


National Standards for Working with Children Checks



The protection of children from the risk of harm is a key priority for all Australian Governments. Working with Children Check schemes are one tool in a broader suite of practices that help to protect children from exploitation and abuse. The Commonwealth, state and territory governments are committed to continually improving these schemes in an effort to make organisations more child-safe.

The National Standards for Working with Children Checks (National Standards) will establish nationally consistent parameters for the screening of persons who propose to engage in child-related work. The adoption of the National Standards will ensure children, wherever they are located in Australia, are provided an appropriate level of protection.

The National Standards were developed together by the Commonwealth, state and territory governments, with reference to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, existing best practice and the expertise of officials from each jurisdiction.

State and territory Ministers responsible for the different working with children check schemes, have endorsed* the National Standards through the Council of Attorneys-General and the Community Services Ministers Forum, committing to work towards full implementation of the policy in their respective jurisdictions. It is open to any jurisdiction to exceed the National Standards where existing frameworks provide more robust protections – implementation will not require any changes which would compromise the safety of children.

Who needs a check?

1. A person is required to apply for a working with children check if:
 - a. the person is aged 18 or over, or if the legislative framework specifies, under the age of 18 in certain circumstances, and
 - b. the person engages in, or proposes to engage in, child-related work in which contact with children is a usual part of, and more than incidental to, the child-related work.
2. Child-related work is work that:
 - a. involves physical contact, face-to-face contact, oral communication, written communication or electronic communication with one or more child,
 - b. is engaged in any capacity and whether or not for reward, and
 - c. is one of the following:
 - (i) accommodation or residential services for children, including overnight excursions or stays
 - (ii) activities or services provided by religious leaders, officers or personnel of religious organisations
 - (iii) childcare or minding services, except services that are provided under an informal or domestic arrangement
 - (iv) mentoring or counselling services for children
 - (v) child protection services, including out-of-home care
 - (vi) clubs or associations with a significant membership of, or involvement by, children


* Standards requiring legislative change were endorsed in-principle by Victoria.



- (vii) coaching or tuition services for children, except services that are provided under an informal or domestic arrangement
 - (viii) commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions
 - (ix) disability services for children
 - (x) education services for children or work at an educational facility for children including administration and maintenance services
 - (xi) health services provided specifically for children or work at a health facility for children
 - (xii) justice or detention services for children including immigration detention facilities where children are regularly detained and services provided to children who are the subject of community service orders
 - (xiii) transport services for children, including school crossing services, or
 - (xiv) other work specified by the legislative framework to be child-related work.
3. The supervised or unsupervised nature of the contact with children is irrelevant to determining whether a person is required to apply for a working with children check.
 4. Adults residing in the homes of people providing formal out of home care (including foster and kinship carers) are required to apply for a working with children check.
 5. To avoid doubt, a person is not within the scope of a working with children check scheme if the person:
 - a. is an employer or supervisor of children in a workplace, except where the employer or supervisor is engaged in child-related work
 - b. is engaged in work in the same capacity as a child, except where the person's work is child-related work, or
 - c. is engaged in child-related work, except formal out of home care, for an informal or domestic purpose.

Persons exempt from applying for a working with children check

6. Despite Standard 1, a person is not required to apply for a working with children check if the person:
 - a. is a police officer, including a member of the Australian Federal Police
 - b. is engaged in particular circumstances which the legislative framework, considering the safety and protection of children, states that a working with children check clearance is not required
 - c. is engaged in child-related work for seven days or fewer in a calendar year, except in respect of overnight excursions or stays, or
 - d. is a parent or guardian who volunteers for services or activities that are usually provided to their children, in respect of that activity, except in respect of:
 - (i) overnight excursions or stays, or
 - (ii) providing services to children with disabilities, where the services involve close, personal contact with a child other than their own child.

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7. A person cannot rely on an exemption listed in Standard 6 if the person has previously been denied a working with children check clearance, or had their clearance cancelled and subsequently not granted a clearance, unless:
 - a. the person is a police officer, including a member of the Australian Federal Police, or
 - b. the person has successfully undergone a comparable screening process conducted by a professional registration body.

Eligibility of applicant to work

8. If a legislative framework specifies, applicants are permitted to begin child-related work before the outcome of their application is determined, provided the following safeguards are in place:
 - a. the applicant does not withdraw their working with children check application
 - b. the employer verifies the application with the screening agency prior to engaging the applicant, and
 - c. the screening agency has the capacity to impose interim bars on applicants where information held by the screening agency indicates a risk which requires further assessment.
9. Despite Standard 8, an applicant is not permitted to begin child-related work before the outcome of their application is determined if:
 - a. an interim decision has been made in relation to that person's application which prevents the person from working with children, or
 - b. the applicant had previously been denied a working with children check clearance, or had their clearance cancelled, and subsequently not granted a clearance.

Criminal history information

10. For the purpose of these Standards, criminal history information means:
 - a. convictions, whether or not spent
 - b. findings of guilt that did not result in a conviction being recorded, and
 - c. charges, regardless of status or outcome, including:
 - (i) pending charges – that is, charges laid but not finalised
 - (ii) charges disposed of by a court, or otherwise, except by way of conviction (for example, withdrawn, set aside or dismissed)
 - (iii) charges that led to acquittals or convictions that were quashed or otherwise overturned on appeal.
11. All applicants for, and holders of, working with children check clearances are required to self-disclose any international criminal history information. This includes any new information that arises after an individual has applied for or obtained their working with children check clearance.
12. All police services will provide screening agencies with criminal history information (as defined in Standard 10), and any other available information relating to the circumstances of an offence, for the purposes of conducting a working with children check.

Risk assessment

13. An applicant who does not have a relevant criminal history, relevant finding of misconduct, any issues identified through self-disclosure, or any other information deemed relevant by the screening agency, and has not previously been denied a working with children check clearance or had a clearance revoked, will automatically be issued with a working with children check clearance.
14. An applicant who has a conviction for specified offences within the following categories will not be issued with a working with children check clearance provided the applicant was at least 18 years old at the time of the offence. There is no right of appeal against such a decision except on grounds of mistaken identity. Disqualifying offences include:
 - a. murder and attempted murder
 - b. serious assault against a child
 - c. sexual offences in relation to a child including incest
 - d. child pornography-related offences
 - e. abduction or kidnapping offences against a child involving a sexual or abusive element
 - f. bestiality and serious animal cruelty offences. *
15. An applicant with a conviction or pending charge for specified offences within the following categories will not be issued with a working with children check clearance, unless there are exceptional circumstances, provided the applicant was at least 18 years old at the time of the offence:
 - a. manslaughter
 - b. assault and sexual offences not captured in Standard 14
 - c. dangerous or negligent acts against a child under care
 - d. abduction or kidnapping offences not captured in Standard 14
 - e. animal cruelty offences not captured in Standard 14
 - f. drug trafficking offences
 - g. fraud and deception offences against a child
 - h. national security offences
 - i. pending charges for offences captured in Standard 14. *
16. All other relevant criminal history (including juvenile records), disciplinary or misconduct information, or any other information considered relevant by the screening agency should trigger an assessment of a person's eligibility for a working with children check clearance, consistent with the risk assessment factors captured in Standards 22 and 23. *
17. States and territories will work towards identifying specific offences for each of the categories captured in Standards 14 and 15, which will form an addendum to these National Standards.

* Standards 14, 15 and 16 were not endorsed by Western Australia.

Relevant criminal history

18. A relevant criminal history for the purpose of Standard 16 includes but is not limited to:
 - a. sexual offences, regardless of whether the victim was a child and including offences not captured in Standards 14 and 15
 - b. violent offences, including assaults, arson and other fire-related offences, regardless of whether the victim was a child and including offences not captured in Standards 14 and 15
 - c. child welfare offences
 - d. offences for breach of domestic and family violence orders
 - e. offences involving cruelty to animals, and
 - f. drug offences.

Findings of misconduct

19. Relevant findings of misconduct must be assessed for all working with children check applicants.
20. A relevant finding of misconduct includes but is not limited to a finding of misconduct by a registration or licencing body (including teachers and health practitioner bodies) or notified through a reportable conduct scheme (where one exists), where the conduct involved physical or sexual misconduct that involved or occurred in the presence of a child.
21. Bodies responsible for making findings of misconduct must notify their respective screening agency of relevant findings of misconduct.

Criteria for assessing risk

22. The criteria for assessing risks to children includes the following:
 - a. the nature, gravity and circumstances of the offence, misconduct, disciplinary and/or other relevant information, and how this is relevant to children or child-related work
 - b. the length of time that has passed since the event occurred
 - c. the vulnerability of the victim at the time of the event including the age of the victim, the age difference between the person and the victim and the person's relationship to the victim or position of authority over the victim at the time of the event
 - d. the person's criminal, misconduct, disciplinary or other relevant history, including whether there is a pattern of concerning conduct
 - e. the person's conduct since the event
 - f. all other relevant circumstances in respect of their offending, misconduct or other relevant history, and the impact on their eligibility to be engaged in child-related work.
23. In weighing up the risk assessment criteria, the paramount consideration must be the best interests of children, having regard to their safety and protection.

Processing

24. All working with children check schemes are to have an electronic processing system for working with children check applications.
25. Screening agencies should continue to improve the efficiency with which they process applications, while ensuring that the risk assessment and decision-making standards for protecting children from the risk of harm are maintained.
26. To ensure risks to children are minimised, once all necessary information is obtained from external parties, screening agencies should work towards:
 - a. processing the majority of working with children check applications, for which no risk assessment is required, within 5 working days, and
 - b. processing the majority of working with children check applications, for which a risk assessment is required, within 21 working days.

Outcomes

Clearance types



27. Working with children check decisions are based on the circumstances of, and risk to the safety of children posed by, the individual and are detached from the employer the person is seeking to work for, or the role or organisation the person is seeking to work in.
28. The outcome of a working with children check is either that a clearance is issued or it is not. Clearances are not conditional and there are not different types of clearances. *
29. The applications of volunteers and employees for working with children checks are subject to the same risk assessment.

Compliance

Offences

30. A person is liable for a criminal offence if the person:
 - a. engages in child-related work, and
 - (i) they have not applied for a working with children check or hold a working with children check clearance, or
 - (ii) they are subject to an interim decision that prevents the person from working with children
 - b. engages another person in child-related work and the person
 - (i) has not applied for a working with children check or holds a working with children check clearance, or
 - (ii) is subject to an interim decision that prevents the person from working with children

* Standard 28 was not endorsed by Tasmania.

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- c. provides false or misleading information in connection with a working with children check application
 - d. as an applicant or working with children check clearance holder, fails to notify screening agencies of relevant changes to their circumstances including a change of relevant criminal history, change of employer, and change of personal information, or
 - e. discloses information gathered during the course of a working with children check without authority.
31. State and territory governments will work towards a consistent and simplified list of offences for non-compliance with their respective working with children check schemes.

Monitoring compliance

32. Screening agencies, or another suitable regulatory body, have the statutory power to monitor compliance with working with children check legislation. In support of this function, that agency or body has the statutory power to compel the production of relevant information for the purpose of compliance monitoring.

Changes to the National Standards

33. States and territories will consult on any proposed changes to the National Standards or significant changes to a state or territory's working with children check legislation (except where the changes are to implement the National Standards) to ensure best practice is built nationally and that the National Standards continue to develop in order to drive increased national consistency.
34. States and territories will review the National Standards periodically to identify areas where further national consistency can be reached. Any changes are to be approved by the relevant Ministers.