

# Working with Children Check

## General Information Guide

### What is the Working with Children Check?

The Working with Children Check (Check) assists in protecting children from sexual and physical harm by ensuring that people who work with, or care for, them are subject to a screening process.

#### Who needs a Check?

Under the *Working with Children Act 2005* (the Act), you need a Check if you meet ALL of the following five conditions for child-related work:

1. You are an adult who 'works' with children aged under 18 years of age. The term 'work' includes engaging in voluntary work and providing practical training as well as paid employment.
2. You are working with children in one of the services, places or bodies, or in one of the activities listed in the Act.
3. Your work involves direct contact with children, which includes face to face, written, oral and electronic communication.
4. The contact you have with children is not occasional direct contact that is incidental to your work\*.
5. You are not exempt from having a Check under the Act\*\*.

\*Under the Act, you do not need a Check if your work involves only occasional direct contact with a child that is incidental to your work.

\*\*Details are on the Working with Children website.

It is an offence to start child-related work without having a current Check. However, once you have applied for a Check, you may be able to start child-related work ( see below - 'Can I work during the screening process?')

Your organisation is also committing an offence if they ask you to start child-related work before you have applied for a Check.

#### How do I apply?

Go to '[Apply for a Check](#)' on the website and follow the instructions.

It is an offence to use a Volunteer Check for paid child-related work - an Employee Check must be used for paid work.

#### Can I work during the screening process?

The Act allows most people to do child-related work during the screening process that takes place once

an application for a Check is lodged. However, by law, you **must not work** if you:

- have been charged with, convicted or found guilty of a sexual, violent or drug offence listed in clause 2 of Schedule 3 of the Act
- have been given a Negative Notice and not subsequently passed the Check
- will be supervising a child in employment under the *Child Employment Act 2003*
- will be working in a service regulated by the Children's Services Regulations 1996 or in an education and care service under the *Education and Care Services National Law 2010* (Victoria)
- are subject to:
  - reporting obligations under the *Sex Offenders Registration Act 2004*
  - an extended supervision order or interim extended supervision order under the *Serious Sex Offenders Monitoring Act 2005*
  - a supervision order, detention order or emergency detention order.

Ask your organisation about working during the screening process, as some organisations only allow applicants to work after they have passed the Check.

#### What is checked?

You are screened for sexual, violent and drug offences and adverse professional conduct determinations and findings made by the agencies listed in the Act. The list of [offences](#) is on our website.

The protection of children from sexual or physical harm is the paramount consideration for any decision made under the Act.

#### How do I know if I have passed the Check?

We will notify both you and your organisation if you pass the Check.

The Check is valid for five years unless we revoke it or you surrender it.

You must apply to renew your Check before it expires if you want to continue doing child-related work.

## What if I have a criminal record or an adverse professional conduct determination or finding?

Not all offences and adverse professional conduct decisions mean that you pose an unjustifiable risk to the safety of children in accordance with the Act.

Whether you pass or fail the Check depends on the type of determination or finding you have been subject to, the offence you have committed, and the circumstances surrounding these matters.

It is unlawful to apply for a Check if you are:

- a registrable offender under the *Sex Offenders Registration Act 2004*
- subject to an extended supervision order or interim extended supervision order under the *Serious Sex Offenders Monitoring Act 2005*
- subject to a detention order, supervision order or emergency detention order.

You may wish to seek independent legal advice about your personal circumstances.

## What if I don't pass the Check?

If we believe you pose an unjustifiable risk to children, we will notify you that we intend to prohibit you from working with children by issuing you an Interim Negative Notice. This gives you the opportunity to ask us to consider the reasons why you think you should pass the Check.

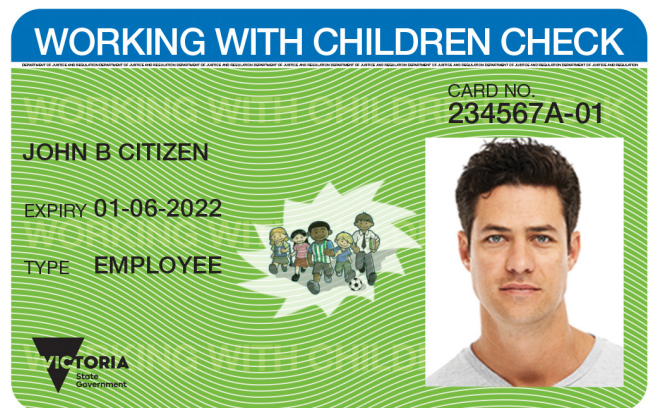
If, after considering your reasons, you fail the Check, we will issue you with a Negative Notice prohibiting you from working with children.

In limited circumstances, you can appeal our decision by applying to the Victorian Civil and Administrative Tribunal (VCAT) within 28 days of the date on the Negative Notice. You may not apply to VCAT for a review of our decision if you have at any time been charged with, convicted or found guilty of a category A offence and were an adult at the time of the offence or alleged offence. For more information on category A offences see the [List of offences](#) publication on the website.

## How is my privacy protected?

We are bound by privacy and confidentiality laws. The *Working with Children Act 2005*, *Privacy and Data Protection Act 2014* and *Health Records Act 2001* regulate how we collect and use personal information.

We must notify your organisation/s of any interim or final decision made about your application, if your Check is suspended, revoked or surrendered or if you withdraw an application. If you remove any organisation/s from your records, we have the power to notify these organisations that you have removed them. We will not provide your organisation with the details of your criminal or professional conduct records.



Sample Check Card

## Is the Working with Children Check the same as the Police Check?

No. The Working with Children Check screens your criminal and professional conduct records and rigorously assesses any relevant sexual, violent or drug offences over your lifetime. The Police Check lists offences at a given point in time.

The Working with Children Check monitors a cardholder's criminal and professional conduct records for the life of their card. The Police Check does not. As the checks are quite different, some organisations require both checks.

For more information on the differences between the checks, see [Police Checks](#) on the Check website.

## More Information

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

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

**Customer Support Line** 1300 652 879  
8.30am – 5pm, Monday – Friday (except public holidays)



If you need an interpreter, please call the Translating and Interpreting Service on 13 14 50 and ask them to contact the Working with Children Customer Support Line.

**TTY** 13 36 77

**Speak & Listen** 1300 555 727

*This information is intended as a general guide only. It is not intended to be given as legal advice and should not be relied upon as such. It is recommended that you obtain legal advice relevant to your particular circumstances.*