

Volunteer screening

Legal information for Victorian community organisations

This fact sheet covers:

- Working with Children Checks
- Police Checks, and
- other checks.

It is important that your organisation undertakes screening and induction of volunteers in a thorough and systematic way.

In the recruitment and ongoing management of volunteers, your organisation owes a duty of care to take reasonable steps to prevent reasonably foreseeable harm to other volunteers, employees, clients and members of the public.

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 do not ask them to undertake a Working with Children Check. The volunteer seems trustworthy and 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 she has 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 he has not been trained in what to do in this situation. He is traumatised by this incident. Your organisation could be in breach of its duties to both the volunteer and client.



Screening volunteers

Before engaging a volunteer it is important to undertake the background checks required by law, as well as to consider other appropriate background screening checks to manage risk.

This sections covers:

- Working with Children Checks (WWC Check)
- Police Checks, and
- other qualification, reference and ID checks.

In Victoria, it is mandatory for all of your organisation's workers, including volunteers, who undertake 'child-related' work to have a WWC Check (unless an 'exemption' applies, for example, occasional contact with children incidental to the work is not 'child-related' work). These requirements are set out under the *Working with Children Act 2005* (Vic), and detailed information is available in Not-for-profit Law's Screening Checks Guide on the Information Hub at www.nfplaw.org.au/employees.

Failure to undertake a WWC Check may result in penalties against both your organisation and the volunteer.

It is not mandatory for your organisation to undertake police checks and other checks for volunteers (such as license, qualification and reference checks). However, you may have a contractual obligation (eg. under a funding or auspicing agreement) to undertake certain screening checks before engaging a volunteer. You may also have internal policies that deem these checks appropriate as part of your organisation's risk management strategy, depending on the nature of the volunteer role.

TIP

As a matter of best practice, even if the law and contractual agreements do not require it, your organisation should conduct relevant background checks on all potential volunteers to make sure they are engaging a suitable person for the role and providing a safe work place for other volunteers, employees and clients.

Consider whether the volunteer will have unsupervised access to money or property, contact with vulnerable clients or 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.

Interstate and overseas screening

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.

If a volunteer has a WWC Check from another state or territory and wants to volunteer 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 members of your organisation are travelling to another state or territory outside of Victoria and will engage in child-related work, you need to ensure that you comply with the laws of the particular state they visit – which may mean them 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 is 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. The Victorian Department of Justice and Regulation's [website](#) has a fact sheet detailing each state's screening requirements. See Resources, below.

Again, even if the law does not require it, if volunteers will have contact with children, we strongly recommend that your organisation undertake thorough screening checks.

NOTE



In 2012, all states and territories agreed on the above exemption for Checks for interstate visitors. However, this has not been fully or consistently implemented. Therefore, it is important to check the applicable scheme in each state and territory (see the 'Interstate Checks' page on the Victorian Department of Justice and Regulation's website at www.workingwithchildren.vic.gov.au).

Relevantly, The Royal Commission into Institutional Responses to Child Sexual Abuse released its report on [Working with Children Checks \(WWCC Report\)](#) on 17 August 2015, which 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.

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's Department of Immigration and Border Protection website at www.border.gov.au/Trav/Visa/Char.

How do Working with Children Checks and Police Checks differ?

WWC Checks satisfy different purposes and some of the key differences include:

	Working with Children Checks (VIC)	Police Checks (VIC)
Who conducts the check?	The check is submitted to the Victorian Department of Justice and Regulation.	The check is submitted to Victoria Police.
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).	All court outcomes with a finding of guilt (including those 'without conviction', good behaviour bonds, outstanding charges and certain traffic matters where criminal), 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 Regulation 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?	5 years.	It is current only at the time of the check.
Is it an ongoing check?	Yes – over the 5 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

Extra requirements may apply to particular types of volunteers under contracts or funding agreements, for example those working in aged care.

TIP

For WWC Checks:

- make sure the volunteer notifies the Department within 21 days of starting with your organisation
- this is a requirement under law and ensures you are receiving all updates from the rolling checks
- make a note of the WWC Check's expiry date and schedule a reminder for your volunteer to renew, and
- have a process for determining when your youth volunteers turn 18, as they may then require a WWC Check at this time.

For Police Checks:

- schedule regular checks (eg. every 1 to 3 years) so that any delay in the processing of outcomes are accounted for as well as any new findings of guilt.

RELATED RESOURCES

For more detailed information about Working with Children Checks and Police Checks, go to our Screening Checks guide at www.nfplaw.org.au/recruitment and Volunteer Screening fact sheet at www.nfplaw.org.au/volunteers.

TIP

The screening and induction process ought to be just one part of your organisation's risk management processes. There is a need for ongoing supervision and training, a chance for the volunteer to provide feedback and raise queries and for regular reminders of key policies.

Resources

Related Not-for-profit Law Resources

- ✔ Recruitment of employees www.nfplaw.org.au/recruitment

For more detail about Working with Children Checks and Police Checks, go to our Not-for-profit Law guide on Screening Checks.

- ✔ Volunteers www.nfplaw.org.au/volunteers

The Volunteers page on the Information Hub features further information on specific issues covered in this fact sheet and the laws as they relate to volunteers, including resources on:

- Volunteer recruitment: a brief overview – for more information on recruitment, induction and training of volunteers generally.
- Volunteer and workplace behaviour – for more information on particular workplace behaviours that volunteers should receive training on during the induction process.
- Safety, risk management and volunteers – for further information about your organisation's duty to provide a safe work environment and risk management strategies.

- ✔ Risk and Insurance www.nfplaw.org.au/riskinsurance

This Information Hub page 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

- ✔ Victorian Department of Justice and Regulation – Working with Children Check www.workingwithchildren.vic.gov.au

The Working with Children Check website provides information about the requirement for your employees and volunteers to obtain 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.

- ✔ Working with Children Check www.workingwithchildren.vic.gov.au/home/resources/interstate+checks/

This part of the Working with Children Check website outlines interstate requirements, and discusses working across states.

- ✔ Volunteering Australia www.volunteeringaustralia.org

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 Families, Housing, Community Services and Indigenous Affairs www.dss.gov.au

Visit this website for the [National Framework for Protecting Australia's Children 2009–2020](#).

- ✔ Victoria Police www.police.vic.gov.au

Victoria Police has a Frequently Asked Questions [page](#) on National Police Certificates.

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