

Children's Act 2014: Children's worker safety checking regulations - Questions and Answers

June 2015 (updated
March 2019)

1. What do the workforce safety checking regulations mean?

Safety checking regulations made under the [Children's Act 2014](#) (formerly titled the Vulnerable Children Act 2014) require all paid employees and contractors who work with children for state-funded organisations to be safety checked, making it easier to identify people who are a risk to children. This applies to new and existing employees and contractors. The regulations provide standards based on existing practices that need to be followed when employing or engaging a person working with children.

These regulations have been phased in over four years with the first phase beginning 1 July 2015 that required all new employees and contractors regularly working with children unsupervised (core workers) to be safety checked before they start a new job. Safety checking for existing employees and contractors is not required to be completed until 1 July 2018 and 1 July 2019.

2. How did the safety checking regulations get developed?

The safety checking regulations were developed under the Children's Act 2014 which sets out legislative requirements to foster a safe and competent children's workforce that can better identify, support and protect vulnerable children. Children have a fundamental right to have all their needs met including a safe home and to be protected - safe from abuse and neglect.

It was identified that previous checking methods could often be based on historical norms and there were gaps around carrying out consistent identity verification and an over-reliance on clean criminal records. These gaps can be exploited particularly in roles where checks are less rigorous. The regulations were developed to address these issues and to provide a more thorough safety checking process.

3. Why do we need safety checks?

It's important we carry out safety checks to ensure children can be safe. Implementing consistent, high quality safety checks will work towards improving safety for children and help to better identify people who pose a risk in working with children. Legislation enables these safety checks to be strengthened and provides a way of preventing unsafe people from entering the children's workforce.

4. What is the purpose of the safety checking regulations?

The safety checking regulations provide clear standards to undertake more consistent, higher quality safety checking across the children's workforce. The regulations aim to improve safety for children and build the capability of the workforce to ensure they can keep children safe.

5. Who has to be safety checked and when?

All paid new and existing employees and contractors (including those who are self-employed) who work with children in state-funded organisations in roles that involve regular or overnight contact with children.

Safety checking applies to those who work with children in regulated health services:

- Services provided at a public hospital.
- Services provided at a publicly-funded medical practice or facility, including blood and cancer centres, treatment centres, outreach clinics, and mental health services.
- Services provided through medical practices belonging to primary health organisations (PHOs).
- Services provided by health practitioners.
- Well Child / Tamariki Ora services (eg, Plunket).
- Home-based disability support services.
- Residential disability support services.
- Ambulance services.
- Maternity services, including lead maternity carers and midwives.

The regulations also apply to people doing unpaid work with children as part of an educational or vocational training course (eg, trainees or students).

Timing

The safety checks were phased in from 1 July 2015 over four years at different times for new and existing employees and contractors.

The key dates for conducting safety checks have been:

New employees:

- 1 July 2015 – all new core workers must be safety checked before starting employment or engagement as a children’s worker from this date
- 1 July 2016 – all new non-core workers must be safety checked before starting employment or engagement as a children’s worker from this date

Existing employees:

- 1 July 2018 – all existing core workers must have been safety checked by this date
- 1 July 2019 – all existing non-core workers must have been safety checked by this date.

The entire state-funded children’s workforce is required to be safety checked by 1 July 2019 and needs to be rechecked every three years.

6. What are core and non-core child workers?

The Act created two categories for children’s workers, core and non-core children’s workers.

Core children’s workers are those who regularly work alone with children unsupervised or have primary responsibility for children eg, doctors, nurses, paediatricians, youth counsellors.

Under the Act core workers are defined as:

- a children’s worker who works in or provides a regulated service
- who has primary responsibility or authority for a child or children
- involves regular or overnight contact with a child or children

- works alone with a child or children – work must take place without a parent or guardian of the child being present.

Non-core workers are those who have regular but limited child contact eg, general hospital staff, dental assistants or other staff working under supervision with children.

It is up to the employer to determine whether their employee or contractor is a core or non-core worker based on the role and to seek external advice if they are unsure.

Refer to this document for more information about core and non-core workers– [Scope of the Standard Safety Checking requirements](#)

7. Who doesn't have to be safety checked?

- Employees and contractors in unfunded non-government organisations and volunteers unless that unpaid work is part of an educational or vocational training course at a state-funded organisation (eg, trainee doctor or student nurse on placement as part of their medical/education qualification) are not legally obligated to undertake safety checks under the Children's Act.
- Parents, guardians, caregivers or people with care of a child receiving funding to secure regulated services for their child. An example of this is a parent employing a person to care for their disabled child with funding from the Ministry of Health.
- Employees and contractors in organisations providing regulated services but whose work does not meet the definition of children's worker.

Although these groups are not legally obligated to undertake safety checks under the Act they are being encouraged to voluntarily adopt these new standards and undertake safety checking as part of their ongoing recruitment process. Some organisations may need to do so anyway because of other requirements, eg, a condition of their contracts with government agencies.

8. Who is responsible for carrying out these safety checks?

Employers are responsible for ensuring safety checks are carried out – others can complete parts of the checking for them on their behalf eg, recruitment agencies, contracting organisations, but the responsibility still sits with the employer to ensure the safety check has been carried out according to the regulations. Employers need to ensure when they are relying on checks undertaken by others on their behalf that they meet the requirements of the safety check regulations.

9. How do contractors and self-employed get safety checked?

For self-employed people who contract to the Ministry, district health boards (DHBs) and primary health organisations (PHOs) and contractors who regularly move around a lot working on short-term contracts, eg, locums, employers don't need to repeat a safety check if they have:

- already done one themselves or
- an organisation has done it on their behalf within the previous three years, and
- all the information meets the necessary safety check requirements, they have a process to confirm the identity of the person and adequate records have been kept.

An organisation can use this information completed on their behalf by another organisation, professional or registration body; if they are confident it meets all the requirements and has a process in place to verify the identification of the worker. This will assist locums who need to move regularly between employers and DHBs and those returning back to work for the same organisation without repeating checks unnecessarily.

There are children's workers who do not have usual employment arrangements where there is not an independent third party to carry out the safety checks for their staff or themselves. This is likely to affect lead maternity carers, owner/operators GPs and dentists and locums (locum/bureau medical staff and nursing staff).

The Ministry has also endorsed the third party provider CVCheck (NZ) Ltd to carry out safety checks on LMCs providing primary maternity services under the Primary Maternity Services Notice 2007, GP owner operators, and owner operator dentists contracted under the Combined Dental Agreement.

The service is also available to other self-employed, sole practitioner or owner operator children's workers, as well as to employers of children's workers, and can carry out safety checks on behalf of other agencies.

Note that there is a cost associated with this service.

10. Do safety checks need to be carried out for trainees or students?

Yes, they do. Safety checks apply to people doing unpaid work with children as part of an educational or vocational training course eg, trainee doctor or student nurse on placement as part of their medical/education qualification. Most training providers already undertake safety checks as part of their normal vetting process at the pre-registration/enrolment stage and before students go on their clinical placements. Providers are not required to carry out another safety check if their vetting meets all the requirements of the safety checking regulations.

11. What is involved in carrying out the safety checks?

Workforce safety checks involve gathering a range of key information about the person and evaluating this information to assess whether the person to be employed as child worker poses any risk in working with children.

Information for safety checks will include the following components:

- Identity verification – confirmation of the identity of the children's worker, sighting required documents, eg, passport, driver's licence or by using an electronic service, such as the RealMe identity verification service.
- Reference checks – obtaining information from two or three referees about the person's recent work experience.
- Interviews with the person and gathering information about their work history.
- Third party checks with their professional registration body or licensing authority (as appropriate).
- Police vet – Police vetting forms available from www.police.govt.nz.
- Risk assessment – assessing the risk the person would pose to the safety of children if employed in a core children's worker role.

From 1 July 2019, all these steps of the safety check must be completed before a person starts in their role as a children's worker.

For existing children's workers who are already an employee or contractor with the organisation, fewer steps are required - confirmation of identity, checks with the relevant professional registration body or licensing authority, a fresh Police vet, and a risk assessment based on these checks.

12. How often do the safety checks need to be done?

Safety checks need to be updated every three years for a children's worker. When updating a check the following information is required: confirmation of any changes of name, updating the checks with the relevant professional registration body or licensing authority, a fresh Police vet, and a risk assessment of the person based on these checks.

Organisations can rely on checks they completed up to three years ago for a previous employee or contractor starting in a new role/contract if the information already meets all the safety check requirements. This means they don't have to repeat the safety check when it is not necessary.

Organisations can also rely on checks done by someone else on their behalf if all the adequate records are in place, the information meets safety check requirements and they have a process to verify the identity of the children's worker. It is up to the employer to contact the organisation who conducted the previous safety check on their behalf to ensure they receive all the required information and be diligent in doing so, ie retaining copies of the safety check information and verifying identity of the individual themselves to manage any risk when relying on checks undertaken by others.

For more information about safety checks refer to the various checklists outlining the requirements in this document- [Children's worker safety checking under the Children's Act](#).

13. Who sees the safety check information?

Only the person responsible for the hiring decision and the potential employee should be able to see the safety check information. In all cases the Privacy Act 1993 must be followed. For more information about the Privacy Act go to www.privacy.org.nz

14. How do organisations undertake the Police vetting – what is the process?

The [New Zealand Police Website](#) provides information about the Police vetting process.

Briefly, in order for an employer to undertake police vetting of a children's worker they need to get their consent first. Employers need to provide them a New Zealand Police Vetting Service Request and Consent Form to complete and sign.

On the form you need to select either 'new' or 'existing' worker on the request form. This will help to make sure that vetting requests are properly prioritised for new children's workers and to manage demand for the Police.

To use the Police Vetting Service you must be an approved agency. If you are not an approved agency you need to meet the [New Zealand Police Vetting Service's Approved Agency Criteria](#).

You or your organisation can also seek approval to use the Police Vetting Service via a secure email: queryme@police.govt.nz

15. Will organisations keep the vetting information supplied by the Police?

It is intended that employers retain any Police vetting information for twelve months as best practice. After twelve months the only requirement is to keep a record of who has been Police vetted. Employers can develop their own processes as to how they want to manage this information on an ongoing basis.

16. How are safety checks different from the normal pre-employment checks?

Most organisations do some form of pre-employment checking as part of their recruitment process that involves identity verification, interviews and reference checking (including gathering information on a person's work history). The regulations developed for safety checks establish a more robust form of safety checking to achieve higher quality safety checks.

17. What if an organisation already does safety checks?

Many state sector organisations already have checks in place to ensure that unsuitable people do not work with children. However, under the Children's Act there is now a requirement for higher quality and more consistent safety checking of the children's workforce. Although organisations may have safety checks in place they will need to ensure these align with the Act's regulations which prescribe a more thorough checking process.

18. What happens if an organisation doesn't carry out safety checks?

The Act specifies penalties for those who do not comply with safety check regulations.

19. What if an organisation or employer has concerns about a person who has been safety checked?

Organisations should have clear processes and policies in place (as part of their child protection policy) about how to respond to concerns about people applying for roles in an organisation or regarding existing employees or contractors. If there are concerns raised by a child or someone else about a child, Oranga Tamariki and Police should be notified immediately as it is critical that the child or children are not exposed to any unnecessary risk. Concerns can be discussed with them and the process for how these will be followed up.

20. What does the workforce restriction mean?

Under the Children's Act, a workforce restriction prevents people with certain serious offences (child abuse, sexual offending or violence offences) from working with children (in core worker roles). This means organisations or employers will be unable to employ or engage people with these serious convictions. These offences are specified in [Schedule 2 of the Act](#) and apply to core child workers.

21. What happens if a person has been convicted of one of the specified offences listed in the Act?

If a person has been convicted of one of these specified offences they are not permitted to work with children in a core children's workers role. However, under the Act, can apply for a Core Worker Exemption if they want to start work or stay in the children's workforce.

The exemption removes the prohibition set out in the workforce restriction which means it is not against the law to employ that person as core child worker.

22. What is the process for the Core Worker Exemption?

It is the responsibility of the individual to apply for the exemption by submitting an application form and providing the necessary documentation. The individual has to provide enough evidence and information to demonstrate they would not pose an undue risk to the safety of children.

Each application is considered by a panel representing the Ministries of Social Development, Health, Justice and Education.

The panel make the recommendation to accept or decline the application. The final decision will be made by the Chief Executive of the Ministry of Social Development or by a person with the Chief Executive's Delegated Authority as agreed by the agencies. It is still up to the employer though to decide whether or not a person with a Core Worker Exemption is suitable for the role they are applying for.

23. Why is there a Core Worker Exemption?

The Core Worker Exemption is available as there are people who have a conviction for a specified offence who may no longer pose a risk to the safety of children. There are circumstances where people can change and there is strong evidence of rehabilitation which would be taken into consideration.

For more information please visit [Oranga Tamariki's website](#) or find out how to contact the Ministry of Health directly on our [Contact Us](#) page.