



Department of
Sport and Recreation

Working with Children Checks

Information for the Western Australian
sport and recreation industry



Our whole
community wins



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Working with Children Checks

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sport and recreation industry

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Keeping children safe

Keeping children safe is a whole of community responsibility. Legislation has been developed to work alongside other child safeguarding strategies to better protect children in Western Australia. The *Working with Children Check (Criminal Record Checking) Act 2004* (the WWC Act) aims to increase the safety of children in our community by helping to prevent people who have a criminal history that indicates they may harm children, from gaining positions of trust with children in certain paid and unpaid employment and voluntary work.

Working with Children (WWC) Checks are required by law for people who engage in certain paid or unpaid work with children, described as “child-related work” under the WWC Act.

Both employers and volunteer organisations, and individuals have responsibilities to comply with the legislation and keep children safe in their organisations. The WWC Check cannot however be solely relied upon to protect children from people who may harm them. It is just one strategy employers and volunteer organisations must put in place to ensure that people who work with children are suitable to do so.

This booklet provides practical information, resources and links for employers and volunteer organisations to implement and maintain WWC Checks including: information about who needs a WWC Check, re-applying for a WWC Check and record keeping requirements.

Background

The Working with Children (WWC) legislation was proclaimed in 2006 and applies to many people who work with children in Western Australia and the Christmas and Cocos (Keeling Islands) including:

- Self-employed people
- Paid employees
- Volunteers and unpaid people
- Students on placement.

People who are in child-related work must apply for a WWC Check when they commence or are about to start child-related work and must re-apply every three years if they continue in child-related work.

The WWC Check is administered by the WWC Screening Unit of the Department for Child Protection and Family Support.



What do we need to do to get started?

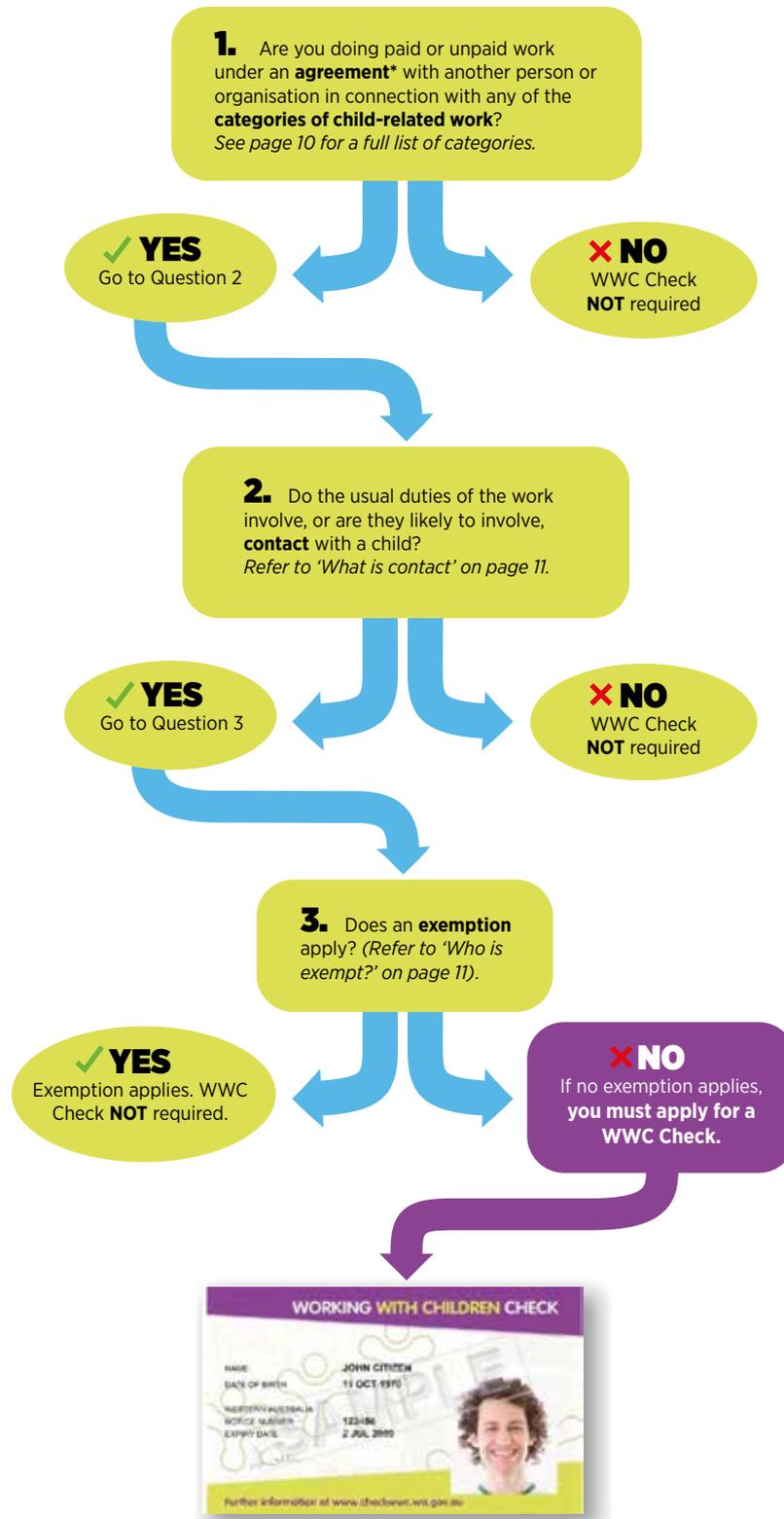
The table below identifies some of the steps to assist your organisation to manage WWC Checks and comply with the WWC legislation. Further information is provided on pages 9-20 of this booklet.

	Completed
1. Identify all employees, volunteers and students in child-related work*. Keep a list of all the people (employees, volunteers and students) in your organisation and identify those in child-related work and all employees/volunteers/students who are exempt (see page 9).	
2. A person in child-related work* MUST have a WWC Check. You should find out if an employee, volunteer or student has a current WWC Check and ask those that don't to apply for one immediately (see page 12).	
3. If a person comes to your organisation with a current WWC Card, sight their Card, obtain their WWC Card details, complete the <i>WWC Card Holder Registration Form</i> and check its validity by visiting www.workingwithchildren.wa.gov.au (see page 13).	
4. Where an employee, volunteer or student applies for a WWC Check, obtain their application receipt details, which allows them to start or continue their child-related work (providing they do not have a conviction for a Class 1 offence committed when an adult) (see page 13).	
5. Keep records of all WWC Check receipt, WWC Card information, application outcomes and any ongoing status updates (i.e. WWC Card number or Negative Notice Number) on a WWC Check recording keeping sheet (a template is available on page 18).	
6. Ensure that all records and information are confidential and kept in a secure place (see page 16).	
7. Develop a system to monitor the expiry date of WWC Cards and ensure card holders re-apply before their current Card expires (see page 14).	
8. Periodically (i.e. every six months) ensure that all current employees', volunteers' and students' WWC Cards are current and have not been cancelled by checking their validity at www.workingwithchildren.wa.gov.au (see page 13).	
9. Develop a process to manage Interim Negative Notices, Negative Notices and application withdrawals. If a person is issued with an Interim Negative Notice, Negative Notice or they have withdrawn their application for a WWC Check they must not engage in child-related work.	
10. Ensure that you are complying with the WWC legislation (see page 17).	

* A person is in child-related work if their usual duties of work involve, or are likely to involve, contact with a child in a category of child-related work and no exemption applies. It is important to consider all exemptions that may apply (see pages 9 - 11).

Who needs a Working with Children Check?

The following checklist will help you identify if a person (paid, unpaid or self-employed) requires a Working with Children (WWC) Check.



*Agreement – An agreement (written or unwritten) by a person with another person or organisation, to engage in child-related work either for payment or on a voluntary basis.

Categories of child-related work

Category

1. a child care service; (means a child care service as defined in the Child Care Services Act 2007 s4 or an education and care service as defined in the Education and Care Services National Law (Western Australia) s5(1));
2. a community kindergarten registered under Part 5 of the School Education Act 1999;
3. an educational institution for children;
4. a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes;
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;
6. a placement arrangement or secure care arrangement under the Children and Community Services Act 2004;
7. the performance by an officer, as defined in the Children and Community Services Act 2004, of a function given to the officer under that Act;
8. a detention centre, as defined in the Young Offenders Act 1994 section 3;
9. a community child health service;
10. a counselling or other support service;
11. a religious organisation;
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;
13. a ward of a public or private hospital in which children are ordinarily patients;
14. a baby sitting or child minding service, but not including an informal arrangement entered into for private or domestic purposes;
15. an overnight camp, regardless of the type of accommodation or how many children are involved;.
16. a transport service specifically for children;
17. a school crossing service, being a service provided to assist children to cross roads on their way to or from school; or
18. a children's entertainment or party service.

What is child-related work?

A person is in child-related work if their usual duties of work involve or are likely to involve, contact with a child in connection with a category of child-related work, as listed on page 10, and no exemption applies.



What is contact?

Contact is defined as:

- Any form of physical contact.
- Any form of oral communication, whether face-to-face, by telephone or otherwise.
- Any form of electronic communication.

However, it does not include contact in the normal course of duties between an employer and an employee or between employees of the same employer.

Who is exempt?

Certain people do not require a WWC Check because they fit within the description of an exemption that applies to the specific category or categories of child-related work they engage in.

If a person is covered by an exemption then they are NOT in child-related work and are ineligible to apply for a WWC Check.

The following are some of the most common exemptions:

- Volunteers and students on unpaid placement under 18 years of age.
- Short-term visitors to Western Australia engaging in child-related work during the period of two weeks after their arrival in WA and for no more than two weeks in any period of 12 months.
- Parents volunteering in many activities where their child is also involved may be exempt (this exemption does not apply in all categories of child-related work or when parents volunteer at overnight camps attended by their children).

There are some general exemptions which apply across all categories while others are specific to a particular category.

For more information about exemptions please refer to **Factsheet 5: Child-Related Work and Exemptions** at:

www.workingwithchildren.wa.gov.au.

Who is considered a parent?

A parent is a person who is the mother, father, stepmother or stepfather of the child; or who at law has the responsibility for the long-term or day-to-day care, welfare and development of the child; or is in a defacto relationship with the persons mentioned above or who is specified as the child's prospective adoptive parent under the Adoption Act 1994.

So what next?

If you have identified a person is in child-related work, you should request the person applies for a WWC Check or shows you their application receipt or current WWC Card. See page 12 for further details on how to apply. If you engage any self-employed contractors who are in child-related work be sure to ask to see their WWC Card or application receipt and include compliance with WWC legislation in their contract.

Applying for a WWC Check

How to apply for a WWC Check

The WWC Check application form is available at authorised Australia Post outlets throughout the State. A list of participating Australia Post outlets can be found at:

www.auspost.com.au/pol/app/locate?service=working-with-children-check-wa.

Applicants should complete their information on the application form with your organisation's representative completing parts 5 and 6 and co-signing the form in part 7. This is to confirm the applicant will be employed or volunteering in child-related work with your organisation and that all your organisation's information is correct. It is important that representatives do not fill in and sign blank application forms. By signing the application form your representative declares that the applicant is in child-related work. Penalties apply for providing false or misleading information to the WWC Screening Unit.

In situations where a person with two jobs is engaged in both paid and voluntary child-related work, the fee for paid work is required. Many volunteers who are also in paid child-related work must apply for their WWC Checks with their paid employers signing their application forms. If you have volunteers who have applied through their paid employment, you should obtain a copy of the receipt or Card from the volunteer. The checking process is the same for paid employees and volunteers, the only difference is that the fee for volunteers is heavily subsidized by government. If a person who applied as a volunteer obtains paid work during the three years that their WWC Card is valid, that person will not need to apply for a new WWC Check until their Card expires. A current WWC Card is transferable between paid and unpaid work.

When lodging the application form, applicants need to present sufficient documents to meet the 100 points identification criteria and pay the required fee. Accurate identification information is essential to make sure the criminal history check is completed for the correct person, which includes the applicant's current address details and photographic identification.

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



On completion of the check, your representative who signed the application form receives the outcome of the check and any related correspondence. It is therefore important this person is someone in a position of responsibility within your organisation.

If your organisation has a large number of employees, volunteers or students, you can also nominate to send all correspondence to a central contact, instead of to the representative who signed the application form. By completing the relevant section in Part 6 of the application form the outcome and correspondence relating to the application will be sent to a different person and address.

Cost of a WWC Check

- \$82* for paid people and self employed people.
- \$11* for volunteers and other unpaid people.

*Fees accurate as at July 2015. For current fees visit: www.workingwithchildren.wa.gov.au.

The fees are heavily subsidised by government and include the photograph and three years validity of the WWC Card (unless cancelled sooner).

The importance of the WWC Check receipt

A receipt from Australia Post is proof that a WWC Check application has been lodged. With this receipt an applicant can start or continue their child-related work, providing they do not have a conviction for a Class 1 offence committed when an adult. This enables most employees, volunteers and students to work whilst awaiting the outcome of their application.

Requests for additional information from the WWC Screening Unit

When applications are received by the WWC Screening Unit they are validated. In some cases the WWC Screening Unit may contact applicants and the representative to obtain further information, such as missing personal information or clarification of the applicant's child-related work. It is important that the information provided be correct and accurate. If an applicant fails to provide the information required within the specified time the application may be deemed to have been withdrawn and your organisation must not engage the person in child-related work.

What to do if a person already has a current WWC Card

If a person who is engaged in child-related work with your organisation already has a WWC Card from other child-related work you should:

- Sight their WWC Card.
- Take a copy of it for your records.
- Record the person's details in your WWC Check record keeping sheet.
- Validate it (check the Card is valid using the validation facility on www.workingwithchildren.wa.gov.au).

It is also recommended that you complete the *WWC Card Holder Registration Form* in the Update Details section of the WWC Check website. This notifies the WWC Screening Unit that the card holder is also engaged in child-related work for your organisation and allows the Unit to update your organisation in the future if there is a change in the card holder's status.



What happens when WWC Cards expire?

WWC Cards are valid for three years (unless cancelled earlier), after which time, card holders must re-apply for a WWC Check if they wish to continue their child-related work. A new application must be made before the current Card expires. It is recommended that card holders re-apply at least one month before their Card's expiry and no earlier than three months.

If a card holder does not re-apply for a new check before their Card expires they must not engage in child-related work until they have re-applied and only if they do not have a conviction for a Class 1 offence committed when an adult.

WWC card holders receive a reminder letter from the WWC Screening Unit. This letter contains information about the re-application process, including the required identification documentation. It is important that the WWC Screening Unit has the card holder's current address. Updated information can be provided through the website www.workingwithchildren.wa.gov.au or by calling the WWC call centre.

The application process of completing a WWC Check application form and lodging it at an authorised Australia Post is the same for each application.

Your organisation is required to ensure that all employees, volunteers and students in child-related work have re-applied for a WWC Check and you should obtain and record the applicant's new receipt and card details.

What happens after a person applies?

The WWC Screening Unit obtains a criminal record check from sources within Australia and this information is assessed as part of a WWC Check. A criminal record in itself will not necessarily prevent a person from working with children.

After an assessment is made the outcome of the Check is provided to both the applicant and the organisation. Once a person has a WWC Card their criminal record is monitored and any new information received during that time may result in their eligibility to hold a WWC Card being re-assessed.

What records are checked?

The WWC Check considers criminal record information to see if people have charges or convictions that indicate they may harm a child.

It is an unfortunate reality that some people who wish to harm children do seek out areas of work which provide opportunity for sustained contact with children. In other cases people may represent a risk of harm to a child by virtue of criminal records which indicate an inability to control violent or other behaviours that indicate they represent an unacceptable risk of harm to a child should they engage in child-related work.

All criminal record information is considered in making a decision to issue or deny a WWC Card, with the paramount consideration being the best interests of children.

This includes information about:

- all convictions for any offence as a child or an adult.
- any spent convictions a person has. *A spent conviction is one that does not need to be ordinarily declared.*
- charges and convictions when a person was a child (under 18 years);
- situations where a person was charged with an offence but not convicted; and
- the circumstances surrounding any of these charges and convictions.

For a list of offences considered during the assessment process please see **Factsheet 4: Class 1 and Class 2 Offences** at: www.workingwithchildren.wa.gov.au.

Where is criminal record information obtained from?

The WWC Screening Unit initiates a national criminal record check by CrimTrac of offences within Australia. Information about a person's criminal history may also be obtained from authorised bodies in WA and similar authorities in other states and territories such as the:

- Police
- Office of the Director of Public Prosecutions
- Department of Corrective Services
- Department of the Attorney General
- Courts.

If a person has a criminal record will they have an opportunity to give additional information?

Before an applicant is prohibited from child-related work, the applicant is invited to make a submission about their criminal history and their suitability to work with children. This is then considered as part of the assessment before a final decision is made.

Outcome of a WWC Check

People who apply for a WWC Check will be issued with either an Assessment Notice in the form of a WWC Card or a Negative Notice.

A WWC Card allows a person to engage in child-related work in Western Australia. The applicant receives their WWC Card with a unique Assessment Number by post, while their employer or volunteer organisation is also mailed a copy of the Card for their records. The WWC Card is valid for three years unless cancelled sooner and is transferable between paid and unpaid work i.e. if a person changes jobs or moves from volunteering to paid work or vice versa they do not need to re-apply each time.

A Negative Notice prohibits a person from all child-related work in Western Australia. In some cases an Interim Negative Notice may be issued before a final decision is made and this too immediately prohibits the person from child-related work. Both the applicant and the employer or volunteer organisation are notified of an Interim Negative Notice or Negative Notice.

Your organisation must not engage a person in child-related work if they are issued with an Interim Negative Notice or Negative Notice, or have withdrawn their application.

It is important that your organisation keeps a list of all employees, volunteers and students including the current WWC Check status for those who engage in child-related work.

What should employers and volunteer organisations do to safeguard their organisation?

It is important to know your obligations under the WWC legislation as non-compliance can result in fines of up to \$60,000 and five years imprisonment. Your organisation must keep records to demonstrate its compliance. It is also important that when your organisation makes policy and other decisions about the WWC Check these are documented. These decisions should always have the best interests of children as the chief consideration. Safeguarding children in your organisation relies on implementing many child-safe and child-friendly strategies. For more information about creating a safer environment see the Safe Clubs 4 Kids information on page 18.

Are you aware of your WWC Check responsibilities?

Do you...	Checked
1. Document and keep adequate records that demonstrate you are complying with the WWC Legislation?	
2. Ensure that all volunteers, paid employees, students and self-employed people engaged in child-related work have applied for a WWC Check or hold a valid WWC Card?	
3. Check, record and validate WWC Cards of all new volunteers, students, employees and self-employed people?	
4. Notify the WWC Screening Unit of new volunteers, students and employees to your organisation who already have WWC Cards by completing a <i>WWC Card Holder Registration Form</i> on the WWC Check website?	
5. Periodically check (i.e. every six months) and record that all current volunteers', students' and employees' WWC Cards are valid and have not been cancelled?	
6. Have strategies to ensure volunteers, students and employees re-apply for a WWC Check every three years before their Cards expire?	
7. Notify the WWC Screening Unit in writing if you reasonably suspect a volunteer, student or employee has been charged with, or convicted of, an offence that makes it inappropriate for them to engage in child-related work?	
8. Have a process to ensure that a person with a current Interim Negative Notice or Negative Notice does not engage in child-related work?	
9. Have a process to ensure that a person does not engage in child-related work if you are aware he/she has a conviction or pending charge for a Class 1 or Class 2 Offence and does not have a current WWC Card or hasn't applied for one?	
10. Have a process to ensure that a person who you know has withdrawn their WWC Check application does not engage in child-related work?	
11. Have processes or guidelines to complete the WWC Check application form? It is an offence to give information that you know is false or misleading on the application form or directly to the WWC Screening Unit.	
12. Have a process to advise those who need to know in your organisation if a person must not engage in child-related work (i.e. internal sporting association personnel)?	
13. Ensure that all records/information are confidential and kept in a secure place?	



Compliance audit

Employers and volunteer organisations can be audited to ensure their compliance with the WWC Legislation. If the WWC Screening Unit was conducting an audit, below are some examples of questions you may be requested to answer.

1. How does your organisation identify both existing employees, volunteers and students and new employees, volunteers and students who engage in child-related work?
2. What processes are in place to confirm that employees, volunteers and students who engage in child-related work have a valid WWC Card or have applied for a Card?
3. Do all your employees, volunteers and students who are required to have a WWC Card hold a valid Card or have they applied for a Card? If not, what measures are being taken to rectify the situation and within what time period will the situation be rectified?
4. Have any of your employees, volunteers and students been issued with a Negative Notice? If so, what steps have been taken to ensure they do not engage in child-related work?
5. What record keeping measures are in place to:
 - a) Record that employees, volunteers and students engaging in child-related work have applied for a WWC Card or currently hold a Card and the Card details?
 - b) Record that an employee, volunteer or student has been issued with a Negative Notice?
6. Does your organisation have an internal mechanism in place to monitor and report on compliance? If so, what do you have in place? If not, do you intend to put anything in place?





Contacts

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This information is given as a guide only and should not be a replacement for legal advice. The content of this publication is made available with the intention of providing you with access to general information in relation to the Working with Children Legislation and is not designed to offer specific legal or other advice of any kind. If you need any information for a specific or legal matter, you should obtain appropriate professional/legal advice that takes into account your particular set of circumstances. This information is accurate as at 9 July 2015. Published July 2015.