



Factsheet 3: Information for Employers and Volunteer Organisations

Background

The *Working with Children (Criminal Record Checking) Act 2004* (the Act) aims to protect children from harm by providing a high standard of compulsory national criminal record checking for people wishing to do paid, unpaid or volunteer child-related work in Western Australia. The Working with Children Check (WWC Check) considers criminal records to see if people have charges or convictions that indicate they may harm a child.

Employers and volunteer organisations have a number of responsibilities and obligations under the Act which are outlined in this factsheet.

Safer Environments for Children - Minimising Risk

Obtaining a WWC Check is **only one** of the practices that responsible organisations put in place to promote safer environments for children. Suitability to work with children covers a wide range of factors other than just offence history, such as character, skills and experience. Other necessary procedures include:

- rigorous recruitment and selection practices, including thorough referee checks
- good supervision and training
- policies that promote safer and supportive environments for children
- a work culture which ensures that children's concerns are heard



Many employers have good risk management policies that include practices that safeguard children, codes of conduct and supervision and training. The WWC Check legislation strengthens human resources management and supports employers to build organisations that are safer for children.

Employers and volunteer organisations must make sure that employees, volunteers and students who are in child-related work have valid WWC Checks. Employers and volunteer organisations can also improve safety by requiring people who are not in child-related work or are exempt from obtaining a WWC Check to obtain either a National Police Check for Volunteers or a National Police Certificate. For more information about child-safe practices please read the **Safer Organisations Safer Children** booklet.

Who Needs a WWC Check?

Under the Act, people whose usual duties of work involve (or are likely to involve) contact with a child (under 18) in connection with one or more categories of child-related work are required to have a WWC Check. There are 19 categories of child-related work in the Act.

For more information, see **Factsheet 1: What is Child Related Work?** www.checkwwc.wa.gov.au. There are also some exemptions outlined on page 2.

Who Needs a WWC Check?

The following steps will help you to identify if a person (paid/ unpaid/ volunteer/ student/ self employed) is in child-related work and requires a WWC Check:

<p>Question 1: Are you or any employees/ volunteers/ students within your organisation doing paid, unpaid or volunteer work in connection with any of the categories of child-related work listed in Section 6(1)(a) of the <i>Working with Children (Criminal Record Checking) Act 2004</i>?</p> <p>See <u>Factsheet 1: What is Child-Related Work?</u></p>	<p>YES Go to question 2</p>	<p>NO A WWC Check is not required</p>
<p>Question 2: Do the usual duties of the work involve, or are they likely to involve, contact with a child?</p> <p>Contact includes any form of:</p> <ul style="list-style-type: none"> • physical contact • oral communication, whether face to face, by telephone or otherwise • electronic communication <p>but does not include contact in the normal course of duties between an employer and an employee (including employees under 18 years) or between employees of the same employer.</p>	<p>YES Go to question 3</p>	<p>NO A WWC Check is not required</p>
<p>Question 3: Does an exemption apply?</p> <p>To see if an exemption applies see <u>Factsheet 5: Child-related work and exemptions</u></p>	<p>YES If an exemption applies a WWC Check is not required.</p>	<p>NO If no exemption applies a WWC Check is required.</p>

Exemptions

Certain people don't need to have a WWC Check and must not apply for one.

Following are some examples of exemptions. For full details, check the information in **Factsheet 5 "Child-related work and Exemptions"** www.checkwwc.wa.gov.au:

- Volunteers and students on unpaid placement who are under 18 years of age.
- Parents volunteering in many activities where their child is also involved. This exemption **does not** apply to parents volunteering at overnight camps attended by their children.
- Short term visitors to Western Australia carrying out child-related work during the period of two weeks after their arrival in Western Australia, and for no more than two weeks in any period of 12 months.

Note: If a parent volunteer is exempt and an employer/volunteer organisation identifies specific activities where a criminal record check would improve safety, they can have their own policy that parent volunteers must have either a National Police Check for Volunteers or National Police Certificate.

General information and summary only - please visit the WWC website at www.checkwwc.wa.gov.au for further details.

How to Apply for the WWC Check

The WWC Check application form is available at authorised Australia Post outlets throughout the state. A list of these can be found at www.auspost.com.au/workingwithchildren.

Applicants should complete their information on the application form with the employer or organisation's agency representative completing parts 5 and 6 and co-signing the form in Part 7. This is to confirm the applicant will be employed or volunteering in child-related work with the organisation and that all organisation information is correct. **It is important that agency representatives do not fill in and sign blank application forms.** By signing the application form the agency representative declares that the applicant is in child-related work; penalties apply for providing false or misleading information to the WWC Screening Unit.

Applicants lodge their application in person at an authorised Australia Post outlet. When lodging the application form, applicants must present sufficient documents to meet the 100 points identification criteria and pay the required fee. Accurate identifying information is essential to make sure the criminal history check is carried out for the correct person, this includes current address details and photographic identification. See the guidelines on the application form for full information about what identification is acceptable. Visit our website www.checkwwc.wa.gov.au for the current fees for paid, self employed people, volunteers and students.

Applications are validated once received by the WWC Screening Unit. In some cases applicants and agency representatives may be contacted by the Unit to obtain further information, such as missing personal information or clarification of the child-related work. If you fail to provide the information required within the specified time your application may be deemed to have been withdrawn and you cannot engage in child-related work.

On completion of the Check, the agency representative who signed the application form receives the outcome of the check and any related correspondence. This person should therefore be someone in a position of authority and responsibility within the organisation. There is also capacity on the application form to identify a central position for such contact, instead of the representative who signed the application form.

Applicants who do not have sufficient identification or who live in remote communities and are unable to access an authorised Australia Post outlet, should contact the WWC Screening Unit on (08) 6217 8100 or 1800 883 979 (Country callers) to find out how they can apply.

WWC Cards are valid for three years (unless cancelled earlier), after which time, card holders must re-apply for a WWC Check if they wish to continue their child-related work. The application process of completing a WWC Check application form and lodging it at an authorised Australia Post is the same for each application. Card holders should re-apply at least one month before their current WWC Card expires.

The Five Day Threshold and Defence

It is an offence for employers, volunteer organisations and education providers to engage a person in child-related work without a WWC Card or having applied for one. Equally it is an offence for employees, volunteers and students to carry out child-related work without doing so. However the Act provides a five day grace period in most cases to provide reasonable flexibility and allow for unforeseen circumstances. This 'threshold' is different for volunteers/ students/ employees/ self employed and employers/ volunteer organisations/ education providers and importantly does not apply in all cases.

The five day threshold for employers/ volunteer organisations/ education providers does not apply to licensed child-care services (who must never engage a person in child-related work without that person first applying for a WWC Check, if they do not already have one). All other employers/ volunteer organisations/ education providers do not commit an offence if they engage most people for no more than five days in a calendar year *before* that person has applied for a WWC Card. However, this five day threshold **does not** apply if the employer or volunteer organisation knows that the person has been convicted of, or has a pending charge for a Class 1 or 2 offence, in which case an employer or volunteer organisation will commit an offence if they do not ensure that the employee, volunteer or student applies for a WWC Check before they actually start their child-related work role.

The five day threshold also does not apply where the employer or volunteer organisation is aware that a person has a current Negative Notice, an Interim Negative Notice, or has withdrawn their application for a WWC Check.

For volunteers, students, employees and self employed people the five day threshold is a 'defence'. It allows most people to be engaged in child-related work on no more than five days during the calendar year without a WWC Check. It also gives employees, volunteers, students and self employed people flexibility as they are not committing a breach of the Act if they suddenly find that they are required to engage in child-related work, for example if their role changes to include child-related work or if they are required to fill in for a sick colleague or volunteer.

The five day defence is not available to all employees, volunteers, students and self employed people. It does not apply to a person working with a licensed child care service, or a person who has been convicted of a Class 1 offence as an adult. It also does not apply to a person who has had their WWC Card cancelled or has withdrawn their WWC Check applications in certain circumstances.

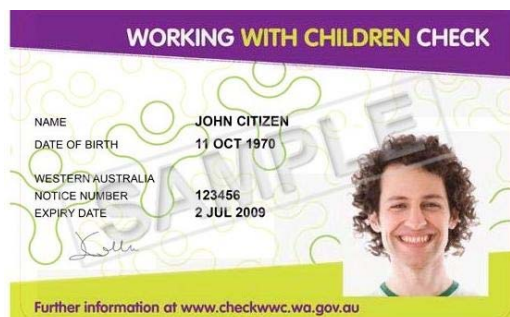
For a full list of exclusions please see **Factsheet 6: Information for Employees and Volunteers**.

A person employed in child-related employment, who has not applied for a WWC Check because they do not work on more than five days in a calendar year, still has obligations under the Act to:

- report any relevant change in their criminal record to the WWC Screening Unit and their employer (for volunteers and paid employees) or if self employed to the WWC Screening Unit
- cease child-related work immediately if convicted of a Class 1 offence as an adult.

Outcome of the WWC Check

- A 'successful' WWC Check results in a WWC Card which is portable for three years across all types of child-related work, unless cancelled.
- A card with a photograph will be issued as proof of a WWC Check. However, a WWC Card **IS NOT** an endorsement of a person's general suitability to work with children.



- An 'unsuccessful' WWC Check results in a Negative Notice, which prohibits the holder from carrying out child-related work (including voluntary work) under any category with any employer or as a self employed person.
- The agency representative or alternative central position identified on the WWC application form will be told what the outcome of the WWC Check is, and any subsequent changes to the person's status should they have a change in their criminal history, but will not be given details about a person's criminal record.
- The WWC Card is 'live' which means that it is monitored and updated information is received, including from the WA Police. If a person is charged with, or convicted of, an offence of concern, their WWC Card can be re-assessed. If the re-assessment is unsuccessful a Negative Notice is issued. The Negative Notice cancels the WWC Card and current employers, known to the WWC Screening Unit will be notified of this.

Employer Obligations and Responsibilities

Employers and volunteer organisations have responsibilities and obligations under the Act which are listed below. It is important to know your obligations and to ensure relevant employees, volunteers and students are aware of the WWC Check.

- Identify which of the listed categories of child-related work you and your employees, volunteers or students carry out.

See **Factsheet 1: What is Child-Related Work?**

- Ensure all volunteers, students, paid employees and self employed people in child-related work have applied for a WWC Check within the required time.
- Do not engage a person in child-related work on more than five days in a calendar year unless they hold a current WWC Card or have applied for one *unless* you are a licensed child care service (in which case your employees, volunteers or students must hold a valid WWC Card or have applied for one **before** they start work).

For more information about this five day threshold see page 3.

- Keep adequate records that demonstrate compliance with the Act. You may be asked to provide records to demonstrate your compliance with the Act by the WWC Screening Unit.

- Check, record and validate (using the validation facility on the WWC Check website) the WWC Cards of all new employees, volunteers, students and self employed contractors and periodically check and record that all current employees' and volunteers' WWC Cards are valid, current and have not been cancelled.
- Have a strategy to ensure employees, volunteers and students in child-related work re-apply for a WWC check every three years, when their WWC Card expires.
- Register your organisation as an employer on the WWC Check website to advise us when you have new employees, volunteers and students who already have a WWC Card from a previous employer. This will enable the WWC Screening Unit to better protect children by enabling us to advise you about any change in status of the person's WWC Card and of other matters if necessary.
- Notify the WWC Screening Unit in writing if you reasonably suspect an employee, volunteer or student has been charged with or convicted of an offence which makes it inappropriate for them to continue to carry out child-related work.
- Do not give false or misleading information to the WWC Screening Unit.
- Never engage a person in child-related work if you are aware that they hold a current Negative Notice, Interim Negative Notice or have withdrawn their application for a WWC Card.
- Never engage a person in child-related work if you are aware of a conviction or pending charge for a Class 1 or Class 2 offence and the person does not have a current WWC Card or has not applied for one.
- As an employer you must comply with the WWC Act despite another Act or law or any industrial award, order or agreement and you will not incur any liability if you do so.

Not complying with your responsibilities can result in a **fine of up to \$60,000 and five years imprisonment.**

More Information

For more information about the responsibilities and obligations for employees, volunteers, students on placement, self employed people, education providers, child safe practices and the parent volunteer exemption visit the website www.checkwwc.wa.gov.au and specifically:

Factsheet 6: Information for Employees and Volunteers

Factsheet 13: Information for Self Employed People

Factsheet 16: The Parent Volunteer Exemption

Safer Organisations Safer Children

Disclaimer

The Working with Children Screening Unit is committed to providing clear information to help you understand your rights and meet your obligations. Every reasonable effort has been made to ensure information is accurate and up to date. However, errors can occur and changes after the time of publication may impact on the accuracy of the information in a factsheet.

The latest publication of a factsheet and further information about the Working with Children law is available on our website at www.checkwwc.wa.gov.au. If you require additional assistance you may also contact us on (08) 6217 8100, for country callers 1800 883 979 (toll free).

The information in this factsheet is provided on the understanding that it is not to be relied on for legal or professional advice.

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Working with Children Screening Unit

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