

Factsheet 11: Information on Working with Children Checks in the Sport and Recreation Sector

The sport and recreation industry plays a pivotal role in our children's physical, emotional and social development. It is important therefore, for the industry to provide a safe environment to nurture this development. Many clubs and associations already have existing policies in place to create child safe organisations.



To further minimise the risk of harm to our children, the *Working with Children (Criminal Record Checking) Act 2004* ("the Act") commenced in Western Australia on 1 January 2006. The aim of the legislation is to deter people from working with children where they have criminal records that indicate they may harm children, and to prevent people with such records from gaining positions of trust within organisations. Under the legislation, people working with children in certain types of employment or volunteer work are required to have a Working with Children (WWC) Check. A WWC Check is a compulsory national criminal record check for people carrying out child-related work in Western Australia.

Work is 'child-related work' if the **usual duties** of the work involve, or are likely to involve, **contact** with a child in connection with at least one of the 19 categories listed in section 6(1)(a) of the Act.

Child-related work can be carried out by volunteers, unpaid people, paid employees and self-employed people.

A 'child' is a person under the age of 18 years.

Contact includes any form of physical contact, oral communication (face to face, telephone or otherwise) or electronic communication, 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.

Categories of child-related work likely to be applicable to the sport and recreation industry include:

- a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes
- an arrangement for the accommodation or care of children, whether in a residential facility or private residence, but not including an informal arrangement made by a parent of the child concerned or accommodation or care provided by a relative of the child
- a club, association, or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children, but not including an informal arrangement entered into for private or domestic purposes
- an overnight camp, regardless of the type of accommodation or how many children are involved
- a transport service specifically for children
- a children's entertainment or party service.

Examples of 'child-related work' in the sport and recreation industry include:

- People coaching children's sporting or recreational groups;

- Support staff of children’s sporting or recreational groups, including managers and first aid or medical staff whose usual duties involve, or are likely to involve, contact with a child;
- People officiating junior activities or events;
- Canteen staff whose usual duties of work involve, or are likely to involve, contact with children;
- People billeting children from regional, interstate or international visiting teams;
- Bus drivers on dedicated school bus services;
- People in Board positions, whose usual duties of work involve, or are likely to involve, contact with children;
- Parents volunteering at overnight children’s camps;
- Grounds staff who work during events or activities that involve children, and whose usual duties involve or are likely to involve contact with children;
- Students on placement doing ‘child-related work’, such as coaching in clubs or working in holiday programs;
- Interstate or international coaches / trainers or support staff working in ‘child-related work’ in Western Australia for more than 2 weeks in any period of 12 months.

Exemptions

Certain people are exempt from having a WWC Check. It is important to check the full information about exemptions which is available in **Factsheet 5 “Child-related work and exemptions”** on the WWC Check website. The following are some of the exemptions:

- Volunteers under the age of 18 years of age
- Parents volunteering at a club in which their child is involved in or is ordinarily involved in some or all of the activities of the club (this exemption does not apply to volunteer parents attending overnight camps);
- Short term visitors to WA carrying out ‘child-related work’ for 2 weeks after their arrival, and for no more than 2 weeks in any period of 12 months; and
- Workplace supervisors or employers of children, unless they otherwise carry out ‘child-related work’.

When to apply for a WWC Check

WWC Checks are being phased-in at different times for particular groups in the community. It is important to check the current information about phasing-in which is available in **Factsheet 2 “When to apply for a Working with Children Check”** on the WWC Check website.

In general, the following applies:

Volunteers

Volunteers carrying out child-related work, including students on placement, must apply for a WWC Check as follows:

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| <ul style="list-style-type: none"> Volunteers working with children 0 – 7 years inclusive | <ul style="list-style-type: none"> From 1 January 2006 |
| <ul style="list-style-type: none"> Volunteers working with children 8 – 12 years inclusive | <ul style="list-style-type: none"> From 1 January 2007 |
| <ul style="list-style-type: none"> Volunteers working with children 13 – 17 years inclusive | <ul style="list-style-type: none"> From 1 January 2008 |

“**New**” volunteers working with children in these age groups must apply upon starting their work.

“**Existing**” volunteers (those who were already in that child-related job before the start of the phasing-in date) have until the end of that calendar year in which to apply for a WWC Check.

Self-employed people

- Most “**new**” self-employed people who commence child-related work after 1 January 2006 must apply for a WWC Check **upon starting** (eg self-employed tutors, entertainers or coaches).
- Most “**existing**” self-employed people (those who were already in that child-related job before the start of the phasing-in date) were required to have applied for a WWC Check by **31 December 2006**.

Paid Employees

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| <ul style="list-style-type: none"> New paid employees who start child-related work from 1 January 2006 | <ul style="list-style-type: none"> Must apply when starting child-related work |
| <ul style="list-style-type: none"> Existing paid employees (including public sector employees – State Government only) who started child-related work prior to 1 January 2006 and are still in the same position | <ul style="list-style-type: none"> Must apply between 1 January 2009 and 31 December 2010 |
| <ul style="list-style-type: none"> New public sector employees (State Government only) who start child-related work from 1 January 2007 | <ul style="list-style-type: none"> Must apply when starting child-related work |
| <ul style="list-style-type: none"> Existing public sector employees (State Government only) who started child-related work during 2006 | <ul style="list-style-type: none"> Must apply between 1 January 2007 and 31 December 2007 |

Cost of WWC Check

The cost of the WWC Check is \$50 for paid and self-employed people and \$10 for volunteers and other unpaid people, such as students on placement. This fee is heavily subsidised by the Government.

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 participating Australia Post outlets can be found at www.auspost.com.au/workingwithchildren. An application for a WWC Check must be made in person.

When lodging the application, applicants need to present sufficient documents to meet 100 points identification criteria. Identifying documents can include either a passport or birth certificate. It is important that the documents used contain the applicant's current address details and a photograph. Accurate identifying information is essential to make sure the criminal history check is done for the correct person.

Applications for WWC Checks made by employees or volunteers must be co-signed by a representative of the employer or agency for whom they are working before being lodged at Australia Post. This is required by the Act to certify that the applicant will be employed in child-related work.

Outcome of the WWC Check

- A 'successful' WWC Check results in a WWC Card which is portable for **3 years** across all types of child-related work, subject to any relevant changes to a person's criminal record during that time.
- A card with a photograph will be issued as proof of a WWC Check. A WWC Card **IS NOT** an endorsement of a person's general suitability to work with children. Suitability covers a wider range of factors than just offence history, such as character, skills and experience. Obtaining WWC Checks are only one of the practices that responsible employers put in place to achieve safe environments for children. These include referee checks, supervision and training, as well as practices within the workplace, which enable children to voice their concerns.
- An 'unsuccessful' WWC Check results in a Negative Notice, which prohibits the holder from carrying out child-related work.
- Employers receive a copy of the outcome of the WWC Check application, but will not be given information about a person's criminal record if they have one.

Obligations of employers and people in child-related work

Employers of people in child-related work, as well as paid employees, self-employed people and volunteers who carry out child-related work have a number of responsibilities under the Act. For example:

- Subject to the phasing-in arrangements, employers must not start or continue an employee or volunteer in "child-related work" on more than five days in a calendar year unless the person has applied for a WWC Check or already has a current Assessment Notice.
- Employers must not start or continue someone in "child-related work" if the person has an Interim Negative Notice or a Negative Notice, if their WWC application has been withdrawn, or if they are aware of a conviction or pending charge for a Class 1 or Class 2 offence against that person and the person doesn't have a current WWC card or a pending application.
- A person must stop child-related work immediately if he or she is issued with an Interim Negative Notice or Negative Notice.
- Employers must advise the Working with Children Screening Unit as soon as practicable after being notified by an employee or volunteer of a relevant change in the employee's criminal record.

It is important to check the full information about obligations and responsibilities under the Act on the WWC Check website.

Current Employment checks and the WWC Check

Many employers already require a criminal record check as part of their general employment screening process. These checks provide employers with information about “disclosable” adult convictions or spent convictions that a proposed or current employee may have. The WWC Check differs from these checks in a number of ways. The WWC Check assesses information of particular relevance to working with children. WWC Checks are able to access more criminal history information than other police checks, including juvenile records, pending charges and charges that have not resulted in a conviction. More detailed information about the differences between a WWC Check and other police checks can be found at www.checkwwc.wa.gov.au.

Who does the Checks?

The WWC Screening Unit within the Department for Community Development is responsible for processing the WWC Checks in Western Australia. Staff from the Departments of Health and the Department of Education and Training are working with the WWC Screening Unit undertaking WWC Checks for persons from these sectors. Establishment of Approved Screening Agencies (ASAs) is anticipated.

Frequently Asked Questions

Who is considered a parent according to the legislation?

A ‘parent’ of a child, means a person

- (a) who is the father, mother, stepfather or stepmother of the child;
- (b) who at law has responsibility for –
 - (i) the long-term care, welfare and development of the child; or
 - (ii) the day to day care, welfare and development of the child; or
- (c) who is in a de facto relationship with a person referred to in paragraph (a) or (b)

Do exemptions that exist in the legislation for parents apply to grandparents, older siblings and other relatives?

No, exemptions for parents are only for parents as defined above. Other relatives will need to apply for the checks if required to do so according to the legislation.

Why are parents volunteering exempt from obtaining the checks?

When developing the legislation it was felt that a balance needed to be struck between ensuring the best child protection mechanisms were applied and a sensible, workable approach was taken to the application of the legislation. It was, therefore, not considered appropriate to legislate for parents who support their children’s development and possibly limit the capacity of voluntary organisations to function effectively.

There are some categories of child-related work where a parent exemption will not apply, for example, overnight camps.

Does an individual working with a child still need to get the check if a child’s parent supervises the activity?

Yes, regardless of whether the parent of a child supervises the activity an individual who is carrying out child-related work will still require a WWC Check if their usual duties involve or are likely to involve contact with a child, subject to any exemptions and the phasing-in arrangements.

Who is responsible for ensuring the relevant people have the WWC Check?

Whoever is the 'employer'.

Self-employed people are responsible for ensuring if their usual duties involve or are likely to involve contact with a child in relation to at least one of the 19 categories of child-related work that they apply for a WWC Check, subject to any exemptions and the phasing-in arrangements.

If children attend a group class that is primarily for adults, is the instructor / coach required to get a WWC Check?

Group classes are exempt unless provided primarily for children. This exemption is designed to exclude community education courses or coaching / private tuition run by providers that are delivered primarily to adults in the general community. If the same providers provide courses targeted primarily for children they will not be exempt.

Can a person start or continue in child-related work if they have applied for the WWC Check but have not received notification of the outcome from the Working with Children Screening Unit?

Yes, a person will not be committing an offence under the WWC Act if they start or continue in child-related work where an application has been made and is still being assessed, unless the person is issued with an Interim Negative Notice (please see "Obligations of employers and people in child-related work" for more information).

People who have a pending application should ensure that they retain their receipt, which they will have received from Australia Post when lodging their application form. A person can show this to their employer as proof that they have made an application for a WWC Check.

Does an individual need a WWC Check if they do not carry out child-related work for more than 5 days in a calendar year?

People are not committing an offence under the WWC Act if they are in child-related work for no more than 5 days in a calendar year (except for people working in child care) and do not apply for a WWC Check. However, if a person does not apply for a WWC Check because they do not work on more than 5 days in a calendar year, they are still required under the Act to:

- report any relevant change in their criminal record, or
- cease child-related work immediately if convicted of a Class 1 offence as an adult.

The 5-day threshold **does not** exempt people from the WWC Act. The 5-day threshold was inserted into the legislation to accommodate those situations where reasonable flexibility is needed to deliver services in unforeseen circumstances, such as illness. For example, a person who is filling in for a sick coach or an absent official can work in those roles for that weekend match.

What systems are in place for those persons that cannot access an Australian Post Office to apply for the check?

Contact the Working with Children Screening Unit on (08) 6217 8100 or for country callers 1800 883 979 (toll-free) to discuss your application.

For more information about the WWC Check, please visit the WWC website at www.checkwwc.wa.gov.au or contact the Department of Sport and Recreation's Working with Children Project Officer on 9492 9700.