



Factsheet 6: Information for Employees and Volunteers

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.

Employees and volunteers have a number of responsibilities and obligations under the Act which are outlined in this factsheet.

Safer Environments for Children - Minimising Risk

Keeping children safe is everyone's responsibility. The WWC Check is **only one** of the measures that responsible employers put in place to ensure their employees and volunteers are suitable to work with children. It is important for employees and volunteers to be familiar with necessary procedures including:

- good supervision and training
- policies that promote safer and supportive environments for children
- a work culture which ensures that children's concerns are heard.



Employees, volunteers and students in child-related work have obligations to have current WWC Checks. Employers and volunteer organisations have similar obligations to ensure that this has occurred. For more information about child-safe practices please read *Child Safe and Friendly Organisations Factsheet* www.checkwwc.wa.gov.au

Who Needs a WWC Check?

Under the WWC 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 on these, see **Factsheet 1: What is Child Related Work?** www.checkwwc.wa.gov.au.

There are also some exemptions which are outlined on page 2.

Who Needs a WWC Check?

The following steps will help you to identify if you are doing child-related work and require 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</p> <p>Go to question 2</p>	<p>NO</p> <p>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 yrs) or between employees of the same employer.</p>	<p>YES</p> <p>Go to question 3</p>	<p>NO</p> <p>A WWC Check is not required</p>
<p>Question 3: Does an exemption apply?</p> <p>To see if an exemption applies.</p> <p>See <u>Factsheet 5: Child-related work and exemptions.</u></p>	<p>YES</p> <p>If an exemption applies a WWC Check is not required.</p>	<p>NO</p> <p>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 or 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 a 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](http://www.auspost.com.au/workingwithchildren) throughout the State. A list of these can be found at www.auspost.com.au/workingwithchildren. An application must be lodged in person. When applying, applicants need to present sufficient documents to meet the 100 points identification criteria. Accurate identifying information is essential to make sure the criminal history check is carried out for the correct person, which includes your current address details and photographic identification. See the guidelines on the application form for full information about what identification is acceptable.

The application form **must** be co-signed by your employer or volunteer organisation. This person must certify that you will be employed or volunteering in child-related work. Any related correspondence about your WWC Check will be sent to either the representative who signed your application form, or the alternative central position identified by your employer or volunteer organisation.

The WWC Check is heavily subsidised. The current fees for paid employees, volunteers and students are available on our website www.checkwwc.wa.gov.au.

If you do not have sufficient identification *or* live in a remote community and are unable to access an authorised Australia Post outlet, please contact the WWC Screening Unit on (08) 6217 8100 or 1800 883 979 (Country callers) to find out how to apply.

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.



Five Day Threshold and Defence

It is an offence to carry out child-related work without a WWC Card. However, the Act allows reasonable flexibility to enable employers to deliver services in unforeseen circumstances such as the illness of a worker. The 'threshold' is different for self employed/ volunteers/ employees/ students and employers/ volunteer organisations/ education providers.

For self employed people, volunteers, students and employees, 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 a calendar year without a WWC Check. It also gives self employed people, employees, students and volunteers 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.

However, this defence does not apply to everyone and is not available to:

- people convicted of a Class 1 offence as an adult
- people in child-related work with a licensed child care service
- people who have been issued with a notice from the WWC Screening Unit confirming that their WWC Card has been cancelled because they have:
 - had a change in their criminal record; and
 - advised they are no longer in child-related work
- people who have withdrawn their application for a WWC Check after being required to apply by a "S16 Notice" or "S17 Notice". These are notices issued by the WWC Screening Unit after it is notified by an employer or by the Police that a person has been charged with or convicted of an offence that may make it inappropriate for them to carry out child-related work
- people who have withdrawn their application for a WWC Check after giving notice to the WWC Screening Unit of a relevant change in their criminal record. When advised of a relevant change the WWC Screening Unit is required to treat it as an application for a further WWC Check. The five day defence does not apply to people who are re-assessed under this provision or withdraw from this automatic application process
- people who have withdrawn their application after receiving a "Proposal to issue a Negative Notice" letter inviting them to make a submission
- people whose WWC Card is being re-assessed after Police have notified the WWC Screening Unit of a new charge or conviction which makes it inappropriate for them to continue to be in child-related work.
- people who are no longer in child-related work and who have been charged or convicted of a Class 1 or Class 2 offence since their current WWC Card was issued.
- people who have a current Negative Notice or Interim Negative Notice.

If a person does not apply for a WWC Check because they do not work on more than five days in a calendar year, they still have requirements under the Act which include to:

- report in writing any relevant change in their criminal record to the WWC Screening Unit and to their employer (for volunteers, students 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.

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

The five day threshold is not an exemption from the WWC Act: Self employed people, employees, students and volunteers in child-related work may still apply, and employers, volunteer organisations and education providers can require that they apply for a WWC Check.

Employee and Volunteer Responsibilities

Employees and volunteers have responsibilities and obligations under the WWC legislation. Not complying with your responsibilities can result in **fines of up to \$60,000 and up to five years imprisonment.**

- If you are in child-related work, you must hold a current WWC Card or have a pending application within the required time.
- In some cases you will not commit an offence if you don't have a WWC Card or pending application for one as long as your child-related work is for no more than five days within any calendar year.

See page 4 for details.

- You must apply for a WWC Check within the time stated if asked to do so by the WWC Screening Unit.
- You must not give false or misleading information to the WWC Screening Unit.
- You should update your address and employment details on the WWC website if they change.
- You must renew your WWC Card every three years if you are still in child-related work.
- You must not carry out child-related work if you have been convicted of a Class 1 offence committed as an adult.
- You must return your WWC Card to the WWC Screening Unit as soon as practicable after being convicted of a Class 1 offence committed as an adult or if your WWC Card is cancelled by the WWC Screening Unit.
- If you are issued with a Negative Notice or Interim Negative Notice you must:
 - not carry out child-related work
 - if you have a WWC Card you must return it to the WWC Screening Unit as soon as practicable after being issued with a Negative Notice or Interim Negative Notice.
- If you are issued with an Interim Negative Notice you cannot withdraw your application for a WWC Card.
- If you have a relevant change (this is when a person is charged with or convicted of a Class 1 or Class 2 offence) in your criminal record you must as soon as is practicable:
 - give written notice to your employer. You are not required to give any details of the change in your record, you only have to notify your employer that there has been a 'relevant change'.
 - give written notice to the WWC Screening Unit. The WWC Screening Unit may advise your employer that there has been a relevant change, but will not give the offence or other criminal record details.

- If you have a current WWC Card and have a relevant change in your criminal record and are no longer in child-related work you are still required to give written notice to the WWC Screening Unit of the relevant change. Your WWC Card will be cancelled and you must not start child-related work until you have been issued with a further WWC Card or have made an application for one. Before re-starting child-related work, you **must** also notify your proposed employer that there has been a relevant change in your criminal record and that you have applied for a new WWC Check.

More Information

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

Factsheet 3: Information for Employers and Volunteer Organisations

Factsheet 13: Information for Self Employed People

Factsheet 16: The Parent Volunteer Exemption

Child Safe and Friendly Organisations Factsheet

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.

To the full extent permitted by law, the Department for Child Protection, Government of Western Australia, its officers, employees, agents and others acting under its control, expressly disclaim all liability arising out of any action taken or loss resulting as a result of reliance on information provided in a factsheet.

Working with Children Screening Unit

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