

VOLUNTEERING
Strategy
FOR SOUTH AUSTRALIA
2014 – 2020



Submission to the Volunteering Strategy for South Australia Partnership Board

Investigation on the transferability of criminal history record checks across organisations and jurisdictions

December 2014

Provided by the
Volunteering Strategy for South Australia Working Group Three

Members of the volunteering strategy working groups were appointed by the Volunteering Strategy Partnership Board to lead the implementation of the operational plan of the Volunteering Strategy for South Australia.



This report has been compiled from information gathered by members of Working Group Three and is provided as a guide only. Information is current at the time of publishing. Individuals are encouraged to check the currency of any information that is provided by contacting relevant departments or organisations.



Contents

Introduction	2
Background	3
Key findings	4
Section 1 – National Overview	6
1.1 Child-related employment screening	6
1.2 Police check and child safety screening programs	6
1.3 Professional registration and child safety policy development	7
1.4 The difference between a Police check and a Working with Children Check	7
1.5 Who must undergo pre-employment child safety screening?	8
1.6 Is pre-employment screening transferable between states?	9
1.7 National review	9
1.8 Conclusion	10
Section 2 – State Overview (South Australia)	11
2.1 Overview	11
2.2 Requirements for screening and police checks	13
2.3 Cost for volunteers	14
2.4 Are police checks/screening assessments transferable between states and organisations within South Australia?	15
2.5 Case studies (South Australia)	15
2.6 Access to information on use of screening assessments and police checks	16
2.7 Promotion of fact sheet	16
2.8 Department for Communities and Social Inclusion Screening Unit - Information Sessions	16
2.9 State Government review	17
2.10 Conclusion	17
Section 3 – International models	19
3.1 Lessons from the UK	19
Attachment 1 - Relevant legislation and state and territory screening programs	21
Attachment 2 - Comparison of information considered in Working with Children Checks, the Working with Vulnerable People Background Check and Child-Related Employment Screening across jurisdictions	23
Attachment 3 - Child-related employment pre-screening requirements all states and territories	27
Attachment 4 – Working with Children Checks roundtable discussion summary	31
Attachment 5 – South Australia Case Studies Table	38
Attachment 6 – Screening and police checks volunteer fact sheet	40
Attachment 7 – Media article DBS Update Service (United Kingdom)	42



Introduction

Launched in February 2014, the Volunteering Strategy for South Australia is an important journey of collaboration for the benefit of volunteers and advancement of volunteering. It is a partnership between the Government of South Australia, Business SA, the Local Government Association of SA and Volunteering SA&NT, which aims to achieve real and lasting improvements to volunteering over the next six years.

Four working groups have been formed to implement the Strategy's focus areas:

1. Invest in the foundations of volunteering
2. Promote and inform on the benefits of volunteering
3. Implement leading practice and high quality standards
4. Proactively adapt through continuous improvement

The working group for focus area three is addressing infrastructure that is essential to inclusive and sustained volunteer involvement.

As part of their work, they will investigate issues that impede volunteering and seek to respond with more effective policy interventions needed to support volunteering. The group's aim is to ensure that regulatory requirements are as clear and uncomplicated as possible and that future policy decisions take into account any potential impact on volunteering.

The Volunteering Strategy has identified that a barrier to volunteering is that screening and police checks are often not transferable between different organisations.

A key action to achieve change includes an inquiry on the transferability of criminal history record checks across organisations and jurisdictions.



Background

It is important that the government does everything possible to promote the safety and wellbeing of the most vulnerable in our community. Children, young people, the frail aged and adults with physical disabilities or mental impairment are among the most vulnerable. Parents, care-givers and family members need to be confident that organisations providing services and activities to their children, young people and vulnerable adults are taking all reasonable steps to promote their safety and wellbeing.

Screening of people who work or volunteer with them is a significant preventative measure that directly contributes to achieving this objective.

Additionally, an organisation may want to screen prospective employees or volunteers to help assess their suitability for the role, e.g. an organisation may want to know about fraud offences if they are recruiting someone with access to cash or expensive goods.

Currently, there is no single national framework setting out the requirements for obtaining screening checks (such as working with children-related checks). Each state and territory has its own procedures and it is necessary to fulfil the requirements in the jurisdiction(s) in which employees or volunteers are working.

What is screening?

Screening is the assessment of information obtained about individuals to determine whether they may pose a risk to a particular group of people in a professional or volunteer environment.

Screening can be done on different levels of complexity depending on the requirements to be met e.g. legislation or organisational policy.



Key findings

Most states and territories have introduced legislation, requiring screening for employees and volunteers (such as child-related employment pre-screening), creating a high demand for improved assessment systems.

There are important differences across jurisdictions regarding the type of screening programs that are in place, what records are checked, and who is required to undergo screening, which directly impact on the current transferability of screening assessments and police checks.

Consequently, there is no single national framework setting out common requirements for obtaining screening assessments, such as working with children-related checks.

Research undertaken by the working group for focus area 3 suggests that key barriers to the introduction of a national system for Australia are the cost and the legislative complexity involved.

It has been observed that a single 'passport' type clearance system, allowing transferability of screening assessments across state and territory borders, has often been cited as a potentially practical and cost effective outcome. However, considering current information from national discussions on this matter (see Attachment 4), this would not appear likely to be achieved in the short to mid-term period.

The Working Group notes that there is work underway at both a National and State level to address cross-jurisdictional issues and will continue to monitor their progress.

It is further noted that content of all screening assessments referred to in this report is underpinned by the base level police check derived from a national data base.

In South Australia, individuals/volunteers can apply for a National Police Certificate from South Australia Police or a National Criminal History Record Check from an accredited CrimTrac agency, such as the Department for Communities and Social Inclusion's (DCSI) Screening Unit.

These police checks provide an Australia-wide summary of a person's criminal history and can be transferable between organisations. However, it is at the discretion of the organisation, if they will accept it for further volunteering or employment.

It is also noted that additional screening may be required under certain legislation. For example, under the *Children's Protection Act 1993*, organisations may choose to screen their employees and/or volunteers, by either obtaining:

- a police check, prepared by SAPOL or CrimTrac, or other prescribed evidence of the person's criminal history and conducting an assessment themselves; or

VOLUNTEERING Strategy FOR SOUTH AUSTRALIA

2014 – 2020

- a criminal history assessment from an authorised screening unit, such as 'Child-Related Employment Screening' from the DCSI Screening Unit.

Interpreting criminal history information to make a recruitment decision can be difficult and may require guidance to determine whether the applicant can be employed/volunteer in a particular role. Some organisations engage the services of an authorised Screening Unit, such as the DCSI Screening Unit, to make such an assessment to inform this decision making process,

The DCSI Screening Unit undertakes a specifically focused range of risk assessments, designed to protect a particular group or assess an applicant's risk in a particular position. The DCSI screening assessments can consider a much wider range of relevant information about an individual, in addition to any criminal history information that appears on a National Police Certificate.

DCSI screening assessments are valid for three years and, provided the correct screening assessment for the role intended for the prospective volunteer or employee has been undertaken, these clearances are transferable between organisations in South Australia.

Again, however, it should be noted that it is at the discretion of employers and organisations, as to whether the clearance is accepted.

Recent legislative amendments (i.e. the *Disability Services Act 1993* and corresponding *Disability Services (Assessment of Relevant History) Regulations 2014*) and DCSI cost structure changes for screening services have also contributed to a level of confusion in the community around organisations' obligations to screen their employees and volunteers. It may mean that checks are being obtained by organisations for volunteers who don't require checking or that they are being checked at a higher level than they are obligated to.

The DCSI Office for Volunteers have developed a fact sheet to help the community better understand screening and police checks for volunteers: what they are, when they are required (including under legislation), and the costs involved.

In addition, there have been an increased number of information seminars delivered by DCSI Screening Unit about screening and operations generally, and the policy frameworks under which they are required.

Increased access to accurate information on the need for and use of screening assessments and police checks is recommended as a key low-cost education activity to improve community understanding on the transferability of clearances in South Australia.



Section 1 - National overview

In April 2009, the Council of Australian Governments (COAG) endorsed the National Framework for Protecting Australia's Children 2009-2020 (National Framework). One of the actions under Supporting Outcome 2 (children and families access adequate support to promote safety and intervene early) is the development of a 'nationally consistent approach to working with children checks'.

One of the actions under Supporting Outcome 6 (sexual abuse and exploitation is prevented) is the implementation of a national framework for inter-jurisdictional exchange of criminal history for people working with children.

Accordingly, it is noted that the current national consultation that has been happening has focused on screening employees and volunteers working with children.

1.1 Child-related employment screening

Most states and territories have either introduced legislation providing for child-related employment pre-screening, or are working towards such legislation. The legislation identifies broad categories of child-related work where employers, employees and volunteers must fulfil broader screening requirements than a basic police check. There are important differences across jurisdictions regarding the type of screening programs that are in place, what records are checked, and who is required to undergo screening.

1.2 Police check and child safety screening programs

There are three types of screening programs operating in Australia.

The first, in South Australia, has an employer-driven system that makes it mandatory for employers in relevant fields to carry out background checks on prospective employees or volunteers. This system provides a "point-in-time" background check and individuals may have to undergo screening each time they enter into a child-related position.

The second and most common type of screening program in operation is individual-based. It offers certification to engage in child-related work to individuals (Qld, NSW, Vic, WA and the NT). These certifications are valid for a period of time (e.g. 3 years in WA) and provide for ongoing monitoring of an individual's suitability for child-related work. This means that, if a relevant criminal offence is committed during the validity of the check or if the individual is subject to relevant work-related disciplinary procedures, the administering authority may inform employers of the offence, and alter or withdraw an individual's entitlement to work with children. Individuals can also carry their certification between positions and do not have to undergo repeated screening while their Working with Children Check is valid.

VOLUNTEERING Strategy

FOR SOUTH AUSTRALIA

2014 – 2020

The third type of screening program is the Working with Vulnerable People Background Check operating in the ACT, which is a mix of the previous two. It provides three types of certification based on the eligibility of individual applicants. The "general certification" provides for the same conditions to engage in child-related work as found in individual screening checks discussed above, including a 3-year certification period, ongoing monitoring, and mobility between role positions. The second type of certification is role-based. Similar to the point-in-time background check, this certification restricts individuals to engaging in specified regulated activities with a stated employer. The role-based certification cannot be moved freely between regulated activities. The third type of registration is conditional, imposing specific conditions on an individual's registration.

Attachment 1 outlines the relevant legislation in each state and territory and explains the type of system in place in each jurisdiction.

1.3 Professional registration and child safety policy development

In addition to child-related employment legislation, all states and territories have legislation that requires people who wish to register in certain occupations (e.g. teachers, doctors or childcare workers) to be screened for criminal offences. This means that, even if child-related employment legislation does not exist, there are still requirements for adults working in certain occupations to undergo screening (e.g. the *Education and Training Reform Act 2006* [Vic]; the *Medical Practitioners Registration Act 2001* [Qld]; the *Child Care Act 2001* [Tas.]). Due to the screening already being part of the registration requirements, certain persons are exempt from Working With Children Check requirements (e.g. in Victoria, persons registered under the *Education and Training Reform Act 2006* are exempt from the Working With Children Check).

Organisations may also have developed their own policies that require employees and volunteers to undergo police checks. State and territory police provide police checks to individuals and organisations wishing to obtain these checks for employment, voluntary work and occupation-related licensing or registration purposes

The National Police Certificate (commonly known as a police check) is the lowest level of screening available to organisations. It is a list at a given point in time of the offences a person has committed and is derived from a national data base.

1.4 The difference between a police check and a Working with Children (WWC) Check

Police checks identify and release relevant criminal history information relating to convictions, findings of guilt or pending court proceedings. However, due to spent conviction/non-disclosure legislation and information release policies, there are limitations on the information a police check can provide (e.g. the Spent Convictions Scheme stipulates that prior convictions are not to be disclosed where 10 years have passed from the date of the conviction).

VOLUNTEERING Strategy FOR SOUTH AUSTRALIA

2014 – 2020



As the object of a WWC Check is to make an assessment of the level of risk an individual poses to children's safety, WWC Checks are more extensive, but also more targeted than police checks. For example, WWC Checks draw together information from various sources, but may include a primary focus on certain types of offences (e.g. sexual offences, offences related to the harm or mistreatment of a child). In general, WWC Checks give consideration to:

- convictions - whether or not they are considered spent or were committed by a juvenile;
- apprehended violence orders and other orders, prohibitions or reporting obligations;
- charges (i.e., where a conviction has not been recorded because, for example, a proceeding has not been heard or finalised by a court, or where charges have been dismissed or withdrawn);
- any relevant allegations or police investigations involving the individual; and
- relevant employment proceedings and disciplinary information from professional organisations (e.g., organisations associated with teachers, childcare service providers, foster carers, and health practitioners).

Across the five jurisdictions that currently carry out WWC Checks (NSW, NT, Qld, Vic and WA) and the ACT, there are differences in what information is considered and what sources of information are drawn upon.

In South Australia, the equivalent of a Working With Children Check is the Child-related Employment Screening clearance conducted by the DCSI Screening Unit.

Attachment 2 provides a comparison of the information considered in WWC Checks, the Working with Vulnerable People Background Check and Child-Related Employment Screening across these jurisdictions.

1.5 Who must undergo pre-employment child safety screening?

As of June 2013, all jurisdictions in Australia have some form of child-related employment pre-screening legislation. These laws make it mandatory for certain individuals engaged in occupations such as education and childcare, child protection, child and family welfare, health, entertainment and recreation, and religious instruction to meet screening requirements. There are differences across the states and territories as to who is required to undergo screening, and how different occupations are identified.

In South Australia, employers and responsible authorities for government organisations and non-government organisations that provide health, welfare, education, sporting or recreation, religious or spiritual, child care or residential services wholly or partly for children must ensure that assessments of the criminal history of persons are undertaken before these people are engaged or appointed as employees, volunteers, agents, contractors or subcontractors in prescribed positions.



Prescribed positions are defined as involving regular contact with children or working in close proximity with children on a regular basis, unless the contact or work is directly supervised at all times; people supervising or managing persons in such positions; persons with access to records relating to children; or persons engaged in any other function prescribed by regulation. The *Children's Protection Act 1993* does not stipulate an age at which criminal history checks are to be obtained. Practice guidelines recommend that all persons (including young people under 18 years of age) be checked.

Additionally in SA, as of 1 July 2014, new screening conditions required by legislation have been introduced by amendments to the *Disability Services Act 1993* and corresponding *Disability Services (Assessment of Relevant History) Regulations 2014*.

Attachment 3 provides the requirements in all Australian states and territories.

1.6 Is pre-employment screening transferable between states?

It is important to note that the Working with Children Clearance Checks, Working with Vulnerable People Background Checks and Child-Related Employment Screening are not transferable between states and territories.

As noted the sources used for screening checks vary across states and territories, but usually include a police check, relevant employment proceedings or findings from professional disciplinary bodies.

Organisations or individuals that work or volunteer with children across state or territory boundaries need to ensure that the appropriate clearance checks and screenings are obtained for each separate jurisdiction.

1.7 National Review

Royal Commission into Institutional Responses to Child Sexual Abuse

In January 2013, the Governor-General of the Commonwealth of Australia appointed a six-member Royal Commission to investigate institutional responses to child sexual abuse.

The Commission is collecting information through public consultations (public hearings, private sessions with Commissioners, written submissions), research and invited submissions on key topics.

The Commission has funding to undertake research in key areas. The issues to be investigated include prevention, reporting and responding to allegations of child sexual abuse including understanding the impediments to practice, and redress.



One of the major areas of concern that has emerged is jurisdictional differences between states and territories in WWC Checks.

In response, the Commission held its WWC Checks roundtable in Canberra on Monday 16 June 2014 with one of the subjects addressed being the potential for a national approach to a pre-employment scheme.

Non-government participants in the roundtable were generally strongly supportive of a single national scheme. However, the jurisdictional representatives were generally not supportive of such a scheme, citing the high cost of bringing in a new national system when there were already settled schemes in most states and territories and the legislative complexity involved.

Attachment 4 provides a summary of the WWC Checks roundtable discussions.

Additionally, in July 2014, the Commission released an interim report including a section on pre-employment screening. The link to the report is provided below.

http://www.childabuseroyalcommission.gov.au/about-us/our-reports/interim-report-volume-1-final-020714_lr_web

1.8 Conclusion

Screening helps to prevent people with a known history of unsuitable behaviour gaining access to roles through organisations as employees or volunteers. However, screening alone is not sufficient (e.g. it is limited to identifying known perpetrators) and needs to be coupled with interviews, thorough reference checks, policy development for child-safe environments, and robust accountability frameworks for responding to allegations¹.

There are important differences across jurisdictions regarding the type of screening programs that are in place, what records are checked, and who is required to undergo screening which directly impact on the current transferability of screening assessments and police checks.

Consequently, there is no single national framework setting out common requirements for obtaining working with children-related checks.

Key barriers to the introduction of a national system for Australia are the cost and the legislative complexity involved.

¹Child Family Community Australia (CFCA) Retrieved from:
[Child Family Community Fact Sheet October 2014](#)



Section 2 - State overview (South Australia)

2.1 Overview

The State Government has a responsibility to protect vulnerable members of the community.

This means that, depending on the roles they are performing, employees or volunteers may require either a police check or a screening check (from the DCSI Screening Unit).

It is emphasised that, in many circumstances, volunteers do not require the higher level screening check.

Key factors that are driving organisations or individuals to get screening assessments include

- requirement by legislation: need for higher screening levels more prevalent with child related and disability services legislative amendments
- requirement by contract: need to meet funding agreement requirements, e.g. in SA organisations funded to provide disability services require a particular standard of screening for employees/volunteers
- requirement by policy: need to meet internal policy requirements determined by the organisation's management after an assessment of risk

The types of screening and police checks available in South Australia are:

- **National police checks**

A police check is a record of a person's criminal conviction history. In South Australia, volunteers can apply for a 'National Police Certificate', from South Australia Police (SAPOL).

'National Criminal History Record Checks' can also be obtained through accredited CrimTrac agencies, such as the Department for Communities and Social Inclusion (DCSI) Screening Unit and Anglicare SA incorporated.

- **Screening assessments**

A DCSI screening assessment provides an assessment of a person's criminal conviction history and that person's suitability for a particular position within an organisation as a minimum.

The DCSI Screening Unit undertakes five types of screening assessment:



- a. Child-related employment screening (\$99.55);
- b. Disability services employment screening(\$99.55);
- c. Vulnerable person-related employment screening (\$82.50);
- d. Aged care sector employment screening(\$82.50); and
- e. General employment probity screening (\$82.50).

Volunteer costs for one or more of the above assessments are capped at \$55 (provided they are done on one application request).

The DCSI Screening Unit is the only screening unit in South Australia participating in the intergovernmental agreement for the national Exchange Of Criminal History Information For People Working With Children (ECHIPWC) allowing access to expanded criminal history information held by different jurisdictions' police services.

Accordingly, a DCSI risk assessment can consider a much wider range of relevant information about an individual, in addition to any criminal history information that appears on a National Police Certificate, including:

- spent convictions, withdrawn, dismissed or pending charges;
- police reports and circumstances information including from interstate police jurisdictions for child related employment screening;
- child protection notifications held by Families SA;
- the records of the Department for Education and Child Development Care Concern Investigation Unit (CCIU);
- the records of the DCSI Care Concern Investigations (CCI); and
- professional disciplinary information.

The key difference between the screening and police check processes is that the DCSI Screening Unit undertakes a specifically focused risk assessment, designed to protect a particular group or assess an applicant's risk in a particular position.

As noted, there is no such assessment with a national police check: it is simply a record of a person's criminal conviction history at that point in time. However in many situations, this is an adequate and cost effective risk assessment check for volunteers.



2.2 Requirements for screening and police checks

As of 1 July 2014, new screening processes have been introduced by DCSI through amendments to the *Disability Services Act 1993* and corresponding *Disability Services (Assessment of Relevant History) Regulations 2014*.

Other legislation, that includes police check and/or screening requirements for volunteers in South Australia, includes:

- The South Australian *Children's Protection Act 1993* requires organisations to ensure that, before a volunteer is appointed to a prescribed position, an assessment of the volunteer's criminal history is undertaken. Organisations may choose to obtain a police check, prepared by SAPOL or CrimTrac, or other prescribed evidence of the person's criminal history and to conduct an assessment themselves. Alternatively, organisations may obtain a criminal history assessment from an authorised screening unit, such as 'Child-Related Employment Screening' from the DCSI Screening Unit. For further information, visit the Families SA website (www.families.sa.gov.au/pages/protectingchildren/CSEHome/) or phone (08) 8463 6468.
- Aged care providers, funded by the Australian Government under the *Aged Care Act 1997*, are required to have staff and certain volunteers undergo a police check to assess their suitability to work in aged care. Organisations may choose to obtain a National Police Certificate or a National Criminal History Record Check as part of their recruitment process. For further information, visit the Department of Health website (www.health.gov.au/internet/main/publishing.nsf/Content/ageing-hacc-policechecks.htm) or phone 1300 653 227.

Organisations have a responsibility to understand and meet these requirements to help ensure that all volunteers and community members can enjoy a safe environment. The government departments referenced above, which administer the particular areas of legislation, can assist organisations with their specific queries about screening their volunteers.

In addition to meeting the legislative requirements, many organisations choose to adopt a policy to screen their volunteers as part of their risk management strategy.

These policies can assist organisations to assess their specific risks, enabling them to identify which of their volunteer roles interact with vulnerable people, and articulate how they will meet their obligations under relevant legislation. For example, under the *Children's Protection Act 1993*, volunteers in prescribed positions who have regular contact with children are required to undergo screening. An organisation's policy may articulate which of its volunteer roles have regular contact with children, what type of screening will be required and how frequently.



It is noted that some volunteer organisations also elect to obtain police and/or screening checks, regardless of whether they are legislatively required to. As a police check only reflects the completeness and accuracy of records at a particular point in time, many organisations have implemented a system of regular checks and are often only willing to accept a police check that is current at the time of a volunteer's engagement.

Organisations must consider their obligations to clients, volunteers and staff, and ensure that the impact of such processes, requiring additional, higher level or more frequent screening, is carefully considered in light of their volunteers' responsibilities.

2.3 Costs for volunteers

Free police checks, in the form of the National Police Certificate, are available to volunteers of community organisations who work with vulnerable groups such as children, older people or people with disability. To qualify, their organisation must have a Volunteer Organisation Authorisation Number (VOAN), from SAPOL.

If an organisation is not eligible for a VOAN, the volunteer may be entitled to a reduced fee, which is currently \$37.50 compared to the individual full fee of \$58.

A total of 34,031 free police checks were provided in 2013-14, to people from approximately 853 organisations.

Police checks are point in time checks and are current as of the date of issue.

Screening assessments by the DCSI Screening Unit are valid for three years, and volunteers are only required to pay one fee if more than one check is required, at the time of application. It is up to individual organisations to determine whether they, or the volunteer, pay the fee.

From 1 July 2014 there were increases to the costs of DCSI screening fees:

- Paid employees: increased from \$62.70 to \$99.55 (GST inclusive) for child-related and disability services employment screening, and to \$82.50 (GST inclusive) for all other forms of screening
- Volunteers: increased from \$41.25 to \$55.00 (GST inclusive).

The volunteer fee is significantly subsidised by government, and is approximately half of the fee for paid employees.

The increase in fees is the result of the increasing costs associated with conducting the checks. In line with increasing community expectations and resultant legislative change, the nature and scope of the screening process have changed, making it more expensive and complex.



The Screening Unit processed approximately 47,742 volunteer clearances in 2013-14, from over 400 organisations. The majority of these, approximately 69%, were for Child-related Employment Screening.

2.4 Are police checks/screening assessments transferable between organisations within South Australia?

Unless a higher level of screening is required by an organisation (e.g. under legislation or their internal organisational policy), 'National Police Certificates', from South Australia Police (SAPOL) and 'National Criminal History Record Checks' obtained through accredited CrimTrac agencies, are transferrable between organisations,

However, as noted previously, police checks are point in time checks and are current as of the date of issue. It is up to the discretion of employers and organisations to determine the period of time for which they will accept a police check.

Similarly, DCSI screening assessments are valid for three years and, provided the correct screening assessment for the role intended for the prospective volunteer or employee has been undertaken, they are transferable between organisations in South Australia.

It should be noted that it is at the discretion of employers and organisations as to whether the clearance is accepted.

2.5 Case studies (South Australia)

For the purposes of this report, several volunteer-involving organisations in SA were asked to complete a case study to identify what their policies are, in relation to police checks/ screening checks for volunteers.

Responses were received from:

- Department of Education and Child Development (DECD)
- Anglicare SA (CrimTrac accredited)
- Meals on Wheels (CrimTrac accredited)
- Multicultural Youth SA
- Life without Barriers (CrimTrac accredited).



The case study responses show a range of attitudes on accepting different types and levels of clearances. DECD requires all checks to be undertaken by DCSI Screening Unit, Meals on Wheels uses internal CrimTrac based assessments, and the others use a mixture of both depending upon requirements.

Anglicare SA states its policy on acceptance of clearances as: 'Current CrimTrac and DCSI clearances which have over 6 months currency are accepted. Employees are also required to complete a statutory declaration confirming that they do not have any outstanding criminal matter or have not been charged with an offence.'

See attachment 5 for table of case studies' responses.

2.6 Access to information on use of screening assessments and police checks

Many organisations, as part of their risk management policy, have chosen to adopt a policy to screen their volunteers, regardless of whether they are required to under law.

Organisations are encouraged to consider their obligations to clients, volunteers and staff and the potential impact of processes, requiring additional, higher level or more frequent screening, in light of their volunteers' responsibilities.

Given the differing policy approaches of organisations in relation to screening volunteers, there is understandably some confusion in the community about the different requirements.

2.7 Promotion of fact sheet

In partnership with the Office for Volunteers, Working Group Three has developed a new fact sheet to help the community better understand screening and police checks for volunteers, including the legislative requirements. This fact sheet is available from the Office's website (www.ofv.sa.gov.au) and has been promoted through its newsletter. A copy of this fact sheet is enclosed (attachment 6).

2.8 DCSI Screening Unit Information Sessions

Working Group Three has worked with the DCSI Screening Unit to promote information sessions about screening operations and policy frameworks including Child Safe Environments and the Disability Services Employment Screening.

Staff from the Department for Education and Child Development, Disability SA and the DCSI Screening Unit attended these sessions to present information and respond to questions from the community.



2.9 State Government Review

A government working group chaired by the Attorney General's Department has recently conducted a cross government review on the screening of people who work or volunteer with children, young people and vulnerable adults and those who work in the public sector more generally in South Australia.

The focus of the review includes:

- viability of a centralised screening unit responsible for screening all South Australians who work or volunteer with children, young people and vulnerable adults;
- cost implications for screening - particularly as they relate to volunteers; and
- scope of exemptions from the requirement to screen – particularly as they relate to volunteers.

The review is currently with the Attorney-General's Department awaiting approvals for release of recommendations.

2.10 Conclusion

Recent changes to legislation introducing new levels of screening assessment and organisational policy responses to recent cases of child abuse incidences have contributed to confusion in the community about the different requirements.

Increased numbers of screening assessments undertaken by DCSI Screening Unit, as a consequence of these changes, have impacted the cost and turnaround time for checks to be completed by the unit.

Base police checks are relatively easy to obtain either through SAPOL or a CrimTrac accredited agency. There is a public perception, however, due to the high profile of screening requirements that these checks have lessened in value or are not adequate due to their 'point in time' nature.

However police checks are a common element to all higher level screening assessments and remain an important option in an organisation's recruitment or risk management process

Internal policy decisions by organisations may mean that checks are being obtained for volunteers who don't require checking or are being checked at a higher level than required.



As noted earlier, provided that the correct screening assessment for the role intended for the prospective volunteer or employee has been undertaken, current 'National Police Certificates', from SAPOL, 'National Criminal History Record Checks' obtained through accredited CrimTrac agencies and DCSI screening clearances can be transferable across organisations in South Australia.

However, in practice, this objective of transferability between organisations is hampered by varying levels of assessment available or required and a lack of understanding of these factors by organisations' management. This may be contributing to volunteer-involving organisations or agencies adopting blanket internal policies that lead them to screen their volunteers and employees at a higher level than is required by legislation.

Increased access to accurate information on the need for and use of screening assessments and police checks is a key low-cost education activity to improve the likelihood of transferability of clearances in South Australia.



Section 3 - International models

3.1 Lessons from the UK

Disclosure and Barring Service (DBS) checks

The United Kingdom's Disclosure and Barring Service (DBS) was established under the Protection of Freedoms Act 2012 and merged with the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) in December 2012. The DBS in England and Wales provides services for:

- Disclosure – by providing criminal records and barred list checks to organisations as part of their pre-employment and management checking processes
- Barring – by considering referrals made by organisations when an individual suspected of causing harm to a child or vulnerable adult has left this role, voluntarily or as the result of an investigation. Certain criminal offences, known as 'Autobar offences' also may result in an individual being added to the Barred List, either for adults, for children or both. The DBS also determines whether the information provided certificates applied for warrants consideration for barring.

In June 2013, the DBS launched a new online service called the Update Service which aims to improve the ease and speed with which customers can apply for criminal record checks.

The service allows people to access a continually up-to-date certificate, when they need it, for an annual fee (volunteers can access the service for free). This means, subscribers can take their certificate from role to role, where the same level and type of check is required, without having to re-apply. This helps to ensure that the DBS checks are, in effect, portable thereby reducing the need for multiple checks.

Since the launch more than a quarter of a million people have used the DBS Update Service.

The Update Service is the first government service which continually checks and updates criminal record data, removing financial and administrative burdens on employers, workers and volunteers alike.

The development and launch of the Update Service has been a significant service development for DBS. According to the *DBS Annual Report and Accounts for the period 1 December 2012 to 31 March 2013*, £5.4 million was spent on capital expenditure. This relates mainly to expenditure required to ensure existing IT systems were compatible with the requirements of the new Update System.

VOLUNTEERING *Strategy* FOR SOUTH AUSTRALIA 2014 – 2020



The old system employed by DBS was considered costly, time-consuming and frustrating for customers waiting for certificates to come through; the same problems that are being found to impact on the efficiency of the systems currently being used in Australia.

The key barriers to the introduction of a national system for Australia as identified by the WWC Checks roundtable are the high cost and the legislative complexity involved.

See Attachment 7 for more information on the DBS Update service.

Relevant legislation and state and territory screening programs		
Jurisdiction	Act	Type of program
ACT	<i>Working with Vulnerable People (Background Checking) Act 2011 (ACT)</i>	The ACT Working with Vulnerable People Background Check requires that individuals engaging in regulated activities or services, including where these are provided to children, must be registered. A statutory Screening Unit within the Office of Regulatory Services, Justice and Community Safety Directorate is responsible for applications for registration. The registration is valid for 3 years and is subject to ongoing monitoring. There are three types of registration administered to individuals under the Working with Vulnerable People Background Check: general registration, which is transferable across all roles and organisations; role-based registration; and conditional registration.
NSW	<i>Child Protection (Working with Children) Act 2012 (NSW)</i>	The NSW Working With Children Check that came into effect 15 June 2013 has resulted in a move from an employer driven "point-in-time" system to a system where individuals, including volunteers, are responsible for their own application for certification. Employers operating within a child-related industry are required to register online with the NSW Office of the Children's Guardian and to subsequently conduct online verification of new paid employees clearance. Existing paid workers and all volunteers (new and current) also need to have clearance validated online as they are phased in to the new check system. The check is valid for 5 years and subject to ongoing monitoring.
NT	<i>Care and Protection of Children Act 2007 (NT)</i>	Individuals are required to apply for a Working With Children Check, known as an "Ochre Card" in the NT. The Ochre Card, which is also known as a Clearance Notice is valid for 2 years, and applies to employers and volunteers in child-related employment settings.
QLD	<i>Working with Children (Risk Management and Screening) Act 2000(QLD)</i>	Individuals are required to apply for a Working With Children Check, known as a "Blue Card" in Queensland. Valid for 3 years, Blue Cards entitle individuals to engage in child-related occupations/volunteering. Organisations providing child-related services must also have policies and procedures in place to identify and minimise risk of harm to children, which are monitored by the Public Safety Business Agency.

Relevant legislation and state and territory screening programs		
SA	<i>Children's Protection Act 1993 (SA)</i>	The South Australian system is an employer driven point-in-time system requiring employers and responsible authorities to obtain National Police Checks and conduct wider screening assessment for those engaging in child-related occupations/volunteering.
TAS	<i>Registration to Work with Vulnerable People Act 2013 (Tas.)</i>	<p>The Registration to Work with Vulnerable People Act 2013 came into effect on 1 July 2014. The Act will be phased in over 3 years beginning July 2014, replacing the Good Character Check screening program. Child services will be the first sector required to make the transition to the new regulations.</p> <p>Individuals who work or volunteer in the child care or other child-related sectors are required to apply for a Working with Children Check. Registrations are valid for 3 years or as determined by the Registrar.</p>
VIC	<i>Working With Children Act 2005 (Vic.)</i>	Individuals are required to apply for a Working With Children Check. Valid for 5 years, the check entitles individuals to engage in child-related occupations/volunteering and practical training.
WA	<i>Working with Children (Criminal Record Checking) Act 2004 (WA)</i>	Individuals are required to apply for a Working With Children Check. Valid for 3 years, the check entitles individuals to engage in child-related occupations/volunteering.

Comparison of information considered in Working with Children Checks, the Working with Vulnerable People Background Check and Child-Related Employment Screening across jurisdictions.	
Jurisdiction	Information considered
ACT	<p>The Vulnerable People Background Check is comprised of:</p> <ul style="list-style-type: none"> ▪ A risk assessment conducted by the Commissioner for Fair Trade which can include checking for charges and convictions whether committed in the ACT or elsewhere for any: sexual offence; offence against the person; offence involving violence; offence involving dishonesty or fraud; offence relating to property; offence involving possession of or trafficking in a drug of dependence or controlled drug; an offence against an animal; and a driving offence. ▪ Consideration is given to non-conviction information in relation to a relevant offence (or an alleged relevant offence) involving the following: where a person has been charged with the offence but a proceeding is not finalised; the charge has lapsed, been withdrawn or discharged, or struck out; the person has been acquitted of an alleged offence; a conviction for an alleged offence has been quashed or set aside; an infringement notice for an alleged offence has been served, or the person has a spent conviction for the offence. ▪ Consideration may also be given to apprehended violence orders; care and protection orders for a child for whom the person has or had parental responsibility; and professional disciplinary proceedings against the person.
NSW	<p>The Working With Children Check is comprised of:</p> <ul style="list-style-type: none"> ▪ A National Police Check for charges and convictions (including spent convictions) for: any sexual offence (including but not limited to, sexual assault, acts of indecency, child pornography, child prostitution and carnal knowledge); any assault, ill treatment, neglect of, or psychological harm to a child; any registrable offence; offences of attempting, or of conspiracy or incitement, to commit any of the above offences. ▪ Consideration of whether any of the above offences were committed in New South Wales and were punishable by penal servitude or imprisonment for 12 months or more; or whether any of the above offences were committed elsewhere and would have been an offence punishable by penal servitude or imprisonment for 12 months or more if the offence had been committed in New South Wales. ▪ Consideration of relevant matters, including all matters irrespective of whether they are considered spent or were committed as a juvenile (relevant matters include charges that may not have been heard or finalised by a court; are proven but have not led to a conviction; or have been dismissed, withdrawn or discharged by a court).

Comparison of information considered in Working with Children Checks, the Working with Vulnerable People Background Check and Child-Related Employment Screening across jurisdictions.	
Jurisdiction	Information considered
	<ul style="list-style-type: none"> ▪ Consideration of relevant Apprehended Violence Orders. <p>Consideration of relevant employment proceedings, reportable conduct, any sexual offences or sexual misconduct, committed against, with or in the presence of a child, including a child pornography offence; any child-related personal violence offence; any assault, ill treatment or neglect of a child; any behaviour that causes psychological harm to a child; or an act of violence committed by an employee in the course of employment and in the presence of a child. As part of an additional risk assessment, the Children's Guardian may give consideration to a range of different factors regarding previous matters that triggered the risk assessment. The Children's Guardian may also consider any other matters deemed necessary for an assessment to be made.</p>
NT	<p>The Working with Children (Ochre Card) Clearance Screening is comprised of:</p> <ul style="list-style-type: none"> ▪ A National Police Check - offences of most significance included sexual offences involving children, violent offences involving children and drug related offences involving children. ▪ An analysis of employment history, including an assessment of references and/or disciplinary proceedings instigated as a result of malpractice. ▪ Other material, which may include assessing whether an individual has attempted to change behaviours or address triggers to behaviours if they have a criminal history, etc.
QLD	<p>The Blue Card screening system is comprised of:</p> <ul style="list-style-type: none"> ▪ A National Police Check. ▪ Consideration of any charge or conviction for an offence, whether or not a conviction is recorded. ▪ Consideration of whether a person is a respondent to or subject to an application for a child protection prohibition or disqualification order; or whether a person is subject to reporting obligations under the Child Protection (Offender Reporting) Act 2004. ▪ Disciplinary information from professional organisations associated with teachers, childcare service providers, foster carers, nurses, midwives and certain health practitioners. ▪ Information from police investigations into allegations of serious child-related

Comparison of information considered in Working with Children Checks, the Working with Vulnerable People Background Check and Child-Related Employment Screening across jurisdictions.	
Jurisdiction	Information considered
	offences will be taken into account even if no charges were laid because the child was unwilling or unable to proceed.
SA	<p>Under the Children's Protection Regulations 2010, the Department of Communities and Social Inclusion provides a wider screening assessment which includes:</p> <ul style="list-style-type: none"> ▪ A National Criminal Records Check. ▪ South Australian Police information regarding alleged offences regardless of outcome, including spent convictions, pending charges and non-conviction charges and circumstantial information around charges and convictions. ▪ Information from other jurisdictions. ▪ Information sourced from professional registration bodies.
TAS	<p>The Working With Children Check is comprised of: The Working with Children Check obtains applicants' national criminal histories from sources in Australia. This includes information about:</p> <ul style="list-style-type: none"> ▪ Convictions for all criminal offences the person may have. ▪ All "spent" convictions (convictions that don't ordinarily need to be declared). ▪ Any "pending" charges (charges that have not yet been decided by the court). ▪ All "non-conviction" charges (those that have been finalised by the court but didn't result in a conviction).
VIC	<p>The Working With Children Check is comprised of:</p> <ul style="list-style-type: none"> ▪ A National Police Check - offences with most significance include serious sexual offences, serious violent offences, serious drug related offences, offences against the Working With Children Act 2005 (Vic.) itself. ▪ A review of relevant findings from prescribed professional disciplinary bodies. ▪ Information sought from other bodies such as courts, the Director of Public Prosecutions and any employee within the meaning of the Public Administration Act 2004, Corrections Victoria and employers - including, where a court: made a formal finding of guilt in relation to an offence; convicted the applicant of an offence, accepted a plea of guilt from the applicant, or acquitted the applicant of

Comparison of information considered in Working with Children Checks, the Working with Vulnerable People Background Check and Child-Related Employment Screening across jurisdictions.	
Jurisdiction	Information considered
	<p>an offence because of mental impairment.</p> <ul style="list-style-type: none"> Information about any spent convictions, juvenile convictions and findings of guilt, pending charges, and the circumstances surrounding any charges or convictions. <p>In addition, the following individuals are ineligible to apply for a Working with Children Check:</p> <ul style="list-style-type: none"> Registered sex offenders within the meaning of the Sex Offenders Registration Act 2004, or subject to an extended or interim extended supervision order under the Serious Sex Offenders Monitoring Act 2005. Individuals subject to a detention order, including an interim detention order, or a supervision order including an interim supervision order under the Serious Sex Offenders (Detention and Supervision) Act 2009.
WA	<p>The Working With Children Check considers:</p> <ul style="list-style-type: none"> Relevant national criminal record information to see if the applicant has charges or convictions that indicate that he or she may be of harm to a child (relevant criminal records include information about: convictions for any offence whether committed as an adult or a juvenile; any "spent" convictions; any pending charge for a Class 1 or Class 2* offence; and any charge that has been finalised by a court for a Class 1 or Class 2 offence, but which did not result in a conviction). Information may also be obtained from authorised bodies in WA and similar authorities in other states and territories such as: the Police, the Director of Public Prosecutions, the Department of Corrective Services, the Department of the Attorney General, and courts. <p>* Class 1 and 2 offences include various sexual offences against a child as well as offences such as murder, manslaughter, grievous bodily harm, indecent assault, making/viewing child pornography and involvement in child prostitution and other offences.</p>

Child-related employment pre-screening requirements all states and territories

Australian Capital Territory

- *The Working with Vulnerable People (Background Checking) Act 2011 (ACT)* was enacted on 8 November 2012 and requires people who have contact with vulnerable people while engaging in regulated activities and services to register with the Office of Regulatory Services. Individuals working or volunteering in activities or services for children have until 7 November 2013 to become registered, while individuals working or volunteering with other groups of vulnerable people will need to register between years 2 and 6 of the schemes operation.
- Individuals are responsible for making their own applications through the Office of Regulatory Services, Department of Justice and Community Services. A background check and risk assessment will be conducted prior to registration and requires applicants to provide information on their criminal history, all non-conviction information and any other relevant information. The type of registration issued will be the most general type of registration for which an applicant is eligible. Three types of registration are currently issued:
 - general registration - allows individuals to move between all regulated activities for up to 3 years without the need to reapply;
 - conditional registration - imposes specific conditions on an individual's registration, for example, not being able to transport vulnerable people due to a person's license being cancelled as a result of drink driving offences; and
 - role-based registration - restricts individuals to engaging in specified regulated activities with a stated employer and cannot be moved freely between regulated activities.
- Services contracted to government have a contractual obligation to employ "fit and proper" people. This has been interpreted as a requirement to obtain a National Police Check.
- Residents of the Australian Capital Territory can take a simple [online test to determine if they are required to register \(link is external\)](#). In addition, the Office of Regulatory Services [Working with Vulnerable People \(link is external\)](#) website provides further information on how to apply for a background check, including application forms and fees.
- Further information about obtaining a National Police Check, including forms and fees can be obtained from the [Australian Federal Police.\(link is external\)](#)

New South Wales

- The new *Child Protection (Working with Children) Act 2012 (NSW)* came into effect on 15 June 2013 and requires that all employees and volunteers working in child-related roles hold a Working With Children Check clearance. The NSW Commission for Children and Young People oversees the Working With Children Check program. All applicants are subject to a National Police Check. If findings of misconduct involving children are identified (including offences occurring outside NSW and findings of misconduct reported by a reporting body; or a notification by the Ombudsman) a risk assessment will also be conducted
- Successful applicants will be issued with a Working With Children Check Number. The worker must provide this number to their prospective employer, along with their surname and date of birth for online verification. Employers are responsible for checking the validity

of a Working With Children Check prior to engaging any new individual for child-related work. In order to verify the status of a Working With Children Check, employers need to register with the current system. It is mandatory for the employer to conduct an online verification of the Working With Children Check using the unique number provided by the prospective worker. Paper verification is *not* permitted under this new system; therefore employers cannot accept the worker's notification letter as proof of clearance.

- Employees and volunteers who were engaged in child-related work before 15 June 2013 will be phased into the new Working with Children Check program over a 5-year period based on industry sectors.
- Self-employed people who hold a Certificate for Self-Employed People (CSEP), as required under the previous legislation, may continue to use their CSEP until it expires. Once the CSEP expires, self-employed people must apply for the Working with Children Check.
- Applicants precluded from receiving a Working With Children Check include persons convicted of an offence as listed comprehensively in schedule 2 of the *Child Protection (Working with Children) Act 2012* (NSW). This preclusion comes into effect on or after 15 June 2013 and applies if the offence was committed as an adult. In addition, if proceedings for an offence listed in schedule 2 have commenced against a person *and* the offence was committed as an adult, no Working With Children Check approval will be given until the outcomes of existing proceedings are determined
- The Commission for Children and Young People website provides comprehensive information and guidelines for individual applicants, employers and self-employed people, in relation to [the Working With Children Check program \(link is external\)](#), including details of the phase-in periods for individual sectors.

Northern Territory

- The *Care and Protection of Children Act 2007* (NT) came into force in 2008. The Act legislates for screening of employees and volunteers in child-related employment and broadly identifies occupations and activities for which an Ochre Card is required. An Ochre Card is photo ID proof that individuals have passed the Working With Children clearance screening process and received a Clearance Notice. It is the responsibility of the person who wants to work or volunteer with children to apply for the Working With Children Check. As of July 2011, anyone employed or volunteering in child-related work is required by law to hold an Ochre Card.
- Individuals can download an application form for an Ochre Card through the [Northern Territory Government \(link is external\)](#) website. Forms are also available from any Northern Territory Police station or from Territory Business Centres located in Darwin, Katherine, Tennant Creek or Alice Springs.
- Employers or volunteer coordinators of people who work or volunteer with children are responsible for making sure that the people working or volunteering for them have a valid Working With Children Clearance and to maintain records that show compliance with the Working with Children Check scheme.

Queensland

- The *Working with Children (Risk Management and Screening) Act 2000* (Qld) provides minimum standards for those who work or volunteer with children in broadly identified occupations or activities to undergo screening for criminal offences. The Public Safety

Business Agency is responsible for administering the Working With Children Check program, which is known as the Blue Card System. The Blue Card System entails a National Police Check, a review of disciplinary information held by certain professional organisations, and consideration of relevant police investigations. The Blue Card System also provides for ongoing monitoring and notification of changes in Blue Card holders' criminal histories. Blue Cards entitle individuals to work or volunteer in child-related occupations or operate child-related businesses. Blue Cards are valid for 3 years and can be carried between positions by individuals. See [Blue Card System website \(link is external\)](#) for more information.

- Since January 2007, employers and businesses that require employees to have a Blue Card must also have a written risk management strategy in place (Chapter 8, Part 3, *Working with Children (Risk Management and Screening) Act 2000* (Qld)).
- The Public Safety Business Agency provides information about what an organisation's [risk management strategy \(link is external\)](#) should contain, as well as training about organisational risk management.

South Australia

- It is the responsibility of government and non-government organisations that come into regular contact with children to obtain Police Record Checks for employees, volunteers, agents, contractors and sub-contractors is embedded in the *Children's Protection Act 1993* (SA). The Act also requires that organisations have a policy framework relating to child-safety.
- The Department for Communities and Social Inclusion provides a screening and assessment process for employers who have obtained consent from prospective employees or volunteers. Under the Children's Protection Regulations 2010 child-related employment screening takes into consideration a National Criminal Record History provided by The Commonwealth CrimTrac Agency along with a wider range of information sourced from professional registration bodies and South Australian police, courts and prosecuting authorities. Further information is available at the departments [Screening and Background Checks \(link is external\)](#) website.
- [Police Check application forms \(link is external\)](#) can be obtained from the South Australian Police.

Tasmania

- Between 1 July 2014 and the end of 2016, if a person wants to work or volunteer with children, they might need to apply for a Working with Children Check. The *Registration to Work with Vulnerable People Act 2013* came into effect on 1 July 2014. According to this new legislation, employees and volunteers aged 16 and over working in child care services or other child-related services are required to apply for a Working with Children Check. Work that is classified child-related is work where the usual duties involve, or are likely to involve, contact with a child.

- The new legislation will be phased in over a 3-year period beginning July 2014. Further information on when workers in the child care services and child-related services sectors will be required to be registered for a Working with Children Check can be found on the Tasmanian Government's [Department of Justice website\(link is external\)](#). Information regarding Working with Children Checks and [how to apply \(link is external\)](#) is also available on the [Department of Justice website \(link is external\)](#).
- Additionally, government and non-government organisations may have developed their own requirements and procedures for screening. [Police Checks \(link is external\)](#) can be obtained from the Tasmanian Police Department.

Victoria

- The *Working With Children Act 2005* (Vic.) sets out the legislative requirements for child safety screening in Victoria. Individuals who work or volunteer, and those involved with practical training with children are required to undergo a screening process known as a Working With Children Check. [Information, guidelines and application forms for the Working With Children Check \(link is external\)](#) are available from the Department of Justice.
- The Working With Children Check is different from a Police Check as it provides ongoing monitoring for criminal offences for the duration of the validity of the check (5 years) and can be carried across employment/volunteer positions.
- [Police Checks \(link is external\)](#) can also be obtained through Victoria Police.

Western Australia

- The *Working With Children (Criminal Record Checking) Act 2004* (WA) legislates for child-safety screening and identifies broad categories of employment that require safety-screening. Information, guidelines and application forms are available from the [Working With Children Check website \(link is external\)](#). The program is administered by the Working With Children Screening Unit (WWCSU), Department for Child Protection.
- The Working With Children Check is a compulsory criminal check. Working with Children Checks are different from Police Checks as they offer ongoing monitoring and may be updated if a person's criminal record changes while the check is valid (3 years). They can also be carried across employment/volunteer positions. Additionally, Working with Children Checks are only concerned with child-related offences. Therefore, employers may require that employees or volunteers obtain both a Working With Children Check and a National Police Check.
- [Information on obtaining a National Police Check \(link is external\)](#) (including the National Police Check for Volunteers Program) can be obtained from the WA Police.

Working with Children Checks Roundtable Discussion Summary

Background

The Royal Commission into Institutional Responses to Child Sexual Abuse held its second roundtable in Canberra on Monday 16 June 2014.

The roundtable was convened by the Chair of the Royal Commission, the Hon Justice Peter McClellan AM and Commissioner Robert Fitzgerald AM.

The aim of the roundtable was to assist the Royal Commission to better understand how Working with Children Checks (WWCC) can help prevent child sexual abuse in institutional contexts.

The roundtable followed the release of Issues Paper 1: Working with Children Checks, which generated 80 submissions from a wide range of individuals and organisations.

Some consistent themes emerged in the submissions and these formed the basis of the roundtable discussion. The four broad themes for discussion were:

- A national approach to a pre-employment scheme
- What are the important elements of any WWCC to prevent child sexual abuse in institutions?
- Who should be subject to a WWCC and who should be exempt?
- How information sharing between state and territory jurisdictions can be improved.

Summary of the Discussion

Session 1: A national approach to a pre-employment scheme?

A consistent issue that was raised in submissions was whether Australia needs a single national WWCC scheme or a more nationally consistent approach to pre-employment screening.

Opening the discussion, the Commonwealth provided a short update on the National Framework on Protecting Australia's Children, endorsed by COAG in 2009, as it relates to WWCCs. A National Framework Implementation Working Group was established featuring senior policy officers of the Commonwealth, State and Territory governments together with representatives of the Coalition of Organisations Committed to the Safety and Wellbeing of Children, representing 120 non-government organisations working in child protection. Within this Working Group a Working with Children Checks sub-committee was established in 2010 to progress work towards national consistency.

In 2011, the sub-committee identified 10 priority areas that require agreement across jurisdictions as a first step toward harmonisation, but no agreement has yet been reached on any of these. A number of roundtable participants criticised what they saw as a loss of momentum in work towards uniform standards.

The NSW Children's Guardian outlined three alternative models for greater national consistency for consideration:

1. A centralised national system
2. A “federal” system with uniform national laws and shared minimum operating standards with separate state and territory jurisdictions responsible for their operation
3. A minimalist model of mutual recognition laws.

The alternative options of a single national WWCC scheme or greater harmonisation between existing schemes across jurisdictions was debated at length.

Non-government participants were generally strongly supportive of a single national scheme.

However, the jurisdictional representatives were generally not supportive of a single national scheme for the following reasons:

- The high cost of bringing in a new national system when there were already settled schemes in most states and territories (the exception being South Australia, which does not have a WWCC).
- The legislative complexity involved.
- The lack of an evidence base to inform best practice in designing a national system
- The perception that national consistency might require some jurisdictions to lower their standards in some areas.
- The length of time it would take to achieve a national scheme

However, the non-government participants were generally strongly supportive of a single national scheme.

In lieu of a national scheme there was consensus among the group in support of working towards a more consistent approach across jurisdictions. It was agreed that having a harmonised or nationally consistent approach should:

- Provide portability to people who work with children as they cross jurisdictional boundaries.
- Remove the burden on organisations that deliver services to children nationally
- Simplify information sharing across jurisdictional boundaries
- Tighten any loopholes between the current schemes where a perpetrator can slip through across jurisdictional boundaries

Detailed discussion followed about whether greater harmonisation between existing schemes could be achieved on the basis of a set of agreed minimum standards. Concerns were raised about whether this could be achieved without some jurisdictions being required to lower their standards in some areas, which they stated they were not prepared to support. It was agreed once minimum standards were agreed and established, each jurisdiction could then choose whether it wanted to “top up” its own scheme above this shared baseline, but no state or territory would be able to seek exemptions or transportability between jurisdictions would begin to erode away.

Session 2: What are the important elements of any WWCC to prevent child sexual abuse in institutions?

The group was asked to consider several sub questions to guide this discussion.

What should be considered as child-related work?

The group heard that there was substantial agreement in relation to the definition of child-related work.

- Regular parent volunteers
- One off parent volunteers
- People employed in institutions where children are, even if their role is not working directly with children (e.g. maintenance staff in schools)
- Performers and entertainers
- Photographers
- All ministers of religion

While there was broad agreement around what should be considered as child-related work, the group heard that commercial services and activities for children (photographers, performers and entertainers, talent shows) had emerged as an area where consistency across jurisdictions was still lagging behind.

It was also suggested that the definition of child-related work should not be limited to people who work directly with children, but should include:

- People who access children online (e.g. distance education providers)
- People who have phone contact with children (e.g. children's helplines)

The group was told that many schools and sporting organisations ask parents to undergo a WWCC as a risk management strategy in the event that a parent might be asked to volunteer at short notice.

What type of checks and histories are most important in preventing child sexual abuse in an institutional context?

There was a broad discussion on the risk of going too far into a background check verses the need for relevant information for the role and institutional setting. While the checks need to be thorough to screen out any potential perpetrators, the group did not want to see an environment created where someone is prevented from working with or caring for a child because of a past event that may not pose a threat to a child. It was noted that only a very small number of applicants are rejected from a WWCC, however all schemes need to be subject to a review process prior to a decision being made, or an appeals process afterwards.

There was discussion of the variety of different types of records that might be accessed in a WWCC. Currently these vary across jurisdictions, but they include:

- Criminal histories
- Spent convictions
- Charges
- Non-conviction charges
- Juvenile histories

- Employment processes
- Disciplinary proceedings
- Child protection records
- Apprehended Violence Orders

There was some disagreement about whether a person's whole criminal record should be taken into account, or only matters relating to child protection.

NSW, Victoria and Tasmania are all moving towards a similar risk assessment model involving access to criminal records and records of workplace disciplinary proceedings. This model was described as "layered". Certain offences lead to automatically barring, while other records trigger the need for further risk assessment. The group was asked to consider whether this was an appropriate level of check for other jurisdictions to follow.

Concerns were raised in relation to Aboriginal and Torres Strait Islander (ATSI) communities. ATSI people come to the attention of law enforcement at a disproportionately higher rate than the rest of the community. A high proportion of children currently in Out of Home Care are from ATSI backgrounds, and it was suggested that a more inclusive system needs to be considered whereby ATSI people are less likely to be barred as carers (and more likely to be encouraged to apply). It was also noted that indigenous people tend not to take up the opportunity to appeal decisions.

How often should a WWCC be required and how critical is continual checking of criminal histories and employment proceedings?

Currently there is considerable variation between jurisdictions in relation to how often a WWCC is required. The Northern Territory requires a renewal every 2 years; Queensland, Western Australia, Tasmania and the ACT every 3 years; and NSW and Victoria every 5 years.

There was some agreement that the introduction of continuous criminal history checking would make a longer period between renewals more appropriate.

Apart from South Australia, each state and territory has its own system of (daily or weekly) continuous checking, provided through CrimTrac, but at this stage only criminal convictions are tracked. South Australia does not have continuous checking because it does not have a central screening body.

However, it was suggested that there were also factors in favour of shorter renewal periods. High staff churn rates in some sectors mean a significant number of people do not apply to renew their checks when they expire. Therefore, jurisdictions with longer renewal periods are likely to be monitoring many people unnecessarily. Shorter renewal periods help identify people who drop out sooner, reducing the cost burden on the system.

On the other hand, concern was expressed that shorter renewal periods place unacceptable pressure on volunteers.

Session 3: Who should be subject to a WWCC and who should be exempt?

The group agreed that anyone working in a child-related environment should be subject to a check, whether the work they are doing is paid or unpaid. Exemptions were appropriate where contact with children is incidental (e.g. when a mechanic attends a school to fix the air conditioning).

Some specific kinds of activity were raised as needing a WWCC:

- School cleaner
- School bus driver
- Hospital volunteer
- Piano teacher
- Parent volunteering at a school
- Parent volunteer attending a weekend cricket camp
- Saturday netball coach

There was debate over whether parent volunteers might be exempted from a WWCC in certain limited circumstances. In NSW, unsupervised volunteers require a check, but supervised volunteers don't. In WA, parent volunteers don't require a check if their own child is involved in the activity.

Should all ministers of religion or members of religious institutes be subject to WWCC?

The group heard that in their submissions to the Royal Commission the Catholic and Anglican churches argued that all ministers of religion and members of religious institutes should be deemed to be in child-related occupations and subject to a WWCC and that any church-related institution should be regarded as child-related environments. Support was expressed for the view that there should be no exemptions for retired clergy.

How far should a WWCC be applied in Out of Home Care (OOHC), specifically, other household members and kinship care?

It was noted that a WWCC is just one component in the process of assessing whether someone is a suitable person to become a carer, however primary care givers must have a WWCC. Carer household are closely monitored by the agency that places the child with them, and carers are required to notify the agency of any changes to that household. However it was noted that this can be difficult to police and relies heavily on the carer notifying the agency.

The following people within a household in which children are being cared for were identified as potentially needing to be checked:

- All adult household members (16 years and over)
- Overnight visitors
- Uncles
- All adult household members of family daycare providers (16 years and over)

Specific issues were raised in relation to kinship care. Kinship care is growing as the most common form of OOHC. There was some discussion about whether kinship care should be treated differently from foster care on the basis that they tended to be shorter term, more informal, and needed to be organised more quickly.

Concerns were again raised about potential difficulties for ATSI communities. While it was argued that there should not be a reduced threshold of care for Indigenous children, difficulties arise particularly where there is a large number of regular adult visitors to the household needing to be identified to child welfare authorities. It was suggested that assessment of whether a family was appropriate to become kinship carers should include assessment of the ability of the primary carer to protect the child from harm.

Session 4: How is information shared between jurisdictions currently, and could it work better?

Update on the COAG Exchange of Criminal History Information for People Working with Children (ECHIPWC)

In mid-2013, COAG agreed to a permanent inter-jurisdictional exchange of criminal history information for screening people working with children, and this system now operates under an Intergovernmental Agreement. Information exchanged includes spent convictions, current charges, prior charges, and circumstances of convictions or charges. Victoria has indicated that it will review its current policy of not sharing information about non-conviction charges. However this information is not currently shared on a continuous basis.

An update on ECHIPWC provided by the inter-governmental branch of the NSW Department of Premier and Cabinet was tabled at the Roundtable.

CrimTrac also provided some background material on how it gathers and shares information between jurisdictions.

How should Working with Children Checks – including denied checks – be recognised across jurisdictional boundaries?

There was agreement among the group that when a person is denied a clearance in one jurisdiction, it should be possible to share that information with other jurisdictions. This is not possible at present.

Should CrimTrac provide continuous history checking?

There was support among the group for continuous criminal history information to be shared across jurisdictions on a national basis, but there was debate about how such a system might work and how frequently the rate of continuous checking should be (daily, weekly or monthly).

The Commonwealth reiterated its opposition to creating a centralised national database. A networked system of databases accessible to each state and territory jurisdiction was suggested as an alternative model. CrimTrac indicated that it was technically possible to provide continuous interjurisdictional checking but this would come at considerable cost.

Summary and next steps

In conclusion, Justice McClellan flagged a number of steps that might potentially progress work in this area:

1. Develop a notification system where a person that has been rejected a WWCC in one jurisdiction would be a flag when applying for a WWCC in another jurisdiction. A rejection in one jurisdiction would not mean an automatic rejection in another. Each state and territory would need to use their own assessment process above an agreed minimum standard.
2. Develop a system where it would be possible to see who had been granted a WWCC in a different jurisdiction, and who had failed. This would be an important step on the way to building a useful national system.
3. All states and territories to agree on a set of baseline principals around what the criteria for a WWCC should be. Each state and territory could then 'top up' this baseline for their own scheme.
4. Agree on how frequently the WWCC should be renewed (2, 3 or 5 years), and on the frequency of continuous monitoring of criminal histories (daily, weekly or monthly).

South Australian Case Studies Table						
Organisation	CrimTrac accredited?	No. of checks/year	Type of check	Trigger to conduct checks	Cost of checks(volunteers)	Acceptance of checks (transferability)
Dept. for Education and Child Development	NO	8,506 volunteers	DCSI child related screening	Legislation (child related screening)	Approx. \$220,000	Only accept DCSI Screening unit checks
Anglicare SA	YES	approx. 900	CrimTrac checks, DCSI checks as required	Policy and Legislation. All employees and volunteers must have a CrimTrac clearance before commencing any role within Anglicare. In addition, employees & volunteers who work within the Community & Housing portfolio with vulnerable clients are also required to obtain a DCSI check.	The cost of police clearances are allocated according to the program budget in which the employee or volunteer works within.	Current CrimTrac & DCSI clearances which have over 6 months currency are accepted. Employees are also required to complete a statutory declaration confirming that they do not have any outstanding criminal matter or have not been charged with an offence.

Organisation	CrimTrac accredited?	No. of checks/year	Type of check	Trigger to conduct checks	Cost of checks(volunteers)	Acceptance of checks (transferability)
Life Without Barriers	YES	approx. 80	DCSI but occasionally CrimTrac for some admin non-client facing roles	legislation	approx. \$8000 (DCSI = \$99 (incl GST) per check employees)	Only if current (less than 3 years of age) and assessed through DCSI
Meals on Wheels	YES	979 police checks through CrimTrac in 2013/14. This financial year we are already up to 327.	CrimTrac currently VOAN prior to becoming CrimTrac accredited	CrimTrac is satisfactory.	The only associated costs is an employee's time to conduct the checks, however this is only a small portion of their role.	Yes. We accept checks from all agencies, as long as they were conducted within the past three years.
Multicultural Youth SA	NO	30-40	National Police Check (VOAN)	For state funded programs we are required by legislation but for national projects it is a requirement of funding that police checks are undertaken (but not legislation).	For volunteers it is free under the VOAN scheme, for staff there is a cost attached.	Yes, as long as it is the original document was undertaken in SA and is no more than 12 months old.

Screening and police checks for volunteers



Government of South Australia
Department for Communities
and Social Inclusion

Choosing the right person for a volunteer role is vital. Many volunteer organisations conduct screening and police checks as part of their recruitment processes. It can also be a requirement under legislation for volunteers working with vulnerable groups, such as children, older people and people with disability.

What are screening and police checks?

Depending on the roles they are performing, volunteers may require either a police check or screening check.

A police check is a record of a person's criminal conviction history. In South Australia, volunteers can apply for a 'National Police Certificate', from South Australia Police (SAPOL). 'National Criminal History Record Checks' can also be obtained through accredited CrimTrac agencies, such as the Department for Communities and Social Inclusion (DCSI) Screening Unit.

A screening check provides an assessment of a person's criminal conviction history and their suitability for a particular position within an organisation as a minimum. Certain types of DCSI screening involve an assessment of a very broad range of criminal history and other relevant information. There is no such assessment with a police check: it is simply a record of a person's criminal conviction history only. The DCSI Screening Unit offers a range of screening check services for organisations whose volunteers work with vulnerable members of the community.

Do I need to get a police check or screening check?

Not all volunteers have to undergo a police check or a screening check, but you may be required to have one if your role involves:

- supporting vulnerable members of the community, such as children, older people or people with disability
- access to certain types of sensitive information
- volunteering with a government agency, or with a non-government organisation that receives funding from government
- volunteering with an organisation that chooses to screen the criminal history of its volunteers as part of its risk management policy and recruitment processes.

If you are unsure about whether you are required to have a police check, the best place to start is often by speaking to your volunteering organisation.

Legislation requiring screening and police checks

Whilst organisations have some choice as to how they screen their volunteers, there are some requirements under legislation, if their volunteers work with vulnerable members of the community.

Organisations have a responsibility to understand and meet these requirements to help ensure all volunteers and community members can enjoy a safe environment.

Government departments, who administer the particular areas of legislation, can assist organisations with their specific queries about screening their volunteers.

A summary of the legislation that includes police check and/or screening requirements, and relevant contact information, is provided below for organisations whose volunteers work with the following vulnerable groups:

- **Children**
The South Australian *Children's Protection Act 1993* requires organisations to ensure that before a volunteer is appointed to a prescribed position that an assessment of the volunteer's criminal history is undertaken. Organisations may choose to obtain a police check, prepared by SAPOL or CrimTrac, or other prescribed evidence of the person's criminal history and to conduct an assessment themselves. Alternatively, organisations may obtain a criminal history assessment from an authorised screening unit, such as 'Child-Related Employment Screening' from the DCSI Screening Unit. For further information, visit the [Families SA website](#) or phone (08) 8463 6468.
- **Older people in Aged Care Facilities**
Aged care providers, funded by the Australian Government under the *Aged Care Act 1997*, are required to have staff and certain volunteers undergo a police check to assess their suitability to work in aged care. Organisations may choose to obtain a National Police Certificate or a National Criminal History Record Check as part of their recruitment process. Further information, visit the [Department of Health website](#) or phone 1300 653 227.
- **People with disability**
As of 1 July 2014, new screening processes have been introduced through amendments to the *Disability Services Act 1993* and corresponding *Disability Services (Assessment of Relevant History) Regulations 2014*. South Australians who volunteer in certain roles for disability service providers, funded under the *Disability Services Act 1993*, are now legally required to undergo 'Disability Services Employment Screening' by the DCSI Screening Unit. For further information, visit the [DCSI Screening Unit website](#) or phone 1300 321 592.

How much does a police check or screening check cost?

Free police checks, in the form of the National Police Certificate, are available to volunteers of community organisations who work with vulnerable groups such as children, older people or people with disability. To qualify, their organisation must have a Volunteer Organisation Authorisation Number (VOAN), from SAPOL. If an organisation is not eligible for a VOAN, the volunteer may be entitled to a reduced fee, which is currently \$37.50 compared to the individual full fee of \$58. For further information, visit the [SAPOL website](#) or phone (08) 7322 3347.

Alternatively, the DCSI Screening Unit offers a range of screening checks, for people working with vulnerable members of the community. These services are available at a reduced rate of \$55 for volunteers. Their screening assessments are valid for three years and volunteers are only required to pay one fee, regardless of the number of applications they submit, as long as the applications are submitted together. For further information, visit the [DCSI Screening Unit website](#).

DBS Update Service (United Kingdom)

Media Article by Lord Taylor of Holbeach

The Telegraph (UK)

20 December 2012

Millions of volunteers to benefit from free portable criminal records checks**A new service will be launched next year that will save time and cut the burden of bureaucracy that volunteers currently face, writes Lord Taylor of Holbeach**

Currently most people have to apply for a new criminal record check every time they move job or volunteer with a new organisation

Each year millions of volunteers give up their own time to serve their communities. Whether it is working in a hospital, school or college, in outreach work or as part of a community project each role is vital. Volunteers are extraordinary people who care passionately about helping people and improving their communities and undoubtedly we all owe them a great debt.

That is why in Spring 2013 a new service will be launched that will save time and cut the burden of bureaucracy that volunteers currently face when they apply to work in different roles. The 'Update Service' will radically overhaul the current criminal records process, cutting red tape and improving public protection. I am pleased to confirm that this service will be free to volunteers.

This is a service that has been called for by voluntary groups up and down the UK. For too long the motivation to make a difference has been undermined by a cumbersome system for criminal record checks. Too many people have had to apply for a new check every time they move job or volunteer with a new organisation. This brings the additional bureaucracy of filling out another application form and then the frustration of waiting for the check to be provided. Those who give freely and generously of their time should be encouraged not be put off by inefficient processes.

Of course the protection of vulnerable groups is of paramount importance to this government. It is vital that we have strong, effective systems in place to allow organisations to identify individuals who could pose a risk and criminal record checks play an important role. But when nearly half a million who applied a check last year were found to have been required to apply for multiple checks, in many cases just weeks apart and for similar roles, it is time to reform the system.

The government has listened to volunteers and the organisations that benefit from their hard work. At the launch of the new Update Service, which will be delivered by the Disclosure and Barring Service (DBS), volunteers will find that, instead of having to undergo a criminal records check each time they apply for a new position, they may only have to apply once for a certificate. Voluntary organisations can then, with the permission of the volunteer, go online for a free, instant check to find out if anything has changed since their last check. With nearly two million people expected to take up this new service in 2013/14, around a quarter of whom are volunteers, the benefits will be far reaching.

It is not just volunteers who will benefit. The Update Service will speed up the recruitment process for public and private sector employers, saving organisations time and money and making it easier for people with a valid certificate to change jobs whilst ensuring robust safeguarding measures are in place. Among those who will benefit from the new portable service are locum doctors who need to apply for a new check every time they move hospital, care workers who are registered with numerous agencies and university students who can instantly satisfy vetting requirements for work placements.

However, it is important to recognise that criminal records checks are just one tool at the disposal of employers to make informed recruitment decisions. We all have a responsibility to ensure that staff are properly managed and supervised and that, where there are concerns, information is referred to both the police and the DBS. I'm confident that the new Update Service will deliver real benefits to employers and volunteers. It is time to remove the need for volunteers and employers to jump through hoops and go through hours of unnecessary form filling whilst keeping public safety firmly at the heart of the recruitment process.

Further information

- Check the [DBS website](#) for the most up-to-date information.
- [DBS Update Service: Employer Guide](#) (DBS, June 2013) answers some frequently asked questions.
- [DBS Update Service: Employer Presentation](#) (DBS, June 2013) covers: the background to the Update Service; other changes coming in at the same time; who could benefit and how; reusing a DBS certificate; how applicants subscribe; and using the status-checking facility.