generic reason is given. An interim negative notice which is later changed to a positive may still deter employers from hiring the applicant. This could prove highly problematic for the applicant if in a small town.

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

Comment: Yes, apart from driving records or juvenile offences where the prohibition could be reduced as applicable to the case.

#### **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: Agree

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

Q25) Do you have any comments on the proposed right of internal review by the WWCVS 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: Agree

## **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: What penalty would be put in place for which offence?

List should also include ongoing monitoring/validation of WWCVCP cards by employers/ organisations. Mechanisms should be put in place, as in WA, whereby organisations can/ should/must conduct monthly/quarterly (depending upon size of organisation) reviews of card validity. (see <http://www.checkwwc.wa.gov.au/> ) The time turnaround between police and/or courts contacting the WWCVCP Screening Unit and they in turn contacting the employer can be extended for various reasons. The mandatory review by organisations of the WWCVCP cards can assist in identifying unsuitable persons within their employment before information is received by the Screening Unit.

## **Section 17.0 COMPLIANCE CHECKS**

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

Comment:

## **Section 18.0 THE WWCVCP SCREENING UNIT**

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

Comment: Second option is preferable. Screening Unit should be separate from all places that information is sourced, but could be administered within an existing agency. The unit should be located within Tasmania, firstly so that information and appeals processes can be handled more quickly and efficiently and secondly to keep the jobs within the State. Why send direct and indirect employment opportunities interstate and to an agency that is more lax in its own processes?

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

Comment: Charging paid personnel is fine. \$100 for 5 years is acceptable, however a shorter option of say \$25 for 1 year could be offered. This will allow those paid personnel who are just entering or re-entering the workforce (families on a single income etc) the opportunity to afford to pay for a card to obtain the work in the first place. This could be put in place similar to 1 year and 5 year driving licences.

\$100 for volunteers is unacceptable. It is doubtful whether the majority of volunteers could afford this and this would become a major deterrent in the recruitment and/or retention of volunteer employees. A large proportion of the volunteering community are pensioners and

this amount is too great a percentage of their income to expect them to pay. In other States the organisation may reimburse the volunteer the cost of the card, however this amount would also be beyond a lot of their budgets. Cards for volunteers should not exceed \$10-20, however the registration period of the card could be reduced to 2-3 years.

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

Comment: Would think a more realistic turnaround for the process would be between 1-3 weeks for most of the year, rising to 4-6 weeks at the beginning of each school year.

This would come into play as new students enter both the school and club systems and so the number of new volunteers involved in these activities rises dramatically whilst at the same time other people enter or re-entering the paid workforce.

## **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: Expiry of existing checks. If someone is in a category that is later on the list, but their current work related check expires, as an individual they should be rechecked on the new system.

## **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?

As discussed in Q26, mechanisms should be put in place (as is in WA) for employers/ organisations to run monthly or quarterly validation checks. However, unlike WA these should be mandatory to assist in the reduction of risk.

## **23.0 ADDITIONAL QUESTIONS**

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

Comment:

### **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: With just a couple of exceptions the best version I have encountered thus far.

### **23.2 Employees and Volunteers**

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

Comment: The necessity of attending a Service Tasmania Outlet would make it difficult for some people to obtain a WWCVP Card.

For those that are in more rural areas where public transportation is non-existent or minimal, the lack of private transportation may be prohibitive in getting to one of these outlets, whilst someone from interstate intending to undertake employment within Tasmania over 7 days would also have difficulties. For the intra state worker this may mean that they have to reject the job offer or withdraw their volunteering services. For the interstate worker it may mean that they have entered the State, conducted their work (and hopefully nothing else) and left again before either a positive or negative notice has been issued.

The person without public or private transportation available to them to get to a Service Tasmania Outlet should be taken into consideration. The possibility of using post offices as places of lodgement where Service Tasmania Outlets do not exist (as in WA) should be examined. Interstate workers who need to apply for a card could send in authenticated documents and signed photographs as is done with passport applications.

### **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: Application process is fine, but should be involved in the monitoring processes.