

Legal alert - Vulnerable Children Act

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The Vulnerable Children Act (the Act) received Royal assent on 30 June 2014, and a number of its provisions are now in force. The Act is part of the 'Children's Action Plan', a cross-government initiative that aims to make changes to better protect the well-being of vulnerable children in New Zealand.

The Act introduces a number of significant changes for certain key workforces that provide services to children, including education and health service providers. The most significant change for these organisations will be the new requirements to conduct safety checks on staff. These provisions are not yet in force, but will come into force on a date or dates to be appointed by the Governor-General by Order in Council. This will help ensure that organisations have an opportunity to implement the new safety checking processes.

Key provisions

The key provisions in the Act include the requirements for:

- **Vulnerable children's plans:** Chief Executives of 'children's agencies' must work together to draft 'vulnerable children's plans', and submit these to their responsible Minister. The plans must set out the steps the agency will take to achieve the goal of improving well-being for vulnerable children (and will be reported on annually).

Children's agencies' are the departments of State or instruments of the Crown that are responsible for the administration of particular Acts (including the Children, Young Persons, and Their Families Act, the Education Act, the Policing Act and the New Zealand Public Health and Disability Act).

- **Child protection policies:** The Act requires DHBs, school boards, and other State services who are a provider of 'children's services' to adopt and report on child protection policies that address the identification and reporting of suspected abuse and neglect. They must also ensure that any contracts they have with child service providers include a requirement that the provider has a child protection policy in place.
- **Children's worker safety checking requirements:** As noted above, this will be the most significant change for workforces that provide regulated services to children, including education and health service providers. Once these provisions are in force, all State services and all organisations that they fund to provide regulated services (including those who only receive partial funding, or receive funding indirectly rather than directly, from the State service) will have to:
 - carry out safety checks on all new 'children's workers' (people who are engaged in the provision of certain regulated services, where that person's work involves regular or overnight contact with children without the child's parent or guardian present) that they employ or otherwise engage
 - ensure they have carried out safety checks on their existing children's workers by certain dates (for 'core workers' this date will be three years after this Part of the Act comes into force, and for 'non-core workers' it will be four years)
 - continue to carry out periodic safety checks every three years.

Organisations who do not meet these requirements will commit an offence and will be liable for fines of up to \$10,000 (for each offence).

The list of regulated services is set out in Schedule 1 of the Act and is very broad, encompassing welfare, support, justice, health, education, transport and policing services. Examples include mentoring and counselling services, out-of-school-care and recreation services, school bus services, early childhood and education services (including services provided at any off-site location by or on behalf of a registered school or early childhood service), services provided at a public hospital or at a publicly funded medical practice or facility, services provided by health practitioners (including LMCs and midwives), Well Child Tamariki Ora services (eg Plunket), and disability support services (including home based services).

The Act will also:

- Prohibit these organisations from employing or engaging (or continuing to employ or engage) a person as a 'core-worker'

where that person has been convicted of a specified offence (for example, sexual violation) and does not hold an exemption granted by the chief executive of the relevant Ministry

- Provide a process for the suspension/termination of 'core workers' where the organisation reasonably believes the worker has been convicted of one of the specified offences.

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