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Your Ref:  
Our Ref: 52#5

29 September 2009

Paul Hallahan  
Committee Secretary  
Standing Committee on Legal  
and Constitutional Affairs  
Parliament House  
CANBERRA ACT 260

Dear Mr Hallahan

## **INQUIRY INTO THE CRIMES AMENDMENT (WORKING WITH CHILDREN-CRIMINAL HISTORY) BILL 2009**

Thank you for your letter of 14 September 2009 inviting a submission to the above Parliamentary Inquiry.

### **1. BACKGROUND**

Since my appointment as Commissioner for Children in April 2007, I have been actively following developments in this important means of promoting children's safety and well being. I am aware of the work that has been done by the Community & Disability Service Ministers' Conference (CDSMC) "Creating Safe Environments for Children" and I have studied the situation in other State and Territory jurisdictions via attendance at the annual National Operators Forum Conference of Working with Children Check Institutions.

I endorse the strong stance taken by the Federal Government and by State and Territory jurisdictions to implement legislation and processes designed to protect and safeguard children from harm by

The Commissioner for Children is an independent, statutory office responsible to the Parliament of Tasmania. The Commissioner's functions include promoting the rights and well-being of children and young people, examining and advising Government on policies, practices and services provided for children and laws affecting their health, welfare, care, protection and development.

pre-employment screening of persons seeking to work in child related employment (including as volunteers).

## 2. SPECIFIC ISSUES/COMMENTS

### (a). Non-conviction information

I strongly support the inclusion of non-conviction information in any screening of individuals for child-related work and therefore endorse the scope of the Bill in that it permits disclosure etc of pardons, quashed and spent convictions.

### (b). Section 85 ZZGE- Prescribed persons and bodies

I endorse the preconditions to be met by each State and Territory authority that will operate as a "prescribed person" or "prescribed body" for the purpose of dealing with Commonwealth criminal history information to be used in assessing a person's suitability to work in child-related employment.

However I also note that screening is only one small part of the process of promoting child safety. It is undoubtedly the case that some perpetrators of abuse against children do not have any prior criminal history of any sort, including of child abuse. Child abuse outside the family is rarely opportunistic and is usually based on establishing a relationship of false trust via grooming. Therefore, the arrangements organisations make in relation to organisational structure and culture to limit opportunity for the development of unsafe relationships should also play an important role in promoting child safety.

I note that the expression "risk assessment frameworks" in proposed s.85ZZGE is not defined in s.85ZZGF or elsewhere. On the face of it this includes any "assessment framework" of any degree or quality. For instance a State or Territory may rely simply and solely on conviction or non-conviction for a very limited class of offences in assessing in the words of s.85ZZGA "the suitability of persons to work with children", and this would not appear to meet the expectations of the National Framework developed by CDSMC.

Consequently, I RECOMMEND that in order to be proclaimed a "prescribed body" or "prescribed person", the person or body's "risk assessment frameworks" should be defined.

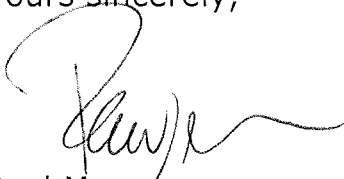
Perhaps they could be defined as frameworks compliant with minimum standards consistent with the Schedules of the National Framework "Creating Safe Environments for Children" developed by

CDSMC, in particular the Schedule "An evidence-Based Guide for Risk Assessment and Decision-making when Undertaking Background Checking" July 2006.

## CONCLUSION

I look forward to the Report of the Parliamentary Inquiry and thank you for the opportunity to participate by making this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Paul Mason", with a large, stylized initial "P" and a long, sweeping horizontal stroke extending to the right.

Paul Mason  
Commissioner