

Legal alert - Safety checks of children's workers

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3 June 2015

The [Vulnerable Children Act 2014](#) introduced a number of changes for organisations that provide services to children. The most significant change for these organisations will be the requirements to conduct safety checks on staff.

The safety check provisions will come into force on 1 July 2015, as will the Regulations that set out the safety check requirements (the Regulations were published last week).

Once the safety check provisions are in force, all State services and all organisations that they fund to provide 'regulated services' (including those that only receive partial or indirect funding) will have to:

- Carry out safety checks on all new 'children's workers' that they employ or otherwise engage. A 'children's worker' is defined in section 23 of the Act; essentially, a children's worker is a person whose work involves regular or overnight contact with children without parents or guardians being present.
- Carry out safety checks on existing children's workers.
- Continue to carry out periodic safety checks every three years.

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.

Timing

The requirements to safety check new and existing children's workers are being phased in over time. The key dates are:

- From **1 July 2015** all new 'core workers' must be safety checked before their employment or engagement commences. A 'core worker' is a children's worker who, in the course of their work, will be alone with children or has primary responsibility for, or authority over, children.
- From **1 July 2016** all new children's workers (ie core and non-core) must be safety checked before their employment or engagement commences.
- By **1 July 2018** all existing core workers must be safety checked.
- By **1 July 2019** all existing children's workers (ie core and non-core) must be safety checked.

Organisations must ensure that children's workers are re-checked every three years.

Safety check requirements

The safety check requirements are set out in the new [Vulnerable Children \(Requirements for Safety Checks of Children's Workers\) Regulations 2015](#). Under the Regulations, organisations will be required to confirm the identity of children's workers and whether they have any criminal convictions. They will also have to collect and consider other specified information including referee checks.

Identity confirmation

An effective safety check depends on individuals being who they say they are. Organisations must confirm an individual's identity either through an electronic identity credential, or through original identity documents (the individual must provide both a primary and secondary identity document). If the identity documents do not contain a photograph of the individual, the individual must provide further proof that the documents relate to them. If the individual's name is different from that

on an identity document, name change documentation is also required. The list of acceptable identity documents is set out in the [Schedule to the Regulations](#).

The organisation must also search its personnel records to ensure no other person connected to the organisation uses that identity.

Previous convictions

A Police vet of a children's worker from the New Zealand Police Vetting Service is required unless:

- the organisation has obtained a Police vet for that individual in the past three years
- the individual belongs to a professional organisation that conducts Police vets of all its new members and of existing members at intervals of not more than three years, or
- the individual is currently licensed or registered by a licensing or registration authority that is obliged to obtain a Police vet for the people it licenses or registers as well as for those holding a licence or registration at intervals of not more than three years.

Other specified information

Organisations that seek to employ or otherwise engage new children's workers must conduct interviews with candidates (this can be face to face, by telephone, or by using other communication technologies). They must consider the work history of candidates and must require candidates to provide a summary of their previous five years of employment (if any). Organisations must also require at least one referee that is not related to the individual or part of their extended family, and must contact at least one of the referees provided.

For both new and existing children's workers, the organisation must establish whether the individual has obtained a relevant licence, registration or practising certificate from a licensing or registration authority or is otherwise a member of any relevant professional organisation. The organisation must seek information relevant to the assessment of that individual from at least one of these bodies.

Once the details above have been checked, organisations must use this information and any applicable risk assessment guidelines to assess whether the individual poses any risk to the safety of children (and, if so, the extent of that risk).

Organisations who do not meet these requirements will commit an offence and will be liable for fines up to \$10,000 (for each offence). Organisations will need to carefully consider who at their organisation is a children's worker and build the safety check requirements into their recruitment and HR processes.

Useful guidance material, including a copy of *Safer recruitment, safer children*, is available from the [Children's Action Plan website](#).

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