

CHILD ABUSE PREVENTION

HELP SHEETS

Tom Reisner

HELP SHEET 2

In the previous edition of the newsletter we published the first of a series of help sheets intended to assist organisations with various aspects of child maltreatment prevention work. Featuring in this edition is the second of the series. This help sheet is designed to assist organisations in Australia to develop guidelines for the recruitment and screening of staff and volunteers who may deal with children and young people on a regular basis.

Guidelines for the recruitment and screening of staff and volunteers who may deal with children and young people

Organisations that deal directly with children¹ (for example, family welfare agencies, sporting clubs, schools) or come in contact with children on an irregular basis (for example, children attending events as spectators or visitors), have a responsibility to prevent children from being placed in a situation where they are at risk of child maltreatment. This type of responsibility is called your “duty of care”.

In organisations where staff (including volunteers) work directly with children, their legal and moral duty of care may be greater than if they only come in contact with children indirectly or irregularly.

Any organisation that works directly with children has a legal and moral duty to ensure the safety and security of the children in their care is maintained. This duty extends to taking all reasonable steps to prevent children from suffering any form of child maltreatment: sexual abuse, physical abuse, emotional or psychological abuse, neglect, or exposure to violence.

Current employment standards across Australia

All applicants for paid or unpaid work that involves access to children, should undergo a rigorous screening and assessment process prior to their employment or placement. In some states this screening and assessment process is regulated by legislation. Volunteers and students on short-term placement (from all walks of life with varying degrees of education and aptitude for working with children) undertake the initial screening and training processes. These processes need to be relevant to the role they are undertaking in the organisation.

As well as staff and volunteers having appropriate tertiary qualifications and/or experience, these credentials need to be supplemented with standard induction programs that identify what is acceptable behaviour in the organisation. For new staff, there also needs to be a period of probation with clearly defined behaviour protocols, which allow for the person’s performance on the job and their aptitude for working with children to be appropriately assessed. In addition, the induction and probation programs need to be reinforced with ongoing monitoring and supervision, as well as all staff in the organisation receiving continuing professional development training. This endorses the organisation’s commitment to providing the children in their care with a safe and friendly environment.

All states and territories have enacted legislation that regulates aspects of the recruitment and screening process, for persons employed in specific occupations that involve working with children (such as teachers). However, only some states have passed additional legislation to manage the recruitment and screening of a wider category of persons, who may have access to children.²

In addition to the above mentioned specific legislation relating to people working with children, there are also various state and federal laws that affect the recruitment, selection and screening of staff, including equal opportunity, human rights and privacy legislation.

As the suitability checks of candidates for (and existing staff involved in) positions that involve working with children vary greatly across Australia, the guidelines in this help sheet are intended to provide a general overview of the minimum standards that should be adopted. Reference to further resources and additional information has also been provided.

Victoria: The *Working with Children Act 2005* was passed in September 2005. This Act establishes minimum screening standards in Victoria, for people who undertake “child-related work”. Any person,

who is currently or intends to be, involved in “child-related work”, will be required to apply for and authorise a “Working with Children Check” of their criminal and professional disciplinary history, to be carried out.

If the person is approved they will be given an “assessment notice” and be entitled to carry out “child-related work”. This process is being phased in over a five-year period, from mid 2006.³

Further information about the Act and/or a copy of the “Working with Children Check Information Pack” can be obtained from:

Working with Children Check Unit
Telephone: 1300 652 879, or email to: workingwithchildren@justice.vic.gov.au

In the meantime, and subject to the operation of the *Working with Children Act*, Victoria Police will continue to arrange “national police certificates” for employment, voluntary work and other purposes.⁴

New South Wales: The NSW Commission for Children and Young People is responsible for the implementation and monitoring of laws that involve people working with children in NSW, including the “Working with Children Check”. The “Working with Children Check” assists employers complete their suitability checks of applicants for positions that involve working with children.⁵

Further information about the Commission can be obtained by:

Telephone: (02) 9286 7276, and email to: kids@kids.nsw.gov.au

Further information about the Working with Children Check can be obtained by;

Telephone: (02) 9286 7219, and email to: check@kids.nsw.gov.au

Queensland: The Commission for Children and Young People and Child Guardian “promotes and protects the rights, interests and wellbeing of all Queenslanders under 18”, including administering the “Working with Children Check”. The Commission’s work is regulated by the *Commission for Children and Young People and Child Guardian Act (2000)*. This Act requires people who work with children, to apply for and authorise a “Working with Children Check” of their criminal and professional disciplinary history, to be carried out. If approved they will be given a “positive notice and a blue card”.⁶

Further information about the Commission can be obtained by:

Telephone: (07) 3247 5525 or 1800 688 275 (Free call) and
Employment Screening on 1800 113 611 (Free call)

Western Australia: The *Working with Children (Criminal Record Checking) Act 2004* became law in December 2004. This Act established “compulsory criminal records checks” for people involved in “child-related work” in Western Australia. People involved in employment (or voluntary work) in child-related work are required to undergo a “Working with Children Check” and assessment, if any, of their criminal history.

If the person is approved they will be given an “Assessment Notice and a Working with Children Card”. This process is being phased in over a five year period, commencing the first of January 2006.⁷

Further information about the “Working with Children Check” can be obtained from:

Working with Children Screening Unit
Telephone: (08) 6217 8100 and Freecall: 1800 883 979 and
Email to: checkquery@dcd.wa.gov.au

The ACT, Northern Territory, and South Australia are currently considering new laws regarding screening people who will be working with children.⁸

It is crucial for organisations to maintain thorough pre-employment assessment and screening procedures, including clear position descriptions and selection criteria, structured job interview guides and suitable reference check processes.



To whom do the guidelines in this help sheet apply?

This help sheet applies to anybody who may come in contact with children, in a working or volunteer capacity, including:

- full-time and part-time staff;
- casual, contract and relieving staff;
- managers and direct care staff;
- board and committee members;
- volunteers;
- primary care givers (for example, foster parents, mentors); and
- students on short-term placement.

The recruitment and screening process

By having a responsive, appropriate and accountable recruitment policy, organisations will ensure that their staff have been given the tools to recruit, screen and choose the most suitable candidates to work with the children in their care.

As every organisation has different employment needs and responsibilities, their employment policies and practices need to be tailored to suit their individual circumstances. The following suggestions and resources may be of assistance to organisations considering a review of their current procedures:

- consult with Associations and peak bodies of which you are a member;
- contact other organisations providing similar services to your own;
- use Internet search engines such as Google or Yahoo, to search topics like “recruitment and selection guide”;
- the NSW Commission website has several excellent resources, including “Choosing the right people”;⁹
- the QLD Commission website has a number of excellent resources, including the “Working with Children Kit”.¹⁰

The pre-interview process

All job advertisements, position descriptions and application forms should provide sufficient information to inform potential candidates (including students on short-term placements) of the extent to which the position involves working with children. These forms should also mention that if selected, the candidate will be required to undergo a satisfactory national police records check (called a Records Check) and hold the appropriate authorised documentation.

Only applicants that have been short-listed or invited to attend an interview would normally be requested to undertake a Records Check.¹¹ Prior to interviewing, the selected applicants (including internal applicants) should be provided with a copy of the police records check consent form (called Consent Form) applicable to the state or territory. This form could be included with the Position Description application information.

The appropriate Consent Form(s) would be available from the local “Authorised Body”. The term “Authorised Body” refers to the police or any other official agency responsible for arranging police national and/or suitability records checks, in each state or territory.

The post-interview process

Following the interview process and the selection of the preferred applicant, the organisation’s usual screening and security checks should be conducted, for example referees and prior employment checks.

Depending on the screening process applicable to the relevant state or territory, the completed Consent Form of the person chosen for the position should also be submitted to the relevant Authorised Body. If the relevant state or territory has enacted legislation that governs this process, follow the provisions and regulations set out in the legislation.

Depending on whether the state or territory has legislation regulating the screening process, the organisation will be given the results of the Records Check, or they will be required to ensure that the chosen applicant has the appropriate approved documentation.

An applicant from overseas should be requested to contact the appropriate overseas authorities and obtain their own police records check. If an overseas police records check cannot be obtained, comprehensive referee checks should be arranged with persons who knew the applicant while they were overseas.¹²

Until the security and suitability assessments have been completed and (if applicable) the Records Check has been received and assessed to be satisfactory, the selected applicant must not be offered the position.

What if the Records Check discloses a court outcome or pending matter?

Every organisation should have a Records Check policy and procedures to be followed in the event that the Records Check discloses a court outcome or a pending matter. The organisation will have to make an assessment of the suitability of the applicant for the position. An applicant should not be automatically excluded from the recruitment process on the basis of having a police record.

Clearly this is a very sensitive subject and each case will need to be considered on its merits. Organisations that are in any doubt about their legal (and moral) rights, obligations and responsibilities in this regard, should consult with the relevant associations or peak bodies and relevant state government department(s) and obtain appropriate legal advice.

These matters involve complex legal issues, and if not handled correctly may lead to a complaint being made against the organisation alleging criminal record discrimination. Complaints of this nature have been brought to the attention of the Human Rights and Equal Opportunity Commission.

While it is not unlawful to discriminate against a person on the grounds of a relevant result of a Records Check, the reasons for the decision must be able to be justified and documented. Similarly, the reasons for choosing the selected person for the position should also be justifiable and documented.

In the event that an applicants' Records Check discloses a court outcome or pending matter, the suitability of the applicant for the position will need to be assessed. The (Australian) Human Rights and Equal Opportunity Commission considered these issues in some detail. Their notes can be accessed at: www.hreoc.gov.au/human_rights/criminalrecord/on_the_record/ch5.html#5_6 (Section 5.9)

When an applicant has been unsuccessful and the decision was based on their Records Check result, where possible, the applicant should be given an opportunity to discuss the result of their Records Check with a senior officer in the organisation, and the reasons for the decision.¹³

If, after these discussions the applicant feels that an injustice has occurred, they should be referred to the appropriate Authorised Body. The applicant should not be given a copy of the Records Check. If they ask for a copy of the Records Check, they should be referred to the relevant Authorised Body to obtain a copy.¹⁴

Maintaining privacy and confidentiality

All the information and documentation obtained during interviews, security and reference checks are strictly confidential. They are subject to state and federal privacy laws and must be kept in a safe and secure location.

For example, in Victoria, the Records Check cannot be sent to another person (including the applicant) or organisation, or incorporated into a manual or electronic database or filing system. When the appointment has been made, all the Consent Forms, including the successful applicant's form, should be shredded or securely destroyed.¹⁵

State and territory departments responsible for protecting children

The National Child Protection Clearinghouse website at the Australian Institute of Family Studies (AIFS) provides details of and links to the various state and territory government departments responsible for handling child protection matters, as shown below:

State	Government department	AIFS link to department details
ACT	Department of Disability, Housing and Community Services (Office for Children, Youth and Family Support)	www.aifs.gov.au/nch/state.html#act
NSW	Department of Community Services	www.aifs.gov.au/nch/state.html#nsw
NT	Department of Health and Community Services (Family and Children's Services)	www.aifs.gov.au/nch/state.html#nt
QLD	Department of Child Safety	www.aifs.gov.au/nch/state.html#qld
SA	Department for Families & Communities (Children, Youth and Family Services)	www.aifs.gov.au/nch/state.html#sa
TAS	Department of Health and Human Services (Children, Youth and Family Services)	www.aifs.gov.au/nch/state.html#tas
VIC	Department of Human Services (Child Protection & Juvenile Justice Branch)	www.aifs.gov.au/nch/state.html#vic
WA	Department for Community Development	www.aifs.gov.au/nch/state.html#wa

Other useful information and links

The Australian Council for Children & Youth Organisations (ACCYO): This organisation was established in 2001 to develop standards and an accreditation process for organisations working with children. ACCYO has developed several draft standard forms to assist organisations complete the applicant assessment process.¹⁶ The Suitability Checks Self-Assessment Report is accessible at: www.acyo.org.au/checks_s_a.pdf and the Suitability Checks Standard (Victoria) is accessible at: www.acyo.org.au/checks_standard.pdf.

The Australian Institute of Family Studies (AIFS): This independent statutory authority promotes the identification and understanding of factors affecting marital and family stability in Australia. Through their National Child Protection Clearinghouse they provide information and research on the prevention of child maltreatment.

The National Child Protection Clearinghouse web address is at: www.aifs.gov.au/nch. Also, have a look at their "Police Clearances and Checks" guide, which is accessible at: www.aifs.gov.au/nch/policechecks.html.

EmployRight: The Department for Community Development and the Western Australian Council of Social Service (WACOSS) in co-operation with the not for profit sector, have produced a website with valuable information on recruitment, selection and screening of staff practices, for the WA not-for-profit sector.

The EmployRight website address is at: www.employright.org.au.

Child Wise: This not-for-profit organisation works to prevent, protect and reduce the sexual abuse and exploitation of children in Australia and overseas. Their "Choose with Care" program aims to minimise the risk of child maltreatment occurring within organisations working with children. The program assists organisations improve screening, recruitment and management practices for staff and volunteers.

Their web address is at: www.childwise.net/our-vision.php.

Also have a look at the Child Wise handbook for parents, "A Parent's Guide to Choosing Child Safe Organisations". This guide is accessible at: www.childwise.net/a-parents-guide-to-choosing-child-safe-organisations.php.

Australian Childhood Foundation: This independent national charity aims to prevent child maltreatment and reduce the harm it causes to children, families and the community. They provide counselling

services for children who have experienced maltreatment and family violence, and have a range of prevention, education, advocacy and research programs.

Their website is at: www.childhood.org.au.

The National Association for Prevention of Child Abuse and Neglect (NAPCAN): This independent charity produces national campaigns and distributes free resources that promote positive and practical actions to stop child maltreatment.

Their website is at www.napcan.org.au.

Also have a look at the NAPCAN “Child Friendly Community Action Kit”, accessible at: www.napcan.org.au/kit/index.html.

Endnotes

- 1 All reference to “children” in this help sheet refers to “children and young people”, unless otherwise stated.
- 2 Australian Institute of Family Studies, Police Clearances and Checks, Victoria, www.aifs.gov.au/nch/policechecks.html, accessed 6 December 2005,
- 3 Department of Justice, Working with Children Check, Victoria, www.justice.vic.gov.au/workingwithchildren, and Working with Children Check Information Pack, accessed 6 December 2005.
- 4 Victoria Police, Police Records Checks, Victoria, www.police.vic.gov.au/content.asp?Document_ID=274 accessed 6 December 2005.
- 5 NSW Commission for Children and Young People, Working With Children Check, New South Wales, www.kids.nsw.gov.au/check/intro.html, accessed 6 December 2005.
- 6 Commission for Children and Young People and Child Guardian, Information Sheet: The Blue Card, Queensland, www.childcomm.qld.gov.au/pdf/bluecard/info_sheet_general.pdf, accessed 6 December 2005.
- 7 Department for Community Development, Working with Children Check: About WWC Checks, Western Australia, www.checkwwc.wa.gov.au/AboutWWCChecks/default.htm, accessed 6 December 2005.
- 8 Australian Institute of Family Studies, Police Clearances and Checks, Victoria, www.aifs.gov.au/nch/policechecks.html, accessed 6 December 2005.
- 9 Refer to their website at: www.kids.nsw.gov.au/childfriendly/people.html
- 10 Refer to their website at: www.childcomm.qld.gov.au/about/wwckit.html
- 11 The Human Rights and Equal Opportunity Commission, On the Record: Guidelines for the prevention of discrimination in employment on the basis of criminal record, ACT, www.hreoc.gov.au/human%5Ffrights/criminalrecord/on_the_record/ch5.html#5_5 (Section 5.5), accessed 6 December 2005.
- 12 Department of Human Services, Departmental policies and procedures, Victoria, www.dhs.vic.gov.au/srvc_agmnt/chpt53.htm, accessed 6 December 2005.
- 13 The Human Rights and Equal Opportunity Commission, On the Record: Guidelines for the prevention of discrimination in employment on the basis of criminal record, ACT, www.hreoc.gov.au/human%5Ffrights/criminalrecord/on_the_record/ch5.html#5_10 (Section 5.10), accessed 6 December 2005.
- 14 Department of Human Services, Departmental policies and procedures, Victoria, www.dhs.vic.gov.au/srvc_agmnt/chpt53.htm, accessed 6 December 2005.
- 15 Victoria Police: National Police Certificates Information Sheet: Procedure for Organisations, Victoria, www.police.vic.gov.au/files/documents/521_Info_Sheet_Procedure_For_OrgsJul05.pdf, accessed 6 December 2005.
- 16 Due to the recent implementation of legislation in Victoria and Western Australia, some aspects of these “standard forms” may no longer be applicable.

DISCLAIMER

The information provided in this help sheet does not represent or intend to represent any form of legal advice and should not be relied upon for this purpose. Before acting or relying on any of the information provided in this help sheet, or applying these principles in different jurisdictions, their accuracy should first be confirmed with an appropriate legal or other professional advisor.

Tom Reisner developed the help sheet (on which the above help sheet was based) as part of his Diploma of Community Services (Community Work) fieldwork placement with Our Community Pty Ltd. Tom previously worked in the insurance industry specialising in Professional Indemnity and Public Liability insurance.