

Vulnerable Children Act 2014

Information for Employers/Practice Owners

The Vulnerable Children Act 2014 introduces new requirements for children's worker safety checking, bringing about a significant change for many health practitioners and support staff. The safety checks aim to reduce the risk of harm to children by making it easier to identify the small number of people who are a risk to children. A child is defined as a person under the age of 18 years.

The safety checking regime is being phased in—commencing on 1 July 2015 for new core children's workers (see below), and then extending to new non-core workers (from 1 July 2016), existing core workers (by 1 July 2018), and existing non-core workers (by 1 July 2019). The responsibility for ensuring that the safety checks are done lies with employers.

This information highlights the main issues and requirements of the Act if you employ staff, in either a contractor or employment capacity.

Frequently asked questions

Why do we now need to conduct worker safety checks?

The Worker Safety Check was introduced as a legislative requirement in the Vulnerable Children Act 2014. The checks are required to help assess if a person in contact with children poses a risk.

What is a Children's worker?

A children's worker is defined under the Act as: a person who works in, or provides, a regulated service, and the person's work:

- a. may or does involve regular or overnight contact with a child or children; and
- b. takes place without a parent or guardian of the child, or of each child being present.

Health practitioners and support staff working in health practices, who may have regular contact with children, are deemed to be children's workers.

What is a 'core children's worker'?

A core children's worker means a children's worker whose work in, or providing a regulated service requires or allows that, when the person is present with a child or children in the course of that work, the person is either:

- the only person present; or
- is the children's worker who has primary responsibility for, or authority over the child or child or children present.

In a general practice setting, all doctors and practice nurses would be considered core children's workers.

What is a ‘non-core children’s worker’?

A non-core children’s worker is a children’s worker who is not a core worker.

In a general practice setting, medical receptionists would be considered non-core children’s workers.

What is involved in a ‘children’s worker safety check’?

There is a list of checks that must be completed but you need to ensure that this does not just become a ‘box ticking’ exercise. Safety checking is more than confirming identification and police checking. There needs to be genuine assessment of risk during the job application, interview and reference check stages.

The following checks must have been completed for all people you are seeking to employ or engage as a children’s worker:

1. **Identify confirmation**, either by:
 - i. Use of electronic identity credential (eg the RealMe identity verification service), and a search of personnel records to check that the identity has not been claimed by someone else.
Or by:
 - ii. Following the regulatory process to provide confidence that:
 1. the identity exists (ie, that it is not fictitious) by checking an original primary identity document
 2. the identity is a ‘living identity’ and the potential children’s worker uses that identity in the community by checking an original secondary identity document
 3. the potential children’s worker links to the identity either by checking an identity document that contains a photo, or by using an identity referee
 4. searching personnel records to check that the identity has not been claimed by something else.
2. An **interview** of the potential children’s worker.
3. Obtaining and considering a **work history**, covering the preceding five years.
4. Obtaining and considering information from at least one **referee**, not related to the potential children’s worker or part of their extended family.
5. Seeking information from any relevant professional organisation, licensing authority, or registration authority, including (but not limited to) confirmation that the potential children’s worker is currently a member of the organisation, or currently licensed or registered by the authority.
6. Obtaining and considering information from a **New Zealand Police vet**, unless at least three-yearly NZ Police vetting is already a condition of the potential children’s worker holding professional registration or a practising certificate (and the specified organisation has confirmed that the registration or certificate is current).
7. **Evaluation** of the above information to assess the risk the potential children’s worker would pose to the safety of children if employed or engaged.

The following checks must have been completed for existing children’s workers:

1. **Identify confirmation**, either by:

- i. Use of electronic identity credential (eg, the RealMe identity verification service), and a search of personnel records to check that the identity has not been claimed by someone else.
Or by:
- ii. Following the regulatory process to provide confidence that:
 1. the identity exists (ie, that it is not fictitious) by checking an original primary identity document
 2. the identity is a 'living identity' and the potential children's worker uses that identity in the community by checking an original secondary identity document
 3. the potential children's worker links to the identity either by checking an identity document that contains a photo, or by using an identity referee
 4. searching personnel records to check that the identity has not been claimed by something else.
2. Seeking information from any relevant professional organisation, licensing authority, or registration authority, including (but not limited to) confirmation that the potential children's worker is currently a member of the organisation, or currently licensed or registered by the authority.
3. Obtaining and considering information from a **New Zealand Police vet**, unless at least three-yearly NZ Police vetting is already a condition of the potential children's worker holding professional registration or a practicing certificate (and the specified organisation has confirmed that the registration or certificate is current)
4. **Evaluation** of the above information to assess the risk the potential children's worker would pose to the safety of children if employed or engaged.

What should we be asking during the recruitment process?

Several steps in the recruitment process need to be considered.

- Job advertisements—it is advisable to mention that pre-screening will be required for core and non-core children's workers.
- Job application form—the following wording could be used on a job application form: *"Have you ever been convicted for, are currently being charged with, under investigation, or awaiting to appear in court for a criminal offence? If yes, please outline the nature of the offence....."*
- Job interview—possible interview questions could be:
 - Is there a reason as to why you would pose any risk to children if you were appointed to this position?
 - Do you have any convictions that would preclude you from being engaged as a children's worker?
 - Are there any investigations or other matters that may be disclosed in the safety checking process?
 - Have you ever had complaints about your professional practice and how have you handled them?
 - Has there ever been a time when you have had to deal with a sensitive situation with a child? Was there anything about that which made you feel uncomfortable?
 - What are your thoughts on being alone on the job with children and the chances of abuse allegations being made against you?
 - What do you think constitutes professional practice when working with children?

- Referee checking—possible questions for referees could be:
 - Do you consider the candidate suitable to work with children? If not, why not?
 - Do you trust the candidate in roles and responsibility over children, and if not, why not?
 - Have you ever had any reason to suspect the candidate’s honesty?
 - Has the candidate ever misled you about a matter relating to a child?
 - Has the candidate ever been disciplined for misleading or fraudulent conduct relating to a child?
 - How would you describe the way the candidate acts around children?
 - How well do you think the candidate understands children?
 - Was the candidate ever subject to formal disciplinary actions or complains regarding their behaviour towards children?

How does our practice get approved for police vetting?

Only proved agencies or individuals can use the police vetting service. To become an approved agency, you must:

- Register your interest in becoming an approved agency by emailing the full name of the individual who will act as the main contact for your practice to queryme@police.govt.nz
- The police should respond within five working days by sending you an email containing a link to the vetting website. The main contact will be required to login via RealMe and electronically sign an ‘Approved Agency Agreement’ and provide details of your agency.
- Once you have submitted your agreement, a vetting officer will contact you within the next five working days to advise you of the outcome of your application.

More information can be found at: <http://www.police.govt.nz/advice/businesses-and-organisations/vetting/registration>

How much does police vetting cost?

At the moment the New Zealand Police can’t charge, but legislation will be passed shortly to enable them to recover costs. It is expected to cost approximately \$7.00.

How will a New Zealand police vet provide information on overseas doctors?

Police vetting will only be limited to New Zealand. However it is recommended good practice to seek such information from candidates where practical. You are not required to conduct an overseas police vet.

How often does screening need to be done?

Every three years, the following checks must be completed for each person an organisation continues to employ or engage as either a core or non-core children’s worker:

1. Confirmation that the children’s worker has not changed their name from the name on the documents produced during the initial identity confirmation.
2. Seeking information from any relevant professional organisation, licensing authority, or registration authority, including (but not limited to) confirmation that the potential children’s worker is currently a member of the organisation, or currently licensed or registered by the authority.

3. Obtaining and considering information from a New Zealand Police vet, unless at least three-yearly New Zealand Police vetting is already a condition of the potential children's worker holding professional registration or a practicing certificate (and the specified organisation has confirmed that the registration or certificate is current).
4. Evaluation of the above information to assess the risk the potential children's worker would pose to the safety of children if employed or engaged.

Is it safe to rely on checks done by third parties?

You can rely on checks done by others if the checks meet the required standard and were conducted within three years. However the Children's Action Plan Directorate states that it would be good practice to recheck employees/contractors, to ensure their Police vet has been done to the required standard, and have a process to confirm the worker is the person who the third party has checked.

Do PHOs have a role in screening?

At the moment there are no PHOs who conduct worker safety checks on behalf of their practices, however this is subject to change, so it would be advisable to contact your PHO to ask them.

Do I need a potential employee's consent before conducting a police vet?

Yes, police vetting requires the consent of the candidate. You can download a New Zealand Police Vetting Service Request and Consent Form from the New Zealand Police website at: <http://www.police.govt.nz/advice/businesses-and-organisations/vetting/forms>. It would be advisable to get the candidate to complete this form as part of the interview process.

Can I employ someone before we have received their police check back?

There can be delays in the police vetting process. The initial period of the Act is being regarded as an 'educative period' and as long as employers are trying to do all the right things they will not be at risk of falling foul of the Act. It will be acceptable to include a clause in an individual employment agreement or contract to the effect that until police vetting is completed, as long as a child is with their parent, caregiver, guardian OR a senior staff member then the new employee can treat children. The main point is that the person seeing the child doesn't have sole authority over them until safety checking is completed.

A sample clause for an employment agreement could be:

If a New Zealand Police Vetting check has been conducted on the employee but has not been completed, the employee agrees not to treat any person under the age of 18 unless they are accompanied by a parent, caregiver, guardian or a senior staff member.

Is there a difference if we employ someone as an independent contractor rather than an employee?

No, they are subject to safety checking in the same way.

What about short term locums— do we have to conduct a safety check for them?

Yes, however the legislation allows for organisations to rely on checks done by third parties, as you are only required to ensure a check has been done to the required standard. Some locum recruitment agencies already conduct police checks, interviews and referee checks on locums.

The Ministry of Health has set up the Cross Agency Independent Safety Checking Service for the provision of safety checking for those who do not have 'usual employment arrangements' or are considered to be self-employed. The service is run by CV Check and will include all the requirements prescribed under the Act. A completed safety check by CV Check will be valid for three years and will be portable so can be accepted by other health organisations the self-employed or sole practitioner may work. For more information on CV Check see <https://cvcheck.com/nz>.

What are our obligations regarding medical students, nursing students and RMO placements in our practice?

If the student or RMO has contact with children, then it is expected that safety checking will be done. This safety checking can be done by third parties so, eventually, organisations such as the medical schools or an external screening agency may conduct these checks.

What about visiting specialists and other health workers?

You will need to ensure that these workers have had the appropriate safety checking. The legislation allows for organisations to rely on checks done by third parties, as you are only required to ensure a check has been done to the required standard. So you are not obligated to conduct the checks yourself, if they have been checked within the previous three years.

Can we dismiss an employee based on vetting and screening outcomes?

Providing an employee's employment agreement has provision for this, you can dismiss if the employee is unable to fulfil their role due to failing a worker safety check.

The Primary Health Care MECA has the following clause:

Clause 31.3: Where employers are required under the Vulnerable Children's Act 2014 to safety check employees who will be in contact with children, the parties agree that all employees covered by this agreement may be required to undergo such checks as prescribed by Regulation. This may include both vetting and screening processes. An employee who refuses to participate in the required safety checks or who does not pass such required screening may have their employment terminated.

This clause could be inserted into an individual employment agreement or contract.

Do self-employed or sole practitioners need to be safety checked, if so, how?

Yes there is a requirement for self-employed and sole practitioners to be safety checked.

The Ministry of Health has set up the Cross Agency Independent Safety Checking Service for the provision of safety checking for those who do not have 'usual employment arrangements' or are considered to be self-employed. The service is run by CV Check and

will include all the requirements prescribed under the Act. A completed safety check by CV Check will be valid for three years and will be portable so can accepted by other health organisations the self-employed or sole practitioner may work. For more information on CV Check see <https://cvcheck.com/nz>.

For more information:

More Information is available on the Children’s Action Plan website:

<http://childrensactionplan.govt.nz/>.

You can download the following publications:

- Children’s worker safety checking under the Vulnerable Children Act 2014
<http://www.childrensactionplan.govt.nz/assets/CAP-Uploads/childrens-workforce/Childrens-worker-safety-checking-under-the-Vulnerable-Children-Act-RC-v1-02.pdf>
- Safer recruitment Safer Children – Guidance for choosing safe people to work with children.
<http://childrensactionplan.govt.nz/assets/CAP-Uploads/childrens-workforce/Safer-Recruitment-Safer-Children.pdf>

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