



# PeakCare

## Queensland Inc.

Commissioner Peter McClellan AM  
Royal Commission into Institutional Responses  
to Child Sexual Abuse  
GPO Box 5283  
Sydney NSW 2001

12 August 2013

Dear Commissioner McClellan

### **Re: Issues Paper 1 - Working with Children Check**

PeakCare Queensland Incorporated (PeakCare) welcomes the opportunity to make a submission in response to the first issues paper released by the Royal Commission into Institutional Responses to Child Sexual Abuse.

Queensland's working with children check, currently administered through the Commission for Children and Young People and Child Guardian (the Commission), is promoted by the Commission as the most comprehensive of schemes across Australia. The purpose of working with children checks is to prevent the opportunity for certain people to come in contact with children and young people. Queensland, for example, asserts the schemes are effective because some applicants are refused a positive notice and others have their clearance cancelled due to changes in the holder's criminal history. The percentage is however very small, both in respect of the number of people (adult and/or child workers and volunteers) subject to screening who do not receive a positive notice and in terms of the card holders whose cards are cancelled. Queensland's scheme is indeed very expensive to operate and was subject to the deliberations of the recently concluded Queensland Child Protection Commission of Inquiry, which made negative findings about the costs versus benefits of the scheme and its ineffectual role in really reducing risks to children (p.444). The recent media attention on unaccompanied humanitarian minors in Tasmania who have been held in detention because the jurisdiction does not have a working with children check highlights the way in which a perception of risk overrides attention to children's wellbeing.

By the very nature of the schemes, only those people who have a history of criminal charges or convictions are identified through checking. This Royal Commission, as with other public inquiries into abuse of children and young people, will again reveal the innumerable instances where children were subject to sexual and physical abuse in settings where children were intended to be safe, and many of those perpetrating the abuse were never disciplined or subject to police investigation, charges or convictions.

On the other hand, criminal history checking schemes also highlight the inequity for those people who were convicted of crimes that no longer exist or those who have served their time but continue to be punished through discriminatory employment practices. For Aboriginal and Torres Strait Islander peoples who are disproportionately represented in the youth and adult criminal justice

systems, the schemes have the unintended consequences of dissuading people from applying for checks (eg. as part of foster and kinship carer assessments) as well as referring to charges that may have come about through life circumstances that mean people at higher risk of coming to police attention or even discriminatory law enforcement practices.

PeakCare supports a nationally consistent approach to ensuring that adult workers and volunteers (i.e. children should not be subject to checks) do not pose a threat to the children and young people for whom they care or provide services. The first step would be for states and territories to agree a common objective for working with children check regimes, based on research evidence about the links between criminal, traffic, domestic violence and/ or child protection histories and ensuring safe organisational environments for children. As part of this, PeakCare supports the development of nationally consistent guidelines for child safe, child friendly organisations and nationally consistent approaches to reporting suspected child abuse and neglect to child protection authorities.

PeakCare is of the view that recruitment, selection, training and supervision practices can be a more effective means of keeping children safe, as these practices can be tailored to the organisational environment. A person's history can be considered in the context of the position and their duties with children and young people. This approach indicates the need for greater flexibility than the current mandatory barring of applications or positive notices in respect of particular crimes. Some New South Wales cases in 2012 reported in the news highlighted the absurdity of automatically barring adults who had engaged in consensual yet under-age sex.

The false sense of security attached to screening *everyone* means that winding back schemes (which generally have only been expanded as a result of reviews and inquiries) is very difficult. In other jurisdictions however, such as the United Kingdom, perceptions about the invasion of peoples' privacy saw their 'vetting and barring scheme' wound back to 'common sense' levels in recent years.

In respect of some of the other questions posed in the issues paper, a person's juvenile record should not be considered in a check. Those receiving a negative notice should be able to seek a review of the decision in a forum in which the judicial officers have child protection expertise, for example, in Queensland, the Civil and Administrative Review Tribunal.

Please contact me if you have any queries about this submission or require further information.

Yours sincerely



Lindsay Wegener  
Executive Director

