



25 November 2011

Mr Timothy Pilgrim  
Australian Privacy Commissioner  
Office of the Australian Information Commission  
GPO Box 5218  
SYDNEY, NSW 2001

Dear Mr Pilgrim

**Re: Application from UnitingCare Wesley Adelaide for a Public Interest Determination (PID) concerning National Privacy Principles (NPPs) 2.1 and 10.1**

I write on behalf of the Australian Children's Commissioners and Guardians (ACCG) to express our support for the application by UnitingCare Wesley Adelaide for a Public Interest Determination (PID) by the Australian Privacy Commissioner to exempt some organisations from applying the test of *imminence* when disclosing personal information without consent.

Recent inquiries and reviews of child protection systems have consistently recommended improved information sharing among agencies to allow for earlier intervention when a child is at serious risk of harm. Strategy 2.2 in Australian Governments' *National Framework for Protecting Australia's Children* is to develop "new information sharing provisions between Commonwealth agencies, State and Territory agencies and NGOs dealing with vulnerable families". This will expand the information sharing protocol between Commonwealth agencies and state child protection authorities. Associated with this and equally important is sharing information within state and territory borders among private and public sector organisations.

We note too that the Australian Government has signalled its intention to pursue national harmonisation of privacy principles and law, including removal of the test of imminence when disclosing personal information to prevent serious harm to an individual.

ACCG members promote and protect the rights, interests and wellbeing of children and young people. In our view, the requirement that threats to a child or young person be imminent as well as serious sets an inappropriately high bar to disclosure of personal information in cases where children or young people are at risk. We note here the Australian Law Reform Commission's recommendation that the requirement for a threat to

be imminent should be removed from principles governing use and disclosure of personal information (see Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice*, Report 108 (2008), [25.83], Rec 25–3).

Sharing information earlier when serious harm to a person can be reasonably anticipated is critical to protecting the safety and wellbeing of children. Improved information sharing for early intervention was discussed at the November 2011 meeting of the ACCG. The ACCG resolved to support the application by UnitingCare Wesley Adelaide for a determination by the Australian Privacy Commissioner that would allow disclosures of personal information to prevent serious harm from occurring, where that harm is anticipated, and where there are procedures in place that protect the use and recording of such information. A generalised determination will mean that other organisations in similar circumstances can benefit from the decision, ahead of proposed changes to national privacy principles which would remove the test of imminence.

Thank you for the opportunity to comment on the application. For further information please contact Mr Gregor Macfie, Director of Policy and Research, on 02 9286 7243 or [gregor.macfie@kids.nsw.gov.au](mailto:gregor.macfie@kids.nsw.gov.au).

Yours sincerely



**Megan Mitchell**  
**NSW Commissioner for Children and Young People**

**Signed on behalf of ACCG members:**

Aileen Ashford, Commissioner for Children (Tasmania)  
Howard Bath, Children's Commissioner (Northern Territory)  
Kerryn Boland, Children's Guardian (NSW)  
Elizabeth Fraser, Commissioner for Children and Young People and Child Guardian (Queensland)  
Bernie Geary, Child Safety Commissioner (Victoria)  
Alasdair Roy, Children and Young People Commissioner (ACT)  
Michelle Scott, Commissioner for Children and Young People (Western Australia)  
Pam Simmons, Guardian for Children and Young People (South Australia)