



Position Statement

Working with Children Checks **September 2016**

Summary:

Volunteering Tasmania (VT) as the Peak body for volunteering in Tasmania, has prepared a policy position statement on Working with Children and Vulnerable People in Tasmania.

VT has had significant involvement with the implementation of the *Registration to Work With Vulnerable People Act* (the Act). As the Peak body for volunteering, we have supported Volunteer Involving Organisations (VIOs) to better understand their legislative requirements.

This position statement reflects VT's views on the important role Working with Children Checks play in the volunteering industry. This statement provides guidance on:

- a) The rationale behind Working with Children and Vulnerable People checks
- b) The adoption of Working with Children and Vulnerable People checks in the volunteering sector
- c) Recommendations for further action in this field.

VT notes that the cost and process involved in the Working with Children checks may be burdensome for volunteers and the organisations they belong to. It is our position that the difficulty this presents is mitigated by the importance of compliance with the Act.

Background:

There has been a push for national consistency around the background checks undertaken by people working with vulnerable persons in the community. This has been largely driven through the Council of Australian Governments (COAG). Nationally, all Australian governments endorsed the first National Framework for Protecting Australia's Children 2009-2020. All tiers of government have committed to

implementing the actions under this Framework to ensure a consistent, national approach to protecting Australia's children.¹

The premise of background checking assumes that past behaviour of an individual may indicate possible future behaviour. The exclusion of people with a known history of certain behaviour is a fundamental part of creating a safe environment for children and vulnerable people.²

Tasmania has committed as part of the COAG reforms to implement these changes. To fulfil its obligations with COAG, Tasmania has a process for registering to work with children.³ If you volunteer or work with children you may be required to apply for the Working with Children registration.⁴ This registration goes beyond a police check and includes:

- d) Convictions for all criminal offences
- e) Convictions that are not usually declared (spent convictions)
- f) Pending charges
- g) Charges that have been finalised but not resulted in a conviction ('non conviction charges')

A Police Check, in contrast, does not assess or investigate offenses in relation to working with children. It is relevant to a criminal record only.

It is important to note that a criminal record may not prevent a volunteer from working with children. The background check considers the nature of the charge and its relevance to child-related work.

Applicants have a right of review.⁵

Working with Children in the Volunteering Industry

VT unequivocally supports the use of Working with Children checks in the volunteering industry. It is pivotal that volunteers working with children are aware of their responsibilities to provide a safe environment. VT believes the Working with

¹ Australian Government, "National Framework for Protecting Australia's Children 2009–2020", *Department of Social Services* <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (accessed 8 April 2016)

² Tasmanian Government, "Public Comment Sought On Working With Vulnerable People Checks", *Department of Health and Human Services* at <http://www.dhhs.tas.gov.au/ofc/news/public-comment-sought-on-working-with-vulnerable-people-checks> (accessed 16 April 2014)

³ Australian Government, "Protecting Children is Everyone's Business" *Department of Social Services* <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (accessed 17 April 2014)

⁴ If you are unsure whether you are required to apply for the Working with Children registration please head to http://www.justice.tas.gov.au/working_with_children/who_needs_registration

⁵ Tasmanian Government, "Working with Children Check", *Department of Justice* http://www.justice.tas.gov.au/working_with_children

Children checks also forms a core function of a VIOs duty of care, where checks can be undertaken:

- h) to minimise risk to the organisation
- i) to minimise risk to the organisation's clients and stakeholders
- j) to minimise risk to the volunteer, and other volunteers

To meet the National Standards for Volunteer Involvement, VIOs should also be addressing adequate background checks as part of Standard 4 (Recruitment and Selection).⁶

VT notes that the fact that the person responsible for a child or vulnerable person may be a volunteer does not remove or reduce the potential risk of harm that they pose to other vulnerable people involved in the activity. The requirement to be registered may present a potential barrier or inconvenience for the volunteer. It is VT's position, however, that potential inconvenience does not outweigh the importance of consistent, reliable screening for the protection for anyone supervising a child. This is a requirement for anyone regardless of industry or organisation, 16 years or over.⁷

As part of a commitment to protecting children and vulnerable people, VT recommends that new and existing volunteers that work unsupervised with children or vulnerable Tasmanians undertake a Working with Children Check.

Additionally, VT recommends that the Working with Children registration forms one element comprised of an overall policy and approach to keeping children safe. It could be part of an overall risk management strategy.

Recommendations:

Ongoing work between the State Government, VT and the volunteering sector is required to ensure appropriate education and awareness of any changes to the Act. A collaborative approach is required to minimise confusion around any new requirements and responsibilities. This is also important to minimise risk of misuse of the volunteer registration under the Act.

VT makes three recommendations for consideration to improve the current requirements under the Act.

⁶ Volunteering Australia, "National Standards for Volunteer Involvement" at <http://www.volunteeringaustralia.org/policy-and-best-practise/national-standards-and-supporting-material/> (11 April 2016)

⁷ Ibid

1. Reduce the cost of Working with Children Checks

As the Peak body for volunteering, VT recommends that financial costs, liabilities or administrative burdens are limited for individuals and VIOs.

Financial barriers to volunteering could result in significant recruitment issues for VIOs and threaten their ability to continue to function and deliver services to the community. Costs can present a barrier to potential volunteers who may be excluded from volunteering because they are unable to meet that cost.

Costs may also have an impact on VIOs who may be reimbursing any expense of the Working with Children registration. Not all VIOs have the capacity to do so within their current funding arrangements. For VIOs meeting the cost for screening volunteers may have a significant impact.

National Police Checks are currently subsidised to the cost of \$5.00. VT recommends that the cost of Working with Children Checks for volunteers are reduced to this price. This would ensure fees can be collected to support processing of the registration, but reduce the financial impact on volunteers and VIOs.

2. Introduce invoicing arrangements for Working with Children Checks

Participation in volunteering is vulnerable to the imposition of costs. If there is a cost incurred by individuals in order to volunteer, they may be excluded from volunteering opportunities or seek other options that do not involve an out-of-pocket expense. Potential volunteers may not be able to meet the cost of a Working with Children Check.

VT's position on Reimbursement of Expenses, is that volunteers are reimbursed for reasonable expenses associated with their volunteer efforts. This should include Working with Children Checks. However, the current system for payment only enables individuals to pay for these registrations. Whilst the cost for volunteers has been significantly reduced for both fees, the upfront payment may be a significant problem for some individuals. This could additionally result in significant recruitment issues for VIOs.⁸

VT recommends pursuing opportunities for individuals to have the option of invoicing the cost of their registration to the organisation they are volunteering for. This would result in payment being directly made by the organisation at no cost to the individual, should they be unable to meet the upfront cost involved.

⁸ Volunteering Tasmania, "Volunteer Reimbursement Policy Position Statement"
www.volunteeringtas.org.au/wp-content/uploads/2015/11/po8.pdf (accessed 8 April 2016)

3. Ensure a grace period as part of the Working with Children Check Implementation Process

VT commends the State Government's focus on protecting the existing subsidised fee for volunteers. To safeguard the reduced fee, VT would support measures that ensure volunteers converting to a paid position meet the fees for a paid worker.

Given the changes required under the proposed amendments, VT recommends a 'grace' period be introduced as part of the implementation process. Many VIOs and volunteers have only recently adapted their internal procedures to bring them into line with current legislation. Adopting severe penalties before these organisations and individuals have had time to adapt to new requirements is not a preferred option.

Volunteering Tasmania recommends a 'grace' period be introduced as part of the implementation process. Many organisations have only recently adapted their internal procedures to bring them into line with current legislation. Adopting severe penalties before these organisations and individuals have had time to adapt to new requirements is not a preferred option. Working collaboratively would give organisations and volunteer's time to understand any new requirements and responsibilities. This minimise risk of misuse of the volunteer registration under the Act.

References:

Australian Government, "National Framework for Protecting Australia's Children 2009–2020", *Department of Social Services* <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (accessed 8 April 2016)

Australian Government, "Protecting Children is Everyone's Business" *Department of Social Services* <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (accessed 17 April 2014)

Tasmanian Government, "Public Comment Sought On Working With Vulnerable People Checks", *Department of Health and Human Services* at http://www.dhhs.tas.gov.au/ofc/news/public_comment_sought_on_working_with_vulnerable_people_checks (accessed 16 April 2014)

Tasmanian Government, "Working with Children Check", *Department of Justice* http://www.justice.tas.gov.au/working_with_children

Volunteering Australia, "National Standards for Volunteer Involvement" <http://www.volunteeringaustralia.org/policy-and-best-practise/national-standards-and-supporting-material/> (accessed 8 April 2016)

Volunteering Tasmania, "Volunteer Reimbursement Policy Position Statement" www.volunteeringtas.org.au/wp-content/uploads/2015/11/po8.pdf (accessed 8 April 2016)

Volunteering Tasmania, "Background Checks Fact Sheet", www.volunteeringtas.org.au/wp-content/uploads/2015/11/pub6.pdf (accessed 8 April 2016)

Volunteering Tasmania, "Working with Children Check Submission" at www.volunteeringtas.org.au/.../working-with-children-checks-submission (accessed 8 April 2016)

Volunteering Tasmania, "Budget Priority Statement 2016-17" at <http://www.volunteeringtas.org.au/2015/12/17/sector-priorities-have-been-submitted-to-state-government-agencies/> (accessed 8 April 2016)