

Screening Checks (Vic)

A guide for Victorian Community Organisations

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Introduction to screening checks

Introduction to screening checks

This section:

- ▶ introduces the reasons for conducting some level of screening for volunteers and employees
 - ▶ covers recent child safety law reforms relevant to screening
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It's important that your organisation conducts screening and induction of volunteers and staff in a thorough and systematic way. Certain background screening checks are required by law (under legislation or contract) and others are discretionary.

Even where there is no legislative or contractual requirement that checks be performed, organisations ought to conduct some level of screening for volunteers and employees. This is because all organisations have a responsibility to ensure they maintain a safe environment for their employees, volunteers and clients.

Also, organisations which exercise care, supervision or authority over children, owe a specific duty of care to prevent the abuse of a child by persons associated with the organisation while the child is under the care of the organisation. If abuse does occur, the organisation will be presumed to have breached this duty unless it can prove that it took reasonable precautions to prevent that abuse. (This is covered under separate legislation to screening (*the Wrongs Amendment (Organisational Child Abuse) Act 2017*) and is not the subject of this guide, but it's important that your organisation is aware of its obligations). See the 'related resources' box below for more information.

Due to these overarching duties of care, organisations should always try to be informed about the people they select as their representatives.

Consider whether the volunteer or employee will have unsupervised access to money or property, contact with vulnerable clients, direct contact with children, access to sensitive information or whether they will be driving. This may influence the types of checks your organisation requires in order to minimise risks associated with your volunteers and employees.



Example

A volunteer is sent to an elderly client's home to assist with general household duties and provide companionship. As the volunteer is not engaged in 'child-related' work you don't ask them to obtain a Working with Children Check. The volunteer seems trustworthy so the organisation decides not to go ahead with any other screening checks, including a Police Check. The volunteer steals from the client and it turns out that they have a string of theft and burglary offences.

You send another volunteer to your client's home as soon as you find out. The client has a health incident and needs urgent medical attention. The volunteer freezes as they have not been trained in what to do in this situation. The volunteer is traumatised by this incident. Your organisation could be in breach of its duties to both the volunteer and client.



Tip

It may be challenging for some organisations to appropriately screen spontaneous volunteers, especially where organisations are already managing significant workloads due to an emergency or other incident. Your organisation may consider having a database of registered volunteers to call on that have been appropriately screened, inducted and trained.



Note

Currently, WWC Checks operate at a state or territory level. This means that a WWC Check is only valid for work in the state or territory in which it is issued. There are certain allowances for interstate volunteers. [The Royal Commission into Institutional Responses to Child Sexual Abuse's report on Working with Children Checks \(WWCC Report\)](#) contains recommendations for the implementation of a nationally-consistent scheme.

Visit the [Royal Commission's website](#) for updates and reports.



Note

The [Wrongs Amendment \(Organisational Child Abuse\) Act 2017 \(Vic\)](#) was enacted to give effect to a recommendation in the [Betrayal of Trust Report of the Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations](#).

Under this Act, organisations must take reasonable precautions to prevent the abuse of a child by a person associated with the organisation while the child is under the care, supervision or authority of the organisation. If child abuse occurs, the organisation is presumed to have breached the duty unless it proves it took 'reasonable precautions' to prevent abuse.

The [Victorian Government's fact sheet](#) explains this duty in more detail, including the organisations that are covered by this Act, the types of abuse that must be prevented, who the organisation will be liable for, the presumption of the breach of the duty and 'reasonable precautions'.



Related resources – child safety

The Victorian government has also introduced compulsory [minimum Child Safe Standards](#). You can read an overview of these standards in our ['Child Safety' fact sheet](#), which aims to help community organisations strengthen their child safety practices.



Part 1

Legal obligations under Working with Children Checks

Legal obligations under Working with Children Checks

This section covers:

- ▶ when is a Working with Children Check necessary?
 - ▶ exemptions from the requirement to get a Working with Children Check
 - ▶ an organisation's Working with Children obligations
-

Whenever your not-for-profit organisation is recruiting staff or volunteers or assigning new responsibilities, it's important to conduct appropriate screening procedures.

This section deals with 'Working with Children Checks'. The Victorian *Working with Children Act 2005* (**WWC Act**) requires a person to undertake a Working with Children Check (**WWC Check**) before they can do certain 'child related work'. Failure to comply with these requirements can result in serious penalties for both the organisation and the employee or volunteer who has failed to undertake the check.



Caution

Your organisation may be required by law to undertake WWC Checks. It may also consider undertaking other checks such as police checks and reference checks.

You should ensure that only tests or checks relevant to the position on offer are required. Decisions made on the results of checks not relevant to a role could be challenged by an applicant.

In some circumstances, a WWC Check must be undertaken according to law.

Even when not required by law, there may be circumstances where an organisation decides that WWC Checks are required to work or volunteer in particular roles. However, if a worker will have no more than occasional contact with children, there is no need to undertake a WWC Check. You should not require a worker or volunteer to apply for a WWC Check if they will only have occasional or incidental contact with children.



Note

Changes to Victoria's working with children laws took effect on 1 August 2017. Under the previous law, a person had to obtain a WWC Check if they were engaged in child related work that was unsupervised, direct and a part of the person's duties in a particular occupational category.

The changes to the law from 1 August expanded the definition of 'direct contact', made the concept of 'supervision' irrelevant, included 'kinship care' in the definition of child-related work and included a requirement that non conviction charges be included to form part of the criminal history check for a WWCC. We [published a note](#) on these changes. This guide incorporates these changes to the law.

When are WWC Checks required by law?

In Victoria, most people who perform 'child-related' work are required to undergo a WWC Check. If your organisation conducts 'child-related work', you should carefully consider whether employees and volunteers must apply for (or already have) a WWC Check before starting to work with your organisation.

What is 'child-related work'?

A 'child' is defined in the WWC Act as any person under 18 years old.

Activities will be considered to be 'child-related work' for the purposes of a WWC Check where the work with your organisation (paid or unpaid) **usually** involves direct contact with a child. Contact which is only occasional or incidental to the work does not fall within the definition of 'child-related work' under the WWC Act.

What constitutes 'direct contact' is given a very broad definition in the WWC Act. It means any contact between a person and child that involves physical contact, face-to-face contact, contact by post or other written communication, contact by telephone or other oral communication, and contact by email or other electronic communication.

A WWC Check will be required if the child-related work falls within one of the specific activities identified in the WWC Act. The following services are child-related activities that require a WWC Check:

- child protection services
- child care services
- children's services that provide care or education for five or more children under the age of six years in the absence of their parents or guardians
- education and care services, including long day care services, family day care services, outside school hours services and preschool programs
- educational institutions, including kindergarten and primary and secondary schools
- out-of-home care services, youth justice and probation services
- refuges or other residential facilities used by children, such as facilities that provide safe accommodation and support for children who are experiencing family violence or for children temporarily living outside of their homes
- accommodation services specifically provided for students in connection with the operation of a student exchange program (including the provision by a person of accommodation in the person's home)
- paediatric wards of public hospitals or of denominational or private hospitals
- clubs, associations or movements (including of a cultural, recreational or sporting nature) that provide services or conduct activities for, or directed at, children or whose membership is mainly comprised of children
- religious organisations
- baby sitting or child minding services arranged by a commercial agency
- fostering children
- transport services for children, which are provided on a public-funded or commercial basis



- coaching or tuition services for children, such as sport coaching and academic tutoring
- counselling or other support services for children, which may be for a range of issues including family violence, behavioural disorders and mental health
- overnight camps for children regardless of the type of accommodation or of how many children are involved
- school crossing services, being services provided by people employed to assist children to cross roads on their way to or from school
- commercial entertainment or party services for children, provided on a commercial basis and not merely incidental to or in support of other business activities
- commercial gym or play facilities specifically for children, and provided on a commercial basis and not merely incidental to or in support of other business activities (e.g. a fast-food business with play facilities may be incidental to the business of provided food)
- commercial photography services specifically for children, and not merely incidental to or in support of other business activities
- commercial talent or beauty competitions specifically for children on a commercial basis and not merely incidental to or in support of other business activities, and
- child employment supervisors who are supervising child employees, including people under the age of 18 supervising children under the age of 15.



Related resource

Specific examples and commentary on the activities above are available on the [Working with Children Check website](#).

A person is deemed to be involved in child-related work where the person is a family member or other person of significance to a child, and the child is placed in the out of home care of that person (sometimes called 'kinship care'). Ministers of religion are also deemed to be engaged with child-related work in certain circumstances.

Where a person is deemed to be in child-related work they will be required to undertake a WWC Check.



Tip

Even if your organisation doesn't currently undertake work included in this list, if you want to do this work in future, you can consider requiring volunteers and employees who will usually have direct contact with children to undertake a WWC Check when they join your organisation. However, checks should only be undertaken that are relevant to the role.

WWC Check Exemptions

Where a volunteer or employee of a not-for-profit organisation falls into one of the exempt categories, they will not be required to undergo a WWC Check. This will be the case even where they are performing 'child-related work' and the work falls within one of the fields outlined above.

Exemptions apply to workers or volunteers who are:

- parents of a child who is participating or ordinarily participates in the relevant activity
- 'closely related' to each child they are in contact with during their 'child-related work' other than above where even if the person is a family member or other person of significance to a child, if the child is placed in the out of home care (kinship care) of that person they will be deemed to be doing child related work, as outlined above
- under the age of 18 years (this does not apply to those under 18 years who are supervising children under the age of 15 in employment – we recommend the same approach be adopted in respect of volunteers)



- students who are 18 or 19 years of age, if the ‘child-related work’ has been organised by or held at their educational institution
- a registered teacher or registered early childhood teacher
- sworn police officers (Victorian or AFP) who are on active duty, and
- workers visiting Victoria, who don’t ordinarily perform child-related work in Victoria

If an employee or volunteer falls within one of the exemptions, they are still eligible to apply for and receive a WWC Check.

If you are in doubt about whether an exemption applies, we suggest that you request that the employee or volunteer undertake a WWC Check to be certain you are complying with the law.

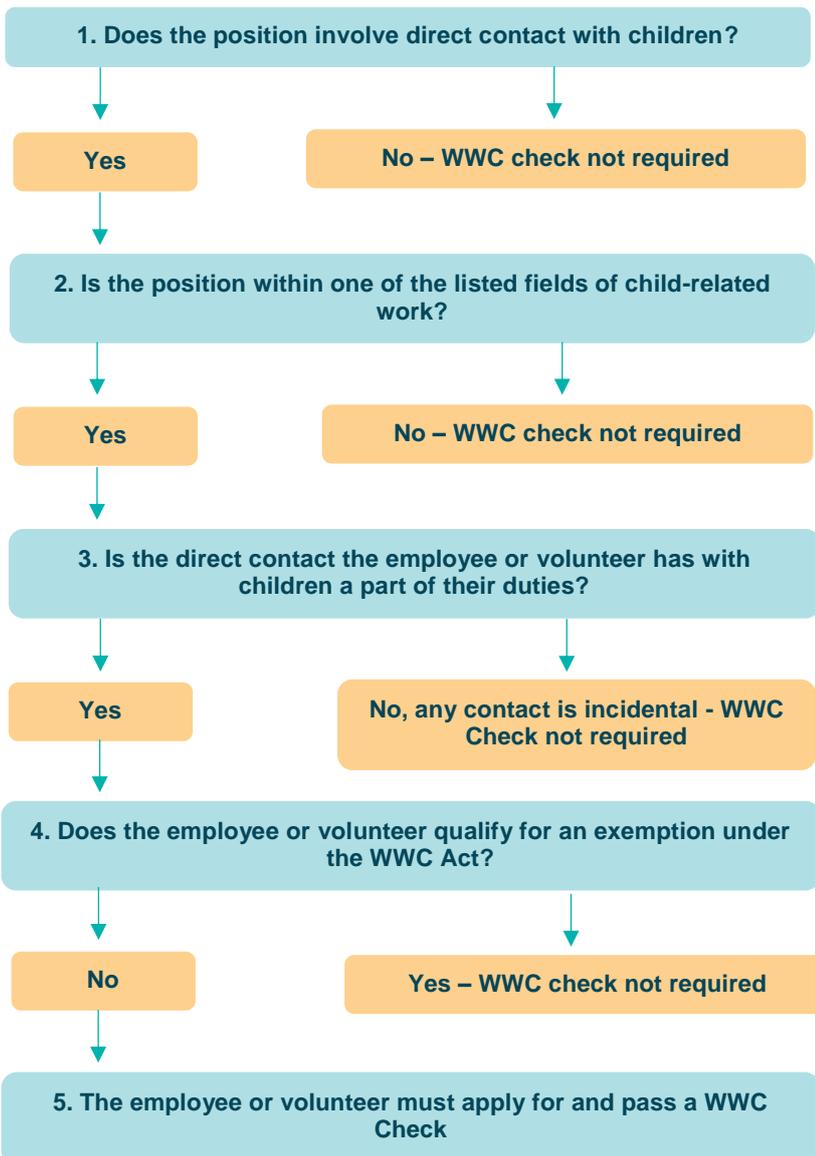


Caution

Just because a worker may fall within one of the WWC Check exemptions when starting out in a role, when circumstances change, they may not be able to continue to rely on the exemption.

The diagram below summarises the rules on when a WWC Check will be required for employees and volunteers in Victoria.

When is a WWC Check necessary?



‘Direct contact’ means contact with a child that involves any of the following:

- physical contact
- face-to-face contact
- contact by post or other written communication
- contact by telephone or other oral communication
- contact by email or other electronic communication.

There are a number of exemptions contained in the WWC Act.



Summary of an organisation's WWC obligations

An organisation that conducts or supervises 'child-related work' must ensure that employees and volunteers comply with the WWC Act. This includes ensuring that:

- employees and volunteers who are required to hold a WWC Check card have applied for the Check before starting child-related work.

In general, workers can start work once they have applied unless they:

- have been charged with, found guilty, or convicted of a serious sexual, violent or drug offence listed under Schedule 3 of the WWC Act
 - have previously been given a Negative Notice
 - have applied for the Check to supervise a child under the age of 15 in employment under the *Child Employment Act 2003*
 - have applied for the Check to work in a children's service under the *Children's Services Regulations 1996* or in an education and care service under the Education and Care Services National Law (Victoria), and
 - are subject to orders or reporting obligations under the *Sex Offenders Registration Act 2004*, *Serious Sex Offenders Monitoring Act 2005*, *Serious Sex Offenders (Detention and Supervision) Act 2009*
- employees or volunteers who hold a current WWC Check card in relation to other work notify the Department of Justice and Community Safety (**Department**) of the work they will do for your organisation (this links your organisation to the WWC Check so that you receive updates about its status)
 - employees and volunteers don't engage in 'child-related work' if they must apply for a WWC Check and haven't done so
 - any applicant that receives an Interim Negative Notice or a Negative Notice doesn't, under any circumstances, engage in 'child-related work' (discussed further below)
 - employees or volunteers have the correct type of WWC Check (ie. volunteer vs employee)
 - employees or volunteers renew their WWC Check within three months of the expiration of the five-year validity period (discussed further below), and
 - employees and volunteers don't continue to work in child-related work if their WWC Check has expired



Tip

Organisations can use WWC Checks as only one of several screening and monitoring tools. Reference checks, police checks and organisational supervision and training are all ways to ensure the safety of staff and clients, as well as assisting in finding the most suitable applicant when recruiting.

Your organisation may choose to wait until the check is complete before the worker starts working with children.



Part 2

Working with Children Check applications

Working with Children Check applications

This section covers:

- ▶ how can employees or volunteers apply for a Working with Children Check?
- ▶ what if a new employee or volunteer already has a Working with Children Check?
- ▶ what happens once a Working with Children Check application has been lodged?
- ▶ what happens if an applicant doesn't pass a Working with Children Check?

Applying for and maintaining WWC Checks takes a few steps by both the applicant and the organisation.

How can employees or volunteers apply for registration?

Application forms for the WWC Check are available from most Australia Post outlets, or they can be ordered in bulk from the [Department of Justice and Community Safety website](#) (**Department**).

The completed WWC Check form can be lodged at most Australia Post shops. When lodging, the applicant will need to produce:

- original identification documents (for example, driver's licence, passport)
- a passport-sized photograph, and
- the relevant application fee (note that volunteers are not required to pay for their WWC Check)

Employees and volunteers can also fill out applications online on the [WWC Check website](#), print their Application Summary and lodge it along with the documents noted above at Australia Post.



Tip

Make sure that all unpaid staff select that they are 'volunteers' on their WWC Check form as this will exempt them from any application fee. If they move into paid work at a later date, they will need to reapply under the 'employee' category.

Once a person has applied for a WWC Check, when can they begin child-related work?

If your organisation carries out child-related work, your team members (paid and unpaid) must hold a current WWC Check card, or have lodged an application, before they can begin the child-related work.

They don't have to have received their WWC Check card before starting work unless they:

- have failed a WWC Check in the past
- have committed certain offences
- intend to work in particular regulated services, or
- are subject to certain reporting obligations



However, some organisations choose to require an employee or volunteer to have received their card before starting child-related work. As a matter of best practice, we suggest that your organisation takes this approach, especially as it can take up to 12 weeks to process a WWC Check application.

How much does a WWC Check Cost?

Applicants who conduct 'child-related work' as part of their employment need to pay \$123.40 for their WWC Check application (for the 2018/2019 financial year. You can check for updates on the [Department's website](#)).

There is no fee for volunteer applicants. Volunteers should ensure they select the 'volunteer' option of the WWC Check form. As soon as a volunteer becomes a paid employee or contractor, they are required to reapply for an employee WWC Check, and will receive a new card valid for conducting paid child-related work.

Note that an applicant is still considered a volunteer if they receive reimbursement for costs (as long as they are not paid for the work completed for your organisation).

Should organisations pay the costs of WWC Checks for employees?

There is no legal requirement for an organisation to cover the costs of an employee undertaking a WWC Check. However, some organisations choose to reimburse WWC Check applicants who will be working with the organisation.



Tip

In most circumstances, if the WWC Check relates to employment, this expense may be claimed as a deduction from taxable income.

What if a new employee or volunteer already has a WWC card?

Employees or volunteers with an existing WWC Check card from previous work or volunteering need to notify the Department within 21 days of the work they are doing for your organisation.

It's essential that the Department knows the employee or volunteer is working with you, so that they can notify you of any changes to the WWC Check status.

The new employee or volunteer must present their WWC Check card to your organisation. You can also call the Department to check that a WWC Check is current. You will need the WWC Check card number of the employee or volunteer. Organisations also need to ensure that the existing WWC Check is the appropriate type (ie. for paid vs volunteer work).

What happens once a WWC Check application has been lodged?

Once a WWC Check application has been lodged, processing takes between three and 12 weeks.

Processing usually takes three weeks but if the applicant has a common name or initial checks reveal relevant criminal activity, it may take up to 12 weeks for the application to be processed.

Applicants who pass the WWC Check will receive a WWC Check card in the mail. Employers and volunteer organisations receive an Assessment Notice that is an official copy of the front and back of the WWC Check card. The check is valid for five years. This means that, unless the organisation hears further information, the applicant has a valid WWC Check for five years.

What happens if an applicant does not pass a WWC Check?

Applicants who don't pass the WWC Check will be issued an Interim Negative Notice. The organisation responsible for that person will receive a copy of the Notice (however this will not include specific information about the person's criminal history). From the receipt of the Interim Negative Notice your organisation must ensure that no unsupervised child-related work is conducted by the person.



Once an Interim Negative Notice is provided, applicants can challenge the Interim Negative Notice by providing reasons in support of the challenge to the Department. If the Department still refuses to pass the applicant, the applicant can seek further review through the Victorian Civil and Administrative Tribunal.

When appeals are exhausted, an applicant will be provided with a final Negative Notice and prohibited from:

- reapplying for a five year period, and
- conducting child-related work



Part 3

**What does a Working with Children
Check do?**



What does a Working with Children Check do?

This section covers:

- ▶ what does a Working with Children Check take into account?
- ▶ ongoing monitoring of Working with Children Checks, and
- ▶ are there limits to what Working with Children Check can achieve?

The WWC Check is a unique type of check, distinguished from Police Checks by the different registers it checks, and its ongoing nature.

Understanding how a WWC Check works will help your organisation what role they should play in your risk management strategy.

What does a WWC Check do?

When a WWC Check application is submitted to the Department, the Department conducts the following checks:

- national police records check, which may reveal criminal history information held by police in both Victoria and other jurisdictions
- review of the findings of courts, including charges, guilty pleas, acquittals and convictions and non-conviction charges (criminal charges against a person that did not result in a conviction or finding of guilt)
- review of any findings of certain professional disciplinary bodies such as the Institute of Teaching and the Suitability Panel, and
- review of any findings by the Victorian Civil and Administrative Tribunal under the *Health Professions Registration Act 2005* (Vic)

The Department may also seek information from other sources such as from treating health professions, correctional bodies (such as Corrections Victoria) and employers.

Applications by people who have committed particular offences or have been found guilty of certain types of professional misconduct fall into three categories under the WWC Act (depending on the seriousness of the offence or conduct)

The WWC Act sets out how any application they make must be treated by the Department.

Three categories of offence or misconduct

Category A applications

The applicant is a registered sex offender or has committed other sex offences against children.

A **Category A application** is where the applicant:

- is subject to reporting obligations imposed on him or her by Part 3 of the *Sex Offenders Registration Act 2004* (Vic)
- is subject to an extended supervision order or interim extended supervision order under the *Serious Sex Offenders Monitoring Act 2005* (Vic)
- is subject to a supervision order (or an interim supervision order) or a detention order) within the meaning of the *Serious Sex Offenders (Detention and Supervision) Act 2009* (Vic), and
- has been charged with or convicted of or found guilty of a 'Category A' offence, the most serious types of offence (listed in Schedule 1 of the WWC Act)

For example, the applicant is a registered sex offender or has committed other sex offences against children.

These circumstances prevent the applicant from passing the WWC Check.



Under the WWC Act, the Department must refuse to pass a Category A applicant, unless otherwise ordered by the Victorian Civil and Administrative Tribunal.

Category B applications

The applicant has committed offences against adults, sex offences as a child, or other non-sex offences such as drug or violence offences.

A **Category B application** is where the applicant has:

- been charged with or convicted of a 'Category B' offence (listed in Schedule 2 of the WWC Act, or
- who was charged with or convicted of certain Category A offences where the victim was a child

For example, the applicant has committed offences against adults, sex offences as a child, or other non-sex offences such as drug or violence offences.

The Department must refuse to pass such an applicant unless, after a rigorous assessment, it is satisfied that doing so would not pose an unjustifiable risk to the safety of children.

Category C applications

The applicant has committed offences such as lower-grade assault or exposure.

A **Category C application** is where the applicant:

- has a relevant professional conduct determination finding against them
- has, as a child, been charged with, or has at any time been convicted or found guilty of certain Category B offences, or
- has been subject to certain findings set out in the *Working with Children Regulations 2016* (Vic)

For example, the applicant has committed offences such as lower-grade assault or exposure.

The Department must pass such an applicant unless, after a rigorous assessment, it is satisfied that doing so would pose an unjustifiable risk to the safety of children.

Ongoing monitoring of WWC Checks

A WWC Check operates for a period of five years, unless it's revoked earlier.

For holders of a WWC Check Card

During the five-year validity period, WWC Check card holders must advise the Department within 21 days about any relevant change in circumstances, including:

- change of name
- change of address, phone number or email address
- change or addition of employer or volunteer organisation including changes to the organisation's contact details, and
- change in occupational field

Details can be updated online on the [Department's website](#).

For organisations

Throughout the five-year lifespan of a WWC Check, there is a 'rolling check' system. A WWC Check card holder's profile will be updated if there are any incidents that affect the person's ability to undertake child-related work and your organisation will be notified.

This is why it's important to make sure your organisation is nominated as a place of work for employees and volunteers with an existing WWC Check card.

Organisations must ensure that WWC Checks are renewed by employees and volunteers every five years (six months before or up to three months after the expiry date on the WWC Check Card).

Steps to help your organisation keep tabs on team members and their WWC status

- physically sight and record the WWC Check card (or their application receipt) when they join your organisation and record associated information such as expiry date
- keep WWC Checks, information and notices on file and keep a record of the employee and volunteer WWC status, including:
 - for new WWC applicants, the unique Application Receipt Number that is provided when an application for a WWC Check is lodged, or
 - for current holders of WWC Check cards, the WWC Check card number and the expiry date of their card,
- ensure information is filed in a safe, secure place and in accordance with the following principles:
 - ensure stored information is accurate, complete and up to date
 - protect the information from misuse, loss, unauthorised access, modification or disclosure (including by allocating file identification systems to prevent files being misplaced)
 - have a clearly expressed policy available upon request detailing the management of personal information by your organisation, and
 - allow people to access their own information and to correct inaccuracies
- assign responsibility for monitoring your WWC register to ensure that it is up-to-date, and
- set up systems to ensure your organisation keeps track of when current WWC Checks will expire

Your organisation is also able to check the status of a person's card or application using the 'Check status' function. Refer to the [Department's website](#).



Tip

There are a number of volunteer management software systems that may assist your organisation with this process and ensuring thorough and systematic screening takes place (see [Volgistics](#), [eCoordinator](#) and [Volunteer Impact](#)).

Are there limits to what WWC Checks can achieve?

Remember that WWC Checks are only one way of reducing the risk of recruiting or associating with people who may be unsuitable for child-related work. No background check by itself can guarantee a person's suitability, and organisations should make sure they have internal policies and procedures to ensure the safety of everyone who interacts with the group – particularly those in a position of vulnerability such as children.



Part 4

Police Checks

Police Checks

This section covers:

- ▶ an overview of Police Checks, and
 - ▶ the differences between WWC Checks and Police Checks
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A WWC Check is an important check, but it is not the only check your organisation can undertake.

As part of your risk management strategy, even if you must undertake WWC Checks, consider whether any other checks would also be appropriate.

Is the WWC Check different from a Police Check?

Yes. If a volunteer or employee is required to undertake a WWC Check, it will not matter whether they have recently had a Police Check (sometimes called a National Police Check or Criminal Record Check) as these two screening procedures are established for different purposes.

The WWC Check focuses on specific offences and misconduct (those that may impact on the safety of children). And, unlike police checks, the WWC Check is 'ongoing', meaning that the applicant's criminal record is monitored throughout the life of the WWC Check.

The WWC Check includes checking with certain professional disciplinary bodies beyond law enforcement agencies – for example, the Victorian Institute of Teaching.

Depending on the nature of the work being conducted by your employees or volunteers, your organisation may wish to conduct both WWC Checks and Police Checks.

Not all criminal offences will be relevant for the WWC Check (only those that the Department considers relevant to posing a risk to children) and previous convictions such as traffic offences or thefts may not be considered through a WWC Check.

A Police Check allows an organisation to be aware of all (releasable) previous convictions – child-related or not – and this may be appropriate if you are seeking an employee or volunteer who, for example, may be handling money or driving clients between locations.



Caution

If you decide that applicants are required to undergo a Police Check before recruitment, you can't refuse an applicant because they have a prior conviction, if the offence has no relevance to the available position. There are legal protections against discrimination on the basis of criminal record.

However, your organisation has obligations to create a safe and effective environment, and you can refuse an applicant on the basis of a criminal past when you believe that the prior offence prevents the applicant from performing the 'inherent requirements' of the position. See the [Australian Human Rights Commission website](#) for more information.



How do WWC Checks and Police Checks differ?

	Working with Children Checks (VIC)	Police Checks
Who conducts the check?	The check is submitted to the Victorian Department of Justice and Community Safety by the person.	The check is submitted to Victoria Police by the person or by an organisation on their behalf (with consent). Organisations may also engage a third party agency to manage the process.
What is checked?	National criminal records (across all states and territories) and professional conduct reports.	National criminal records
What is revealed by the checks?	Serious criminal charges, offences, findings of guilt and professional conduct reports that may be relevant to the safety of children, such as serious sexual, violent or drug crimes (it will not reveal offences such as theft or property fraud).	Police make an assessment that takes into account the category and purpose of the check and any relevant legislation and information release policies. Police then determine the details they will release to the person or organisation requesting the check The details released may include court outcomes with a finding of guilt (including those 'without conviction'), good behaviour bonds or other court orders, outstanding charges and matters awaiting hearing certain (criminal) traffic offences, whether child-related or not.
What is the outcome?	The person will either 'pass' or 'fail' depending on what the check reveals. The Victorian Department of Justice and Community Safety will make the final assessment if relevant offences show up, after providing the applicant with an opportunity to make submissions.	There is no pass or fail – a list of court outcomes with a finding of guilt is produced from the national criminal record. It is up to the organisation to assess whether or not any of the listed outcomes may impact on the work of the volunteer.
How long is it valid for?	Five years.	It is current only at the time of the check.
Is it an ongoing check?	Yes – over the five years there is a 'rolling check' system and the organisation is notified if it reveals anything related to child safety.	No – it is a 'point in time' check and will only list the offences at the time of the check.
Is the check transferable?	Yes – to other Victorian volunteer roles but the volunteer must provide notice to the Department of any new role.	No – organisations should require a new check, even if someone had a check completed recently – as an organisation needs to be sure that all relevant matters have been disclosed by the police.



Part 5

Other checks

Other checks

This section covers:

- ▶ other discretionary background checks
- ▶ managing volunteers and employees in or from other states and territories, and
- ▶ recent law reform relating to background checks.

Discretionary background checks

Even where there is no legislative requirement that Police Checks and other discretionary background checks be performed, organisations ought to conduct some level of screening for volunteers and employees. This is because all organisations have a responsibility to ensure they maintain a safe environment for its employees, volunteers and clients. Due to this overarching duty of care, organisations should always try to be informed about the people they select as their representatives.



Caution

While finding the right person to fill a vacant role is important, an organisation has an overarching duty to provide a safe environment for staff, volunteers and clients. Good screening procedures when recruiting is a key way for organisations to try and address problems before they arise.

From a practical perspective, conducting informal background checks, such as asking for referee details and performing licence and qualification checks (and possibly asking for details of any potential conflicts of interest) is certainly a good way for an organisation to assure itself that it is making the right choice when recruiting a new employee or volunteer.

Screening for interstate employees and volunteers

WWC Checks

Currently, WWC Checks operate at a state or territory level. This means that a WWC Check is only valid for work in the state in which it is issued.

If an employee or volunteer has a WWC Check from another state or territory and wants to work in Victoria, they may also need to obtain a Victorian WWC Check, depending on the circumstances.

Interstate visitors can engage in child-related work in Victoria, without a Victorian WWC Check, for a period of up to 30 days in the same calendar year for:

- several events or occasions – provided they have a WWC Check from their state or territory, and
- only one event or occasion – without a WWC Check from their state or territory

If workers of your organisation are travelling to another state or territory outside Victoria and will engage in child-related work, you need to ensure that you comply with the laws of the particular state you visit – which may mean having a valid WWC Check for that state.

Generally, most states will recognise the WWC Check of a worker from another state, if they are visiting and working on a short-term basis.

However, if your organisation's employees or volunteers work in multiple jurisdictions on a regular basis, it's likely that they will need a WWC check for each state. It is also worth pointing out that the offences considered relevant for the purposes of a WWC Check differ across states and territories.



Note

While all states and territories agreed on the above exemption for Checks for interstate visitors in 2012, this has not been fully or consistently implemented. It's therefore important to check the applicable scheme in each state and territory (see the ['Interstate Checks' page](#) on the Department's website).

Relevantly, [The Royal Commission into Institutional Responses to Child Sexual Abuse's 2015 report on Working with Children Checks](#) (WWCC Report) contains recommendations around the implementation of a nationally-consistent scheme.

Police Checks

The Police Check will display all (releasable) court outcomes from all states and territories of Australia (see Part 4 of this guide for more detail).

If your organisation engages an employee or volunteer that has been living overseas, your organisation may decide to ask for an international police check, which can be obtained from the law enforcement body for each relevant country.

Information on obtaining a police check from an overseas government or law enforcement authority can be found on the [Australian Government Department of Home Affairs website](#).

Child safety reforms and screening

Child safe standards

Victoria has introduced compulsory [minimum child safe standards](#) that form part of the [Victorian Government's response to the Betrayal of Trust Inquiry](#) (the Victorian Government's inquiry into the handling of child abuse allegations within religious and other non-government organisations) and will assist organisations to:

- prevent child abuse
- encourage reporting of any abuse that does occur, and
- improve responses to any allegations of child abuse

One of these standards relates specifically to the screening, induction and training of new and existing employees and volunteers (Standard 4).

For more information about these new standards and guidance for implementation in your organisation, go to the [Department of Human Services website](#).



Further reading

Moore's, together with Our Community, have also created a [Child Protection Toolkit](#) for not-for-profit organisations, to help them comply with these standards and other legislative requirements. The Toolkit discusses child safe recruitment processes, creating a child safe culture and various reporting obligations.

It also includes a sample Child Protection Policy and Child Safety Code of Conduct (that can be tailored to your organisation).

Changes to the Victorian *Wrongs Act 1958*

Under changes to the *Wrongs Act 1958* (Vic), community organisations that exercise care, supervision or authority over a child (whether or not this is a part of its primary functions or activities), now owe **a duty to take reasonable care to prevent the sexual or psychological abuse of a child by an individual associated with the organisation** (for example, an officer, office holder, employee, owner, volunteer or contractor).

Under the new laws, the 'onus of proof' is reversed, which means that the organisation will have to prove it took reasonable precautions to prevent the abuse in question from happening. Reasonable precautions could include implementing policies, procedures and safeguards (such as appropriate screening processes) to ensure the prevention of child abuse.

The new laws were introduced as a response to the key recommendations in the Victorian Government's [Betrayal of Trust report](#), (which was the result of the Government's inquiry into the handling of child abuse by religious and other non-government organisations).

National Framework for Protecting Australia's Children

The Council of Australian Governments (**COAG**) has been working towards law reform to harmonise the laws between states and territories and published a '[National Framework for Protecting Australia's Children 2009-2020](#).' This is a broad, long-term initiative aimed at reforming the child protection system and creating uniform laws across states and territories. COAG aims to develop a nationally consistent approach to working with children checks and child safe organisations across jurisdictions. This is likely to include unifying the WWC Check system across our states and territories. Further reform and consolidation of legislation will help to establish an inter-jurisdictional exchange of information regarding people working with children.

If new legislation comes into force, your organisation may need to comply with different rules regarding its employees and volunteers. It is important to be aware of the changes as they take place, and to ensure that your organisation continues to meet the legislative requirements.



Further reading

For more information about creating a child-safe organisation see the '[National Framework for Protecting Australia's Children 2009-2020](#)', and the [Department of Social Services' website for resources on building the capacity of child-safe organisations'](#) as well as [guidelines on building this capacity](#).

Resources

Related Not-for-profit Law resources

The [Not-for-profit Law website](#) has further resources on the following topics:

- ▶ [The People Involved](#)
This webpage contains legal information relating to everyone involved in a community group.
- ▶ [Risk and Insurance](#)
This webpage contains legal information relating to managing risk in your organisation.

Legislation

- ▶ [Working with Children Act 2005 \(Vic\)](#)
- ▶ [Working with Children Regulations 2016 \(Vic\)](#)

Other Related Resources

- ▶ Commission for Children and Young People – [Child Safety Resources and Reportable Conduct Scheme information sheets](#)
The Commission's website has information and online resources on the Reportable Conduct Scheme, useful links and upcoming information sessions on Child Safe Standards.
- ▶ Victorian Department of Justice and Community Safety – [Working with Children Checks](#)
The Working with Children section of the Department's website provides information about the requirement for your employees volunteers to get WWC Checks if they are involved in 'child-related work'. The site includes application forms and details of the fields of work covered by the legislation.
- ▶ [Volunteering Australia - Background Checks and Volunteers](#)
Volunteering Australia has a resource which provides an overview of background check requirements and the associated costs across the various states and territories.
- ▶ Department of Social Services, [National Framework for Protecting Australia's Children 2009–2020](#)
- ▶ [Victoria Police](#)
[Frequently Asked Questions – National Police Certificates](#)
- ▶ [CrimCheck](#)
CrimCheck is a Not-for-profit organisation that assists other not-for-profit organisations with the processing and management of police checks for their employees and volunteers along with general support and education around the process.
- ▶ [Australian Criminal Intelligence Commission](#)
The Australian Criminal Intelligence Commission (formerly CrimTrac) is the national information-sharing service provider for Australia's police, wider law enforcement and national security agencies. It offers a [National Police Checking Service](#) and has further information about the National Police Check process.

