



**CREATE Foundation Submission to the Royal Commission into  
Institutional Responses to Child Sexual Abuse**

**Response to Issues Paper 1: Working with Children Check**

## About CREATE Foundation

As the national consumer body advocating for children and young people with a care experience, CREATE seeks to provide opportunities for children and young people to have a voice and be heard. CREATE is unique in that it is one of only a handful of organisations in the world, and the only organisation of its kind in Australia, expressly established to advocate on behalf of children and young people in care.

CREATE's mission is to create a better life for children and young people in care, including those who are or have been the subjects of care and protection orders. CREATE is committed to connecting to children and young people with a care experience, empowering them to develop in order that they may realise their potential, and maximising the ways in which the care system can change for the better.

CREATE Foundation appreciates the opportunity to provide a response to the Royal Commission into Institutional Responses to Child Sexual Abuse first issue paper on working with children checks. CREATE believes that children and young people with a care experience can play an important role in providing the Royal Commission an insight into their experiences within Australia's statutory care system.

CREATE Foundation's policy positions are informed by the voices of children and young people gathered through consultation and survey. CREATE believes there are benefits for the Royal Commission in providing opportunities, when appropriate, for children and young people to participate in dedicated consultations on issues such as the Working with Children Check.

In response to Issues Paper 1, CREATE Foundation focuses on the need for a Nationally Consistent Approach to Working with Children Checks and considerations regarding the barriers faced by Aboriginal and Torres Strait Islander people wanting to become approved carers.

## Working with Children Check – A Nationally Consistent Approach

As a signatory to the Council of Australian Governments (COAG) endorsed *National Framework for Protecting Australia's Children 2009-2020*, CREATE committed to the establishment of a nationally consistent approach to working with children checks (WWCC).

A position paper developed by the COAG Working with Children Checks Working Group outlines a plan to progress a nationally consistent approach as well as key concerns in implementing such a plan.<sup>1</sup> CREATE Foundation recognises the complexities involved in a nationally consistent approach, and as such suggests that the issues contained in the COAG position paper are considered by the Royal Commission in the development of recommendations regarding WWCC.

Should the findings of the Royal Commission determine the need for changes to policy and legislation, CREATE Foundation strongly recommends the involvement of key child protection organisations in the development of any proposed changes. The complexities and differences across jurisdictions requires careful consideration of the practical, operational, and social impacts of any proposed changes and for this reason must include consultations with the organisations required to meet policy and legislative directives. In addition to consulting with state and territory governments and key non-government organisations, CREATE recommends consultation with children and young

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<sup>1</sup> Retrieved 08/08/13 from <http://www.fahcsia.gov.au/our-responsibilities/families-and-children/publications-articles/a-nationally-consistent-approach-to-working-with-children-checks-2011>

people in care and key Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse organisations.

### Working with Children Check and Aboriginal and Torres Strait Islander carers

Aboriginal and Torres Strait children and young people are more than ten times more likely to be in care than non-Indigenous children. The overrepresentation of these vulnerable children in care is concerning and CREATE, along with non-government organisations across Australia, advocates strongly for a national response.

The Aboriginal and Torres Strait Islander Child Placement Principle has been endorsed in legislation or policy in all states and territories of Australia. Variations in how the principle is applied in each jurisdiction results in inconsistency in the process of finding placements for Aboriginal and Torres Strait Islander children in care<sup>2</sup>. In addition, a lack of approved Aboriginal and Torres Strait Islander carers results in many children not living in what the Principle refers to as a “preferred placement”<sup>3</sup>, with 31.2% living somewhere other than with relatives/kin, other Indigenous caregivers, or in an Indigenous residential facility.<sup>4</sup>

Working with children checks were cited as a barrier to the recruitment of Aboriginal and Torres Strait Islander carers during the recent Queensland Child Protection Commission of Inquiry<sup>5</sup>. Challenges relating to remoteness/isolation and establishing contact, literacy and language barriers, culturally-appropriate communication, and proof of identity have been acknowledged, along with misconceptions about how criminal histories affect the outcome of applications<sup>6</sup>. CREATE Foundation recommends that any changes to WWCC look at ways reducing barriers to Aboriginal and Torres Strait Islander people applying to become approved kinship or foster carers, and that Indigenous organisations, such as the Secretariat of National Aboriginal and Islander Child Care (SNAICC), are consulted in the process.

As the national consumer advocate for children and young people in care, CREATE advocates for the rights of children and young people to have a say about their lives including with whom and where they live. It is important that these children’s voices are heard when considering their connection to culture. However, the right of children and young people to live in a safe and loving environment must always be the overriding concern and all WWCC must work to minimise the risk of harm.

Thank you for providing the opportunity to respond to the Royal Commission’s first issues paper. CREATE commends the Royal Commission for encouraging discussion of these important issues at this early stage of the Commission’s work.

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<sup>2</sup> Tilbury, C. (2013). *Aboriginal and Torres Strait Islander Child Placement Principle: Aims and Core Elements*. North Fitzroy, VIC: SNAICC. p.18. [www.snaicc.org.au/uploads/rsfil/03167.pdf](http://www.snaicc.org.au/uploads/rsfil/03167.pdf)

<sup>3</sup> Lock, J. (1997). *The Aboriginal Child Placement Principle*. Sydney, NSW: New South Wales Law Reform Commission.

<sup>4</sup> Australian Institute of Health and Welfare. (2013). *Child protection Australia 2012-13*. Canberra, ACT:AIHW. Table A25, p.81

<sup>5</sup> Carmody, T. (2013). *Taking Responsibility: A Roadmap for Queensland Child Protection*. Brisbane, QLD: Queensland Child Protection Commission of Inquiry. p.368

<sup>6</sup> “Aboriginal and Torres Strait Islander Participation in the Blue Card system” Queensland Commission for Children and Young People and Child Guardian. Web article November 2012. [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au)



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