



Factsheet 11: Information for the Sport and Recreation Sector



The sport and recreation sector plays a pivotal role in children's development. It is important that safe environments are provided for all children who participate in this sector.

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.

Employers and volunteer organisations have a number of responsibilities and obligations under the Act which are outlined in this factsheet.

Safer Environments for Children - Minimising Risk

Obtaining a WWC Check is **only one** of the practices that responsible organisations put in place to promote safer environments for children. Suitability to work with children covers a wide range of factors other than just offence history, such as character, skills and experience. Other necessary procedures include:

- rigorous recruitment and selection practices, including thorough referee checks
- good supervision and training
- policies that promote safer and supportive environments for children

Many employers and volunteer organisations have good risk management policies that include practices that safeguard children, codes of conduct and supervision and training.

Employers and volunteer organisations must make sure that employees, volunteers and students who are in child-related work have valid WWC Checks. Employers and volunteer organisations can also improve safety by requiring people who are not in child-related work or are exempt from obtaining a WWC Check to obtain either a National Police Check for Volunteers or a National Police Certificate. 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 below.

The following steps will help you to identify if a person (paid/ unpaid/ volunteer/ student/ self employed) is in child-related work and requires 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 Working with Children (Criminal Record Checking) Act 2004?</p> <p>See <u>Factsheet 1: What is child-related work?</u></p> | <p>YES Go to question 2</p> | <p>NO 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 years) or between employees of the same employer.</p> | <p>YES Go to question 3</p> | <p>NO A WWC Check is not required</p> |
| <p>Question 3: Does an exemption apply?</p> <p>To see if an exemption applies See <u>Factsheet 5: Child-related work and exemptions</u></p> | <p>YES If an exemption applies a WWC Check is not required.</p> | <p>NO 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 at a club in which their child is ordinarily involved in some or all of the activities. 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/ 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.

Who needs to apply for a WWC Check?

| Some categories of child-related work include (but are not limited to): | Examples of child-related work (subject to exemptions) in the sport and recreation sector include: |
|--|---|
| <p>Category 4: A coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes</p> | <ul style="list-style-type: none"> • Paid people or volunteers coaching children's sporting teams • Interstate or international coaches working with children in Western Australia at a sport or recreational club for more than 2 weeks in any period of 12 months • Students over 18 years coaching children in sporting clubs as part of a placement obligation for an educational or vocation course they are completing • People providing children's tuition such as dance and martial arts teachers. |
| <p>Category 5: 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</p> | <ul style="list-style-type: none"> • People providing care and accommodation for children (eg billeting) from visiting sport teams |
| <p>Category 12: 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</p> | <ul style="list-style-type: none"> • Canteen staff who have contact with children as part of their usual duties at a sport or recreational club • Staff providing activities to children as well as support staff of children's sporting or recreational clubs, including managers and first aid or medical staff who have contact with children as part of their usual duties • People in Board positions who have contact with children as part of their usual duties at a sport or recreational club |
| <p>Category 15: An overnight camp, regardless of the type of accommodation or how many children are involved</p> | <ul style="list-style-type: none"> • People officiating at junior activities or events at a sport or recreational club camp • People supervising children on overnight camps |
| <p>Category 16: A transport service specifically for children</p> | <ul style="list-style-type: none"> • People specifically transporting children for a sporting club |

Employer Obligations and Responsibilities

Employers and volunteer organisations have responsibilities and obligations under the Act which are listed below. It is important to know your obligations and to ensure relevant employees, volunteers and students are aware of the WWC Check.

- Identify which of the listed categories of child-related work you and your employees, volunteers or students carry out.
See **Factsheet 1: What is Child-Related Work?**
- Ensure all volunteers, students, paid employees and self employed people in child-related work have applied for a WWC Check within the required time.
- Do not engage a person in child-related work on more than five days in a calendar year unless they hold a current WWC Card or have applied for one *unless* you are a licensed child care service (in which case your employees, volunteers or students must hold a valid WWC Card or have applied for one **before** they start work).
For more information about this five day threshold see page 5.
- Keep adequate records that demonstrate compliance with the Act. You may be asked to provide records to demonstrate your compliance with the Act by the WWC Screening Unit.
- Check, record and validate (using the validation facility on the WWC Check website) the WWC Cards of all new employees, volunteers, students and self employed contractors and periodically check and record that all current employees' and volunteers' WWC Cards are valid, current and have not been cancelled.
- Have a strategy to ensure employees, volunteers and students in child-related work renew their WWC Cards every three years.
- Register your organisation as an employer on the WWC Check website to advise us when you have new employees, volunteers or students who already have a WWC Card from a previous employer. This will enable the WWC Screening Unit to better protect children by enabling us to advise you about any change in status of the person's WWC Card and of other matters if necessary.
- Notify the WWC Screening Unit in writing if you reasonably suspect an employee, volunteer or student has been charged with or convicted of an offence which makes it inappropriate for them to continue to carry out child-related work.
- Do not give false or misleading information to the WWC Screening Unit.
- Never engage a person in child-related work if you are aware that they hold a current Negative Notice, Interim Negative Notice or have withdrawn their application for a WWC Card.
- Never engage a person in child-related work if you are aware of a conviction or pending charge for a Class 1 or Class 2 offence and the person does not have a current WWC Card or has not applied for one.
- As an employer you must comply with the WWC Act despite another Act or law or any industrial award, order or agreement and you will not incur any liability if you do so.

Not complying with your responsibilities can result in a **fine of up to \$60,000 and five years imprisonment.**

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 / volunteer organisations / education providers 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.

The five day threshold for employers / volunteer organisations / education providers does not apply to licensed child-care services (who must never engage a person in child-related work without that person first applying for a WWC Check, if they do not already have one). All other employers / volunteer organisations / education providers do not commit an offence if they engage most people for no more than five days in a calendar year *before* that person has applied for a WWC Card. However, this five day threshold **does not** apply if the employer / volunteer organisation / education provider knows that the person has been convicted of, or has a pending charge for a Class 1 or 2 offence, in which case an employer / volunteer organisation / education provider will commit an offence if they do not ensure that the employee, volunteer or student applies for a WWC Check before they actually start their child-related work role.

The five day threshold also does not apply where the employer / volunteer organisation / education provider is aware that a person has a current Negative Notice, an Interim Negative Notice, or has withdrawn their application for a WWC Check.

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.

The five day threshold is not an exemption from the 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.

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 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 the applicant’s current address details and photographic identification. See the guidelines on the application form for full information about what ID is acceptable.

Employers, volunteer organisations and education providers must co-sign the application forms of employees, students and volunteers to certify the applicant will be employed or volunteering in child-related work. **It is important that agency representatives do not fill in and sign blank application forms.** When the agency representative signs the application form they are declaring that the information provided is true and correct and that the applicant is in child-related work; penalties apply for providing false or misleading information to the WWC Screening Unit. The representative who signs the application form receives any related correspondence about the WWC Checks and should therefore be someone in a position of responsibility within the organisation. There is also capacity on the application form to identify a central position for such contact, instead of the representative who signed the application form.

Please note that self-employed people are responsible for their own applications. Applications by self-employed people should not be co-signed

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

Applicants who do not have sufficient identification or who live in remote communities and are unable to access an authorised Australia Post outlet, should contact the WWC Screening Unit on (08) 6217 8100 or 1800 883 979 (Country callers) to find out how they can 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 reassessed. 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.

Differences between the WWC Check and the National Police Check

There are differences between the WWC Check and the National Police Check.

For example:

- A WWC Check is valid for three years unless cancelled, during which time it can be used to work in any category of child-related work. Unlike the National Police Check, which is only current on the day it is issued, a WWC Check can be updated during the three years if a person's criminal record changes.
- WWC Checks access more criminal history information than for a National Police Check, including juvenile records, pending charges and charges that have not resulted in a conviction, including acquittals and discontinued charges.
- The WWC Check accesses all criminal history information but only assesses the information to determine if there is a risk of harm to children. In cases where a person's role involves working with money, for example, as well as children, a conviction for theft may be of interest to the employer. It is only the National Police Check which will inform the employer of this conviction and therefore both checks may be needed.
- A WWC Check is compulsory for people in child-related work, including those who have never had to have a criminal record check before. It has set obligations and penalties for non-compliance.

For more information about the different checks, see www.checkwwc.wa.gov.au

Frequently Asked Questions

Does a person working with a child still need to get a WWC Check if the child's parent supervises the activity?

Yes, a person carrying out child-related work still requires a WWC Check, subject to any exemptions, even if the child's parent is present or supervises the activity.

What can a person do if they cannot access an Australian Post Office to apply for the WWC Check?

People in this situation should contact the WWC Screening Unit on (08) 6217 8100 or for country callers 1800 883 979 (toll-free) to discuss their application.

Why are parents who volunteer in sport and recreation with their children exempt from obtaining the checks?

There are a number of reasons for this exemption and more information is available in the Parent Volunteer Exemption FAQs at www.checkwwc.wa.gov.au or www.dsr.wa.gov.au

Parents come into contact with other people's children in various informal situations as well as through volunteering activities. For example, parents will have contact with their children's friends when they visit and sleepover and in sports clubs, parents may help out on excursions and at fundraising events. Western Australia, like other states, does not consider the voluntary work done by parents to support their children should be controlled by legislation. While recognising that there is always a risk, it is considered that there are child safety measures which are more workable and effective in these situations. For this reason many parents who volunteer in connection with their children are exempt from having to apply. For example:

- a parent volunteer who umpires a sporting team where their child is a member of the sporting club
- a parent who volunteers in a canteen of a sporting club where their child is a member.

Note: the exemption does not apply to parents who volunteer to carry out child-related work on overnight camps their children attend, as they must get a WWC Check.

Does the parent volunteer exemption apply to grandparents, older siblings and other relatives?

No, exemptions for parent volunteers include step parents, de facto partners, prospective adoptive parents and persons who have legal responsibility for the long term or day to day care and welfare and development of the child, but do not include other relatives who do need to apply for the WWC Check if undertaking child-related work in any one of the 19 categories. However informal arrangements, like babysitting by other relatives or friends, are not considered child-related work for which a WWC Card is needed.

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

Instructors of group classes offered to the general community will only need a WWC Card if the class is provided primarily for children. This exemption includes community education courses or coaching/private tuition provided primarily for adults.

Can a person undertake child-related work if they have applied for the WWC Check but have not received notification of the outcome from the WWC Screening Unit?

Yes, a person can start or continue in child-related work when an application has been made and is still being assessed. This applies unless the person is issued with an Interim Negative Notice, or has been convicted of a Class 1 offence committed as an adult, or the person has made an application to cancel their Negative Notice.

An employer should not engage a person in child-related work, and an education provider should not procure child-related work for a student on placement, where they are aware that the person has withdrawn their application for a WWC Check. In some cases, a person who has withdrawn their application for a WWC Check may also commit an offence if they commence child-related work without having made a fresh application for a WWC Check *before* they start. (See "Five Day Threshold and Defence" for further information).

People with a pending application should retain the receipt they receive from Australia Post when lodging their application. They can show this to their employer, volunteer organisation or education provider as proof that they have made an application for a WWC Check.

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

Employers, volunteer organisations and education providers as well as their employees, volunteers and students on placement are responsible. For example, the 'employer' would be the club or organisation and the person responsible for ensuring WWC Checks have been obtained could be the volunteer coordinator, club manager, etc. (See Employer Obligations and Responsibilities on page 2 for more information). People in child-related work for the organisation would also be responsible for obtaining their WWC Checks as would self employed people if they undertake child-related work (subject to any exemptions).

The responsibilities and obligations for employees, volunteers, students on placement, self employed people, employers, volunteer organisations and education providers are outlined in on the website www.checkwwc.wa.gov.au and specifically in:

Factsheet 3: Information for Employers and Volunteer Organisations

Factsheet 6: Information for Employees and Volunteers

Factsheet 13: Information for Self Employed People

More Information

For more information about child safe practices and the parent volunteer exemption visit the website www.checkwwc.wa.gov.au :

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

Website address: www.checkwwc.wa.gov.au

Email address: checkquery@dcp.wa.gov.au

Phone number: (08) 6217 8100 or 1800 883 979 (toll free for country callers)

Last updated: April 2011