

Working with Children Checks

(as at August 2017)

The Working with Children Check was made compulsory by law in 2005 for all employees and volunteers engaged in 'child-related work.' Changes to the law and your obligations take place occasionally so make sure you have the most up-to-date information.

All organisations must be aware of their obligations under the Victorian Working with Children Act 2005 and ensure volunteers have a current Working with Children Check if required. Those that don't are breaking the law and face serious penalties, including two years imprisonment, or a fine of \$38,056.80 (240 penalty units) or both for individuals, and fines of up to \$190,284.00 (1200 penalty units) for organisations.

Who needs a Working with Children Check?

A Working with Children Check is required when a person is performing child-related work, which involves direct contact with children and is regular, ongoing and is required as part of their role. The Working with Children Act 2005 lists a broad range of occupations and activities deemed to be 'child-related work' that require a check.

You can take a short quiz to find out if you or your organisation's volunteers need a check here www.workingwithchildren.vic.gov.au

Organisations should be aware that a person does not legally require a Working with Children Check if their work involves only occasional direct contact with children and that contact is incidental to their duties.

What does it mean?	
Direct contact	Physical contact, face to face contact, contact by post or other written communication; contact by telephone or other oral communication; or contact by email or other electronic communication.
Children	A person under 18 years of age.
Required as part of their role	A volunteer position description or role profile which clearly states that direct contact is part of the role.

Keep it to yourself

In most circumstances the law prohibits you from sharing information about a volunteer's Working with Children Check. If you believe it is important to disclose what you know about a volunteer, we recommend you get legal advice first.

Criminal records, too, can be subject to privacy laws. Whether a volunteer involving organisation is bound by these laws depends on several factors – to understand more see *Fast Facts – Protecting the Privacy of Volunteers*

Obtaining the check

Volunteers will need to complete an application and lodge it at the post office, with identification and a passport photo. Applications can be done online at: www.workingwithchildren.vic.gov.au/home/applications/apply+for+a+check/

There is no fee for volunteers to obtain a Working with Children Check. However, be aware there may be indirect costs associated with obtaining a check, such as public transport to the post office and purchasing passport photos.

If the volunteer passes the check they will be assigned an Assessment Notice and card. It is the organisation's duty to check these documents are valid.

Examples

If a parent is volunteering in an activity in which their child participates, or normally participates, such as a parent reading to their child at a school, they are **exempt** and do not require a Working With Children Check. However, schools, groups and organisations have always been able to impose more rigorous requirements. Some organisations ask parents and volunteers to obtain a Working With Children Check, even where that is not required by legislation.

2017 amendments to the Working with Children Act 2005

The following amendments to the Act came into effect on 1 August 2017:

1. An expanded definition of 'direct contact' in the Act. The definition of direct contact now includes oral, written or electronic communication as well as face-to-face and physical contact.
2. References removed to 'supervision' from the Act. This means that even if a person's contact with children as part of their child-related work is supervised by another person, they will still need to apply for a Working with Children Check.
3. A new occupational category of 'child-related work' created, known as 'kinship care'. Family members or other persons of significance caring for a child placed by Child Protection under the Children, Youth and Families Act 2005 are required to obtain a Check.

4. Non-conviction charges (charges that have been finally dealt with other than by a conviction or finding of guilt) for serious sexual, violent or drug offences should be considered as part of Check assessments and re-assessments.

5. The Secretary to the Victorian Department of Justice and Regulation can compel the production of certain information for the purposes of compliance monitoring.

Further information is available at:
www.workingwithchildren.vic.gov.au/
www.justiceconnect.org.au/nfpenquiry

If a person takes up a position as an assistant coach of a junior sports team, he or she will now be required to have a Working With Children Check, even if he or she is supervised by a senior coach.

An online tutor who teaches children is now required to have a Working With Children Check because the definition of direct contact includes electronic communication, such as using Skype to teach children.

A tradesperson attending a sporting club to undertake repairs would not be considered to be undertaking child-related work, even though children may be present, because their contact with children in this circumstance is occasional contact that is incidental to their trade.

A guest speaker invited to talk to a group of children as a one-off presentation, and whose work involves only occasional direct contact with children that is incidental to their work, would not be considered to be undertaking child-related work and not require a Working With Children Check.

An emergency service worker responding to an emergency situation, such as a fire or medical emergency, would not require a Working With Children Check and would not be considered to be undertaking child-related work, even if the response required direct contact with a child.

More information

For help deciding whether your volunteers need Working with Children Checks, visit:
www.workingwithchildren.vic.gov.au/

You can also call the Department of Justice information line: 1300 652 879 or email: workingwithchildren@justice.vic.gov.au

Please note that Volunteering Victoria does not provide legal advice. For legal advice you should contact: www.justiceconnect.org.au/nfpenquiry

Volunteering Victoria is the state peak body for volunteering. We work to promote and build a vibrant, prosperous and strong volunteering community that is inclusive, respected and sustainable.

Ph: 03 8327 8500

Email: info@volunteeringvictoria.org.au
 2/491 King Street, West Melbourne VIC 3003
www.volunteeringvictoria.org.au

ABN 79 378 017 212

Volunteering Victoria is endorsed as a Deductible Gift Recipient (DGR)

© Volunteering Victoria 2017.

Published August 2017.