

## Working with Children Checks – an Update for Clubs

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# Working with Children Checks

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## Working with Children Checks – an Update for Clubs

This document has been created as a result of changes to the *Working with Children Act 2005* (Vic).

Amendments to the Working with Children check (WWC check) come into effect on 1 August 2017. Individuals (employees, contractors, or volunteers (paid or unpaid)) that previously did not require a WWC check may now need one to undertake their role. This also has implications for standard four of the [Victorian Child Safe Standards](#).<sup>1</sup>

This document covers the following issues arising out of the changes:

1. Vicsport information for sporting organisations
2. Who will need to have a WWC check?
3. How to make an online application for a WWC check
4. Exemptions from having to have a WWC check
  - Summary of the *Working with Children Act 2005* changes

This is a general guide for all types of clubs. You may or may not have paid staff at your club, but you all have managing committees, sub-committees, members and volunteers.

### 1. Vicsport information for sporting organisations?

Vicsport has provided sporting organisations with useful information relating to WWC checks<sup>2</sup>.

Sporting organisations at all levels should be aware of the incoming amendments. Changes in relation to 'direct contact' and 'supervision' may now require some volunteers and staff to gain a WWCC who previously did not need one.

### Examples

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#### Item 1 – Direct Contact

Matt is the communications officer at a local junior football club. He maintains the Facebook pages of the club, which involves direct contact with juniors aged 8-18 via social media. Due to the change in definition of direct contact, Matt is now required to hold a WWC check.

#### Item 2 – Supervision

Sarah is a trainee coach and supervised in her role coaching a junior basketball team by the club's senior coach. Previously she did not require a WWCC. Because of the changes, even though she is directly supervised by the senior coach, Sarah is now required to hold a WWC check.

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<sup>1</sup> Standard 4: Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel

<sup>2</sup> [https://vicsport.com.au/blog/2148/Working-with-Children-Check-Amendments?utm\\_source=Sportsview&utm\\_campaign=e9463cc843-Sportsview+February+2017&utm\\_medium=email&utm\\_term=0\\_e56ae9acd7-e9463cc843-420485073](https://vicsport.com.au/blog/2148/Working-with-Children-Check-Amendments?utm_source=Sportsview&utm_campaign=e9463cc843-Sportsview+February+2017&utm_medium=email&utm_term=0_e56ae9acd7-e9463cc843-420485073)

## Action Required

Vicsport encourages all Sport related organisations to:

1. Review their current WWC checks, child safe sport and related policies to ensure they are in line with the new legislation;
2. Inform all member organisations and individuals as soon as possible – especially those that have not previously obtained a WWC check;
3. Encourage applications for new WWC check as soon as possible to avoid delays closer to the 1 August 2017 deadline.

## 2. Who will need to have a WWC check at your club?

People can undertake a check at the following website:

<http://www.workingwithchildren.vic.gov.au/home/about+the+check/who+needs+a+check/>

You need to decide whether to ask new members whether they have a current WWC check on membership application forms? Surf Life Saving has been doing this for years asking members for a WWC check number.

You will need to identify who in your club, both staff and volunteers, will need a WWC check. In most cases, it will be quite clear, but there are some volunteers who do not have any contact with children in the course of volunteering and probably some staff of the club who are in the same position.

It is likely that the following groups of people associated with your club may now need to have a WWC check.

### Paid Staff (if any)

- The General Manager
- All Sailing office staff
- Reception/front desk staff
- Any staff member who is designated as a first aid person in the club safety plans
- Any staff member who emails, or phones or deals face-to-face with children in the course of club business

The General Manager can undertake the following check to confirm whether staff of YOUR CLUB need to have a WWCC:

<http://www.workingwithchildren.vic.gov.au/home/about+the+check/who+needs+a+check/do+my+workers+need+a+check>

## Coaches

- All coaches and assistant coaches in training programmes run by or hosted at your club, whether engaged directly by your club or by one of the coaching programmes hosted by your club.
- Children under 18 who are working as coaches, or assistant coaches do not need to have a WWCC (see Section 4 for classes of people exempt from needing to have a WWC check).

## Flag Officers, committee and subcommittee members

- Flag officers or committee members not included in the above categories who have contact with children in the course of their duties as a committee member.
- all Junior/Youth sub-committee members
- Icebergers (if involved in training, coaching, swimming with, children)<sup>3</sup>

## Volunteers

- all volunteers involved in running races where children are participants (either as sailors or volunteers).
- all volunteers who run training courses in which children can participate (eg power boat handling, radio licences etc)
- all volunteers who are available to conduct rescues or have first aid certificates

## Members

- Members who are not regularly involved in activities with children may or may not have to have a check.
- Members who have U18 crew members on a regular basis?
  - The WWC Act specifically provides that these people do not have to have WWC checks for that purpose. Section 9(8)(a) provides that a person is not engaged in child-related work merely because he or she is participating in an activity with a child on the same basis as the child, and gives the following example:
    - *An adult playing in a cricket team whether on a professional or amateur basis alongside a child is not engaging in child-related work.*
- Members who take U18 year olds on occasional sailing events. These types of occasional activities do not appear to fall within the requirements because they are not 'work', happen on an occasional basis and usually does not involve one to one unsupervised contact between a child and an adult.

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<sup>3</sup> Specific to Royal Brighton Yacht Club

## Other people

- All parents or carers who enrol children in Junior or Youth training or sailing activities.
  - the exemption for parents whose children are enrolled in the same course as they are assisting with still applies – see Section 4). However, that exemption is limited to ‘child related work’ in which the parents’ children are participating or normally participate
  - Given the broader definition of child related work, parents may be involved in other activities in which their own children are not involved, and this would mean that a WWC check for all parents would be a prudent approach by your club. As set out above, the process is simple and the application is free for volunteers in organisations.

### 3. Undertaking a working with children check – step by step guide to doing an on-line application<sup>4</sup>

For people undertaking a WWC check to do voluntary work at a club, it is free.

- 1) Go to the website  
<http://www.workingwithchildren.vic.gov.au/home/applications/apply+for+a+check/>
- 2) Follow all the prompts to put in your name, address, organisation, etc.
- 3) You will need two forms of ID, eg Victorian driver licence and Medicare card, or a Passport etc. all you need to do is to enter the number of the document, i.e. Driver licence number. You don't have to scan a copy of the document.
- 4) At the end of the application process you print off a one page document and take it to any Post Office. The website emails you the document, so if you don't have a printer, you can just show them the email on your phone.
- 5) At the Post Office they take your photo, check your Driver licence photo, and give you a receipt.
- 6) A few weeks later you should receive the official card in the mail.

It takes less than 5 minutes to apply on-line, and about 2 minutes in the Post Office. Very easy.

### 4. Exemptions from having to have a WWC check Children

People under 18 years of age do not need a Check.

However, under the *Child Employment Act 2003*, this exemption does not apply to workers under 18 years of age who supervise employees under the age of 15.

#### Some student volunteers – Not relevant to YOUR CLUB

Students aged 18 or 19 years of age do not need the Check to do volunteer work organised by, or held at, their educational institution.

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<sup>4</sup> Developed by Paul Pascoe, Vice Commodore, Royal Brighton Yacht Club

## Parents volunteering in the same activity as their child

Parents do not need a Check to volunteer in the same activity their child usually participates in.

A parent engaging in work as a volunteer in relation to an activity in which his or her child is participating or ordinarily participates is exempt from a working with children check in respect of that activity.

### Example 1

A parent who coaches a school football team in which his or her child ordinarily plays is exempt from a working with children check even if his or her child is not present on particular days due to sickness or some other reason. However, a parent who coaches a school football team whose child plays football for another team in the same school is not exempt from a working with children check.

### Example 2

An athletics carnival is being held at a school. A parent of one of the participating children carries out the task of raking the sand in the long jump pit. That parent is exempt from a working with children check even if his or her child is not participating in the long jump competition.

## Family members and close relations of children (not applicable to YOUR CLUB)

If you are closely related to each child you work with, you do not need a Check. Closely related to a child means you are the:

- parent, including de facto or step-parent
- mother- or father-in-law
- grandparent
- aunt or uncle
- brother, sister, half- or step-sibling, or brother or
- sister-in-law
- spouse or domestic partner.

Example: Thuy does not need a Check as she is paid to teach her niece piano.

## Teachers

Teachers registered with the Victorian Institute of Teaching (VIT) do not need a Check.

Example: Claire is a VIT-registered teacher. She does not need a Check to volunteer at a local children's chess club.

If a teacher's VIT registration is suspended or cancelled, they are no longer exempt and require a Check. By law, they must also notify in writing every organisation that engages them in child-related work within seven days of their suspension or cancellation.

#### Police officers

Victoria Police officers and Australian Federal Police (AFP) officers do not need a Check.

Example: Roger is an AFP officer who volunteers with an under-15s hockey team. He does not need a Check.

If the officer is suspended or dismissed from the police force, they are no longer exempt and require a Check. By law, they must also notify in writing every organisation that engages them in child related work within seven days of the suspension or dismissal.

#### Visitors from another Australian state or territory doing child-related work in Victoria

Interstate visitors can do child-related work in Victoria without a Victorian Check for a period of up to 30 days in the same calendar year for:

- several events or occasions with a Check from
- their state or territory, or
- only one event or occasion without a Check from
- their state or territory.

Example: Anne lives in New South Wales and wants to bring a group of teenagers to Victoria to see an exhibition at the State Library. As Anne does not usually live in Victoria and will only be in Victoria for one event, she does not need to get a Victorian Check.

There is a handy fact sheet on exemptions that can be found at [http://assets.justice.vic.gov.au/wwcc/resources/5ab5928e-9b9e-43fe-b18b-6e351e65a71d/exemptions\\_guide\\_may2017.pdf](http://assets.justice.vic.gov.au/wwcc/resources/5ab5928e-9b9e-43fe-b18b-6e351e65a71d/exemptions_guide_may2017.pdf)

#### 5. Summary of the *Working with Children Act 2005* changes

The Royal Commission into Institutional Responses to Child Sexual Abuse made several recommendations aimed at strengthening the protection children receive through WWC checks. The following amendments to the Act implement these recommendations:

1. Expand the 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. Remove references 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 WWC check.



3. Create a new occupational category of 'child-related work', 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. Ensure that 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 are considered as part of Check assessments and re-assessments.
5. Enable the Secretary to the Department of Justice and Regulation to compel the production of certain information for the purposes of compliance monitoring.

In addition, various other miscellaneous and technical amendments have been made to improve the Act's operation and administration.

Detailed information on the changes is provided below:

### Child Related Work

#### *Removal of 'supervision' from the definition*

The reference to 'supervision' has been removed from the definition of child-related work and no longer applies.

Previously, the element of supervision was used to determine whether a person required a Check. If a person's contact with children was directly supervised by another person, then they were not required to hold a Check.

Now, a Check is required whether contact with children is supervised or not. This amendment responds to the Royal Commission's findings that perpetrators can often groom children in the presence of other people.

**For example:** Chris has taken up a position as an assistant coach of a junior football team. Even though he is directly supervised by the head coach, Chris is still required to hold a Check.

#### *New meaning of 'direct contact'*

Previously, the term 'direct contact' only referred to physical contact or face-to-face oral communication with a child. In order to reflect the growing use of technology, which is presenting more opportunities for grooming children, the new definition of 'direct contact' has been expanded to include the following types of contact:

- face-to-face contact
- contact by post or other written communication
- contact by telephone or other oral communication
- contact by email or other electronic communication.

**For example:** John is employed as a counsellor with a phone counselling service specifically for young people aged between 5 and 18. Because John's role involves direct contact with children by telephone, he is required to hold a Check.

### Non-Conviction Charges

The Act now allows for non-conviction charges against a person for serious sexual, violent or drug offences to be considered as part of Check assessments and re-assessments. A non-conviction charge is a charge that has been finally dealt with other than by way of conviction or finding of guilt. For example:

- a charge that has been withdrawn
- a charge that has been discontinued
- a conviction that has been quashed on appeal
- a charge that has led to an acquittal.

This change brings Victoria into line with all other state and territory WWC Check regulators.

### Power to require information

If the Secretary to the Department of Justice and Regulation (the Secretary) suspects that a person has committed an offence against the Act, the Working with Children Check Regulations 2016 or Part 5 of the *Sex Offenders Registration Act 2004*, then the Secretary has the power to require anyone to provide information to help determine if the suspicion is reasonable. The Secretary can also notify the Chief Commissioner of Police about these suspicions. These offences include:

- a person engaging in child-related work without a Check
- a person who has been given a negative notice applying for a Check or engaging in child-related work
- a person using a volunteer Check for paid work
- a person using a false or other person's Check
- a person engaging a person in child-related work who does not have a Check
- an agency offering the services of a person who does not have a Check
- a registered sex offender engaging in child-related work.

If a person receives a request for information from the Secretary and fails to provide that information without a reasonable excuse, they may be charged and face a fine of 60 penalty units (maximum penalty).

It is a reasonable excuse for an individual to fail to provide the information requested, if providing that information would incriminate them.

## Other Changes

### *Removal of the term 'supervision' from the Act*

The term 'supervision' is now removed from the Act, not only in relation to the definition of 'child-related work' but also from the criteria used to assess a person's application for a Check, and defences to offence provisions under the Act. Therefore, whether a person's work is supervised or not, is no longer a relevant consideration under the Act.

### *Considering an applicant's age*

In some circumstances, the age of the applicant at the time of their offending/alleged offending determines which category they will fall into. The Act now clarifies that the categorisation of assessments and re-assessments is determined by the age of the applicant at the time the offence or alleged offence was committed.

If the offending occurred over a period of time and the applicant was at any time an adult during that time, the person is taken to be an adult for the purpose of the assessment/re-assessment.

### *Interstate offences*

The Act now states that for the purpose of the equivalent interstate offences of murder, attempted murder, rape and attempted rape, the age of the victim is irrelevant and these offences are considered as category A offences for the purposes of assessments and re-assessments. An interstate child abuse material offence is also a category A offence.

### *Carnal knowledge committed as a child*

If, as an adult, a person has been charged with, convicted or found guilty of the offence of carnal knowledge then they must not engage in child-related work while their application is being assessed.

People who have committed the offence as a child are not restricted from working with children whilst their application is being assessed.

Vanessa Twigg  
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## Appendix A – Contacts for further information

Information and enquiries specifically relating to the changes in WWCC legislation can be found by contacting the WWCC office via:

P: 1300 652 879

E: [workingwithchildren@justice.vic.gov.au](mailto:workingwithchildren@justice.vic.gov.au)

W: [www.workingwithchildren.vic.gov.au](http://www.workingwithchildren.vic.gov.au)

If your organisation needs information or support to meet the Standards, contact the Vicsport office: 03 9698 8100 or [admin@vicsport.com.au](mailto:admin@vicsport.com.au)

Resources can be found at the [Vicsport Child Safe Standards page](#).

Further information on Compliance and Enforcement can be found at the [CCYP website](#).