

# Guidance for Working with Children Checks and criminal history screening

 Right people, right role, right knowledge

## STANDARD 5

### PARTNERING WITH FAMILIES, CARERS AND COMMUNITIES

#### Criteria 5.2

Personnel have current clearances (for example working with children checks) and/or equivalent background checks relevant to their role.

#### Indicators

- 5.2.1 All personnel are required to have a background check and clearance (as relevant to their role).
- 5.2.2 As required by legislation, personnel must have a current working with children check (or working with vulnerable people check) and/or NDIS Worker Screening Check prior to working with children or adults at risk.
- 5.2.3 Records of all checks are maintained and monitored in accordance with legislation, for all personnel.

The following guidelines are provided to support Catholic entities to determine the requirements for Working with Children Checks (WWCC), NDIS Worker Screening Check and Criminal History Checks for their people:

- WWCC and Criminal History Checks are intended to be a single component of safeguarding practices and are limited in and of themselves unless accompanied by other child safe recruitment practices.
- It is recognised that each state and territory manages their own WWCC process and as such it is important that the guidance provided here be considered with respect to the entity's specific legislative requirements within their jurisdiction.
- A WWCC is a legal requirement when an individual is in a child-related role (having direct contact), engaging in activities or providing services directed mainly towards children. Direct contact can refer to physical, face-to-face, written, oral or electronic contact which takes place as part of the regular duties of the individual's role.

- It is critical that entities assess roles for the level of contact with children and ensure that individuals in roles which require a WWCC (as per legislation) can evidence the currency of their check. Entities need to be very clear about the scope of the WWCC legislation in their relevant jurisdiction(s) and may need to seek further advice from statutory authorities in relation to particular types of roles to clarify if a check is required. Entities may inadvertently act outside of legislative parameters by requiring WWCCs for roles that would not be considered relevant under the legislation. Using WWCCs beyond their intended scope may risk breaching Privacy legislation.
- Criminal History Checks are a 'point in time' check and are only valid on the day they are issued. As they are only a 'point in time check', for roles which have been determined to require a Criminal History Check, you should consider how frequently this check is conducted (i.e. every 3 years).
- The NDIS Worker Screening Check is an assessment of whether a person who works, or seeks to work, with people with disability poses a risk to them. The assessment determines whether a person is cleared or excluded from working in certain roles with people with disability. For further information see: <https://www.ndiscommission.gov.au/workers/worker-screening/ndis-worker-screening-check>

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### Additional Guidance

Where roles are exempt from WWCC (not working with children) entities should be undertaking appropriate screening and eligibility processes. This may include an entity requesting a declaration from the individual stating that the individual has no prohibiting offences that would prevent them from obtaining a WWCC.

### Roles which require a WWCC

A WWCC (or equivalent) is one tool in a suite of screening tools that must be used in human resource management to protect children from harm. It is a legal screening requirement for people who work or volunteer in child-related work. It screens an individual's criminal records and professional conduct history and therefore prevents people who pose an unjustifiable risk to children from working with or caring for them. There is no single national framework setting out requirements for WWCC. Each state and territory in Australia has its own procedures and variations in scope regarding what this type of check entails.

### For Catholic entities the following guidelines apply:

- It is a requirement that any clergy or religious in active ministry has a valid WWCC:
  - *Active ministry* means, an individual who exercises public ministry, regardless of how occasional and/or regardless of being classified as 'retired'.
  - Those who are infirm or in a nursing home and do not exercise any formal or public ministry may not require a WWCC. It is advised that each entity undertakes an assessment of all their personnel to determine those who are in active ministry and those who are not to establish who requires a WWCC.
- Any role which works directly with children requires a WWCC (this may be as a paid employee or volunteer).
- Leadership or management roles overseeing child related activities require a WWCC.

See appendix A: State and territory WWCC information for more information and contact links for relevant legislative requirements. It is recommended that you contact your relevant statutory authority to clarify your legislative requirements. When you receive formal guidance and advice from your relevant statutory authority, it is recommended that you record and file this guidance to justify your screening approach.

### **NDIS Worker Screening**

NDIS registered providers are legally bound to screen workers and volunteers for certain roles through the NDIS Worker Screening Check, a national initiative to assist organisations in engaging suitable people. Individuals are required to register with the [NDIS Worker Screening Unit](#) in their state or territory and NDIS providers can only engage personnel in certain roles who are registered and receive a clearance.

### **Criminal History Checks**

Entities working with adults at risk or have roles which are not legally bound to obtain a screening, have options available for screening and assessing potential personnel.

For other organisations working with adults at risk, a Criminal History Check can be used as a screening tool. A Criminal History Check is a list (at a given point in time), of police history information for an individual. Obtaining a Criminal History Check for a potential employee can assist in assessing suitability of people applying for roles to positions of trust and responsibility. Whilst they do not specify if someone is fit to work with adults at risk or children, it can be a valuable in making informed decisions and assessing risk when engaging personnel.

Criminal Checks may be part of funding deeds so organisations can be contractually bound to obtain them and some entities may develop a policy requiring some, or all, of their personnel to undergo a Criminal History Check. This reflects a risk-based approach in assessing the individual's role/position and determining the appropriate checks which are required based on the position. Criminal History Checks can also be used when a person is not captured by the legislative requirement to have a WWCC.

#### **Criteria which can help you decide if a Criminal History Check is necessary are:**

- Roles which work directly with children (understanding that some offences do not prohibit obtaining a WWCC).
- Roles involving management and oversight of people and/or the entity's resources.
- Roles which represent the entity in a formal setting with external bodies/groups (i.e. sector level or visiting the hospital/aged care facility) when there are no child related activities occurring.
- Roles which have access to facilities after hours or without formal supervision.
- Roles which have financial responsibility and handle money.
- A member of a board, council or committee.

### Examples of roles which may require WWCC/Criminal History Check or no check at all

WWCC	CRIMINAL HISTORY CHECK	NO CHECK REQUIRED
Clergy or religious in active ministry	Roles that access facilities or grounds outside community assembly times	Role performed in front of the assembled community or with constant supervision.
Roles that involve ministry to children.	Board, committee or council members.	Not a formal volunteer but assists occasionally and always with supervision (i.e. setup of event).
Formal ministry role (as defined by legislation).	Roles which have management of assets or handle finances.	
	Roles which represent the entity in a formal capacity.	
	Roles which provide transportation (i.e. bus driver)	

#### Entity requirements

It is a requirement of the National Catholic Safeguarding Standards that entities have a policy and related procedure/s articulating the risk-based approach taken when assessing an individual's role responsibilities and work duties. This may include, but is not limited to, implementing processes for periodic re-administration of Criminal History Checks and requiring Criminal History Checks to be administered in circumstances where a WWCC is not required by legislation.

# Appendix A: State and territory WWCC information

	CHECK	AUTHORITY	LEGAL REQUIREMENTS
Australian Capital Territory	Working With Vulnerable People (WWVP) check	Background Screening Unit, Access Canberra	The Working with Vulnerable People Act requires those working with children (and other vulnerable groups) to complete a <a href="#">Working With Vulnerable People check</a> and be registered before they can commence employment. <b>A WWVP is not required if you:</b> <ul style="list-style-type: none"> <li>do not work or volunteer with vulnerable people for more than three days in four weeks and seven days in 12 months (excluding overnight camps).</li> <li>are registered under a similar law in another State or Territory, as long as you do not work or volunteer with vulnerable people for more than 28 days in 12 months.</li> </ul>
New South Wales	Working With Children Check	NSW Office of the Children's Guardian	A <a href="#">Working With Children Check</a> is mandatory for anyone who works with children and involves a National Criminal History Check and a review of findings of workplace misconduct. <b>Exemptions: A WWCC is not required if you are visiting from interstate and working with children for fewer than 30 days</b>
Northern Territory	Working With Children Check / Ochre Card	Screening Assessment for Employment – Northern Territory (SAFE NT), Northern Territory Police	It is mandatory for people who have contact or potential contact with children to hold a <a href="#">Working with Children Clearance Notice and an Ochre Card</a> . <b>Exemptions: You do not need a clearance if you are visiting the Northern Territory and volunteering with children for less than 14 days a year in total.</b>
Queensland	Blue Card Check / Working With Children Check	Blue Card Services / Public Safety Business Agency	People who work with children and young people must hold a <a href="#">Blue Card</a> or an exemption card if their work falls into one of the regulated categories of business or employment.

			<p><b>Exemptions: You do not require a Blue Card if you are a paid employee, volunteer or student and you work with children for no more than 7 days in a calendar year.</b></p>
South Australia	Working with Children Check	The Department for Human Services Screening Unit	<p>People need a <a href="#">Working With Children Check</a> if they are in a 'prescribed position'. This means people who:</p> <ul style="list-style-type: none"> <li>• Are in paid or volunteering roles where it is reasonably foreseeable that they will work with children</li> <li>• Run or manage a business where the employees or volunteers work with children</li> <li>• Are employed to provide preschool, primary or secondary education to a child</li> </ul> <p><b>Exemptions: You do not require a WWCC if you believe on reasonable grounds that you will not work with children on more than 7 days (whether consecutive or not) in a calendar year.</b></p>
Tasmania	Registration to Work with Vulnerable People (RWVP) / Working with Children Registration	Department of Justice	<p>People who work or volunteer with children or would be expected to have more than incidental contact with children as a normal part of their duties require a <a href="#">Registration to Work with Vulnerable People</a>.</p> <p><b>Exemptions: You are not required to be registered to work with vulnerable people if you are volunteering with children for 7 days or less per calendar year.</b></p>
Victoria	Working With Children Check	Department of Justice and Regulation, Working with Children Check Unit	<p>The <a href="#">Working with Children Check</a> is compulsory for people who wish to work with or volunteer with children.</p> <p><b>Exemptions: If you are a visitor who normally lives outside Victoria and you hold an equivalent check from your home State/Territory, you can do child-related work in Victoria without a Victorian check for a maximum of 30 days in a calendar year, which can compromise one or several events or occasions.</b></p>
Western Australia	Working With Children Check	WWC Screening Unit (Department for Child Protection and Family Support)	<p>A <a href="#">Working with Children Check</a> is compulsory for people who carry out child-related work in Western Australia.</p> <p><b>Exemptions: You do not require a WWCC if you are a short-term visitor to Western Australia, which only applies during the two week period after you arrive in Western Australia and cannot exceed a total of 2 weeks in any period of 12 months.</b></p>

## Appendix B: WWCC Exemptions by Jurisdiction

JURISDICTION	EXEMPTIONS FROM REQUIRING A WWCC
New South Wales	<ol style="list-style-type: none"> <li>1. You work in an organisation that delivers services for children but you do not have more than incidental contact with the children.</li> <li>2. You are a student, over 18, on a clinical placement in a hospital or other health service.</li> <li>3. Your work occasionally includes helping out with children as an incidental part of your role, but your work with children is very short term - a visitor to a school as a guest speaker.</li> <li>4. You are under 18, or a co-worker or supervisor of a worker who is under 18.</li> <li>5. You work as a referee, umpire or linesperson or other sporting official where the work does not involve contact with children for extended periods without other adults being present.</li> <li>6. You are a private practice health practitioner who treats children with another adult present.</li> <li>7. You babysit by private arrangement, or do informal domestic work at a home where there are children.</li> <li>8. You are visiting from interstate and working with children for fewer than 30 days.</li> <li>9. A tradesperson who may incidentally come into contact with children but is not working with the children.</li> </ol>
Victoria	<ol style="list-style-type: none"> <li>1. People under 18 years of age are exempt from the Check. However, under the Child Employment Act 2003, this exemption does not apply to people under 18 years of age who supervise employees under the age of 15.</li> <li>2. Students aged 18 or 19 years of age do not need a Check to do volunteer work organised by, or held at, their educational institution.</li> <li>3. Parents are exempt and do not need a Check to volunteer in the same activity their child is participating, or normally participates in.</li> <li>4. If you're a teacher with the Victorian Institute of Teaching (VIT) you are exempt from the Check. However, if your VIT registration is suspended or cancelled, the exemption no longer applies.</li> <li>5. Victoria Police officers and Australian Federal Police (AFP) officers are exempt from the Check. However if the officer is suspended or dismissed from Victoria Police or the AFP, they are no longer exempt and must apply for a Check.</li> </ol>

	<p>6. Visitors who normally live outside Victoria and hold an equivalent Check from their home State/ Territory, you can do child-related work in Victoria without a Check for a maximum of 30 days in a calendar year, which can comprise one or several events or occasions.</p>
Queensland	<p>1. Registered teachers and sworn police officers may need to apply for an exemption card if they wish to start or continue to work with children.</p>
South Australia	<p>1. A person who is under 14 years of age does not need a Working with Children Check.</p> <p>2. A member of the South Australia Police or the Australian Federal Police does not need a Working with Children Check.</p> <p>3. If you believe on reasonable grounds that you will not work with children on more than 7 days (whether consecutive or not) in a calendar year, you do not need a Working with Children Check. If, at the time of engaging in particular child-related work on a particular day in a calendar year, you had worked with children on less than 7 days (whether consecutive or not) in that year, you do not require a Working with Children Check.</p> <p><b>You will need to get a Working with Children Check if:</b></p> <ul style="list-style-type: none"> <li>• you work with children more than 7 days; or</li> <li>• your child-related work involves overnight excursions or activity (for example, a school camp); or</li> <li>• your child-related work involves close personal contact with children with disability.</li> </ul> <p>4. Parents or guardians do not require a Working with Children Check if the child-related work:</p> <ul style="list-style-type: none"> <li>• is voluntary; and</li> <li>• involves their own child.</li> </ul> <p><b>When this does not apply:</b></p> <ul style="list-style-type: none"> <li>• accommodation and residential services for a child other than your own child; or</li> <li>• close personal contact with a child other than your own child.</li> <li>• Close personal contact means: <ul style="list-style-type: none"> <li>• an act involving an intimate bodily function such as using a toilet; or</li> <li>• an activity involving nudity, or exposure or partial exposure of the genitals, buttocks or breasts.</li> </ul> </li> </ul> <p>5. People who normally live outside South Australia, and hold an equivalent check from their home state or territory, do not need a South Australian Working with Children Check as long as the child-related work:</p> <ul style="list-style-type: none"> <li>• occurs, or is to occur, in the course of an organised event; and</li> <li>• does not exceed 10 consecutive days.</li> </ul>
Western Australia	<p>1. Child volunteers</p> <p>2. Unpaid students on placement under 18 years of age</p>



	<ol style="list-style-type: none"> <li>3. Short-term visitors to Western Australia <ul style="list-style-type: none"> <li>• only applies during the two week period after the person arrives in Western Australia and cannot exceed a total of two weeks in any period of 12 months; and</li> <li>• cannot be used in conjunction with the one-off national events and national tours exemption (below). A person cannot use both exemptions in the same 12 month period.</li> </ul> </li> <li>4. Parents or guardians do not require a Working with Children Check if the child-related work: <ul style="list-style-type: none"> <li>• only applies to a person who is not ordinarily resident in Western Australia;</li> <li>• is specifically limited to one-off national events or national tours organised by a recognised body in connection with specific categories of child-related work;</li> <li>• is for a non-cumulative period of 30 days within a 12 month period (the person can access the exemption once in a 12 month period whether they use 10 days or the 30 days for that one-off national event or national tour); and</li> <li>• cannot be used in conjunction with the short-term visitor exemption (above). A person cannot use both exemptions in the same 12 month period.</li> </ul> </li> </ol>
Tasmania	<ol style="list-style-type: none"> <li>1. you are under the age of 16</li> <li>2. you are working or volunteering with children for 7 days or less per calendar year</li> <li>3. you hold a current interstate registration in a similar regulated activity and are not a resident of Tasmania</li> <li>4. you are a close relative of the child (this does not apply to kinship carers)</li> <li>5. you are a police officer or a correctional officer</li> <li>6. you are an emergency management worker dealing with an emergency</li> <li>7. you are a school student on a work experience placement or doing practical training</li> <li>8. you are doing the same activity as the child (for example, playing together in a sporting team)</li> <li>9. your only contact with a child is working with a record of them.</li> </ol> <p>Exemptions don't apply in the following:</p> <ul style="list-style-type: none"> <li>• overnight camps are not exempt. If you are working or volunteering with children including an overnight stay, you will need to register</li> <li>• if you are a Police Officer (for example) volunteering on the committee of your local sporting team, you are only exempt in your professional role. You must still apply for registration in your sporting team role</li> <li>• the 7 days or less exemption is based on days not hours. Per day includes one event in a day. That is, one hour of parent help at a school or one hour working as a soccer coach for a club/association counts as a day</li> <li>• if you are a teacher from interstate then you must be registered to work with vulnerable people in Tasmania before you can be registered under the Teachers Registration Act 2000.</li> </ul>

Australian Capital Territory	<ol style="list-style-type: none"> <li>1. You do not need a WWVP card if you are under 16</li> </ol>
Northern Territory	<ol style="list-style-type: none"> <li>1. You do not need a clearance if all of the four following statements apply while you are volunteering in children’s services, a school, club, or association with significant child membership: <ul style="list-style-type: none"> <li>• your work does not involve an overnight stay</li> <li>• you are a parent of one or more of the children you will have contact with</li> <li>• you will be under the direct supervision of someone who holds a clearance</li> <li>• your employer does not require you to hold a clearance.</li> </ul> </li> <li>2. You do not need a clearance if you are visiting the Northern Territory and volunteering with children for less than 14 days in a year in total.</li> <li>3. You do not need a clearance to babysit or mind children as part of an agreement between family or friends.</li> <li>4. You do not need a clearance to have a child stay in your home for less than seven days in a row, for example for school billeting.</li> <li>5. You do not need a clearance if you are less than 15 years old.</li> <li>6. You do not need a clearance to work or volunteer for a children’s entertainment or party service that provides food, equipment or a venue, if you have no contact with children.</li> <li>7. This may include workers at a restaurant, performers on stage at a concert, or a catering company that delivers food.</li> <li>8. You do not need a clearance to be an approved emergency carer under the Care and Protection of Children (Placement Arrangements) Regulations.</li> </ol>