

Human Resources

Suitability for Employment



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SUITABILITY FOR EMPLOYMENT

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OVERVIEW

The Department of Education and Training and School Councils have a responsibility to ensure the safety of all children and employees, and maintain the security of assets by requiring and maintaining high standards of professional conduct from employees and volunteers.

In meeting these responsibilities the Department and School Councils must be satisfied that only those employees and volunteers who meet the highest standards of probity and suitability are employed. Such assessments may include reference or referee checks, medical assessments, qualification verification and/or a criminal records check.

Verification of a criminal record is achieved by ensuring the employment of new school based employees proceeds in accordance with legislative obligations pursuant to the *Working with Children Act 2005* (for non-teaching employees and volunteers), and to the *Victorian Institute of Teaching Act 2001* (for principals and teachers).

As a result of the new *Working with Children Act 2005*, the Department has amended its suitability for employment policies and procedures. The authority for the policy and procedures is [Ministerial Order 199 - Suitability for Employment \(Working with Children and Criminal Records Check\) Order 2006](#), which applies to the principal class, teacher class, and school services officers employed by the Department, and all non-teaching staff and casual relief teachers employed by school councils.

Student Support Services Officers (employed as Victorian Public Servants) are also covered by this revised policy.

These guidelines set out the policy and procedures to be followed in relation to suitability and probity checks that are required.

WORKING WITH CHILDREN CHECK

On 3 April 2006 the *Working with Children Act 2005* (the Act) became operational and introduced a Working with Children Check (WWC Check), thereby creating minimum checking standards across Victoria for people who work or volunteer with children in certain capacities. The WWC Check will ensure that people who are unsuitable to engage in 'child-related work' do not do so.

The WWC Check is being phased in over five years. Educational institutions and their employees are required to be compliant with the Act by 30 December 2007. A WWC Check is valid for up to five years after which it will need to be renewed if the holder wishes to continue in child-related paid or voluntary work.

A WWC Check is transferable between jobs or volunteer organisations. Should a person engage in 'child-related work' with another organisation, they do not need to apply for a second WWC Check; however a WWC Check obtained for the purpose of voluntary work, as indicated by the letter 'V' on the card, may not be used for the purposes of paid work. It is an offence to use a volunteer WWC Check for the purpose of engaging in paid 'child-related work'. Principals and managers should verify that WWC Check cards presented to them by paid employees are stamped with the letter 'E'.

The WWC Check consists of a national criminal history check and consideration of any relevant findings from professional disciplinary bodies such as the Victorian Institute of Teaching. Not all criminal offences will be taken into account, only serious sexual, violence or drug offences, or pending charges. Further information on the offences relevant to a WWC Check can be found at the Department of Justice's internet site at www.justice.vic.gov.au/workingwithchildren.

The WWC Check is monitored on an ongoing basis. This means that holders of a WWC Check will continue to be checked for any new relevant offences or findings from professional disciplinary bodies. New charges, convictions, findings of guilt or findings from professional disciplinary bodies which are relevant to the WWC Check will result in a re-assessment of the holder's eligibility for a WWC Check.

What is 'Child-Related Work'?

The Act defines 'child-related work' as work which usually involves (or is likely to involve) regular, direct contact with a child where that contact is not directly supervised, and in any of twenty child-related occupational fields listed in the Act. 'Child-related work' may be either paid or unpaid (voluntary).

'Educational Institution' is an occupational field listed in the Act and includes any State school established under section 21 of the Education Act 1958. Accordingly all Victorian Government primary, secondary, technical and special schools fall within the Act.

While the Act is being phased in over five years by occupational fields, Educational Institutions are required to be compliant by 30 December 2007.

Accordingly, any person whose duties usually involve or is likely to involve work in a school (other than teachers and principals) is considered to be engaged in 'child-related work' as defined in the Act and will need to ensure they are compliant with the legislative obligations contained in the Act.

There are exemptions from the Act including: people under 18 years of age, parent volunteers whose child ordinarily participates in the activity, sworn police officers, teachers currently registered with the Victorian Institute of Teaching, and visiting workers who do not ordinarily reside and perform child-related work in Victoria, among others.

Applying for the WWC Check

The WWC Check is conducted by the Department of Justice. Applications must be lodged at one of the participating Australia Post outlets in Victoria. For a list of Australia Post outlets where a WWC Check application may be made see: <http://www.auspost.com.au>

WWC Check applicants will need to complete an 'Application for WWC Check' form that is available from an Australia Post outlet, produce sufficient identification to meet an identity check and provide a passport sized photograph.

Question 12 on the 'Application for WWC Check' form asks the applicant to list the names of organisations where s/he intends to work in 'child-related work'. Principals are to request that new Department employees name the Department of Education and Training, 2 Treasury Place, East Melbourne, 3002, telephone 9637-2595 in response to this question.

Principals are to request that new school council employees and volunteers name the school at which they intend to perform the 'child-related work' in response to question 12. This is due to the Department having no means to identify which school a volunteer school council employee may be engaged.

WWC Check Outcomes

If the employee passes the WWC Check s/he will be issued an 'Assessment Notice' and a WWC Card. An Assessment Notice means the employee has passed the WWC Check and may work in 'child-related work'. A copy of the Assessment Notice will be provided to the employer where known.

Principals and managers may enquire on the status of a WWC card at any time by visiting www.justice.vic.gov.au/workingwithchildren and entering a WWC Check unique number, alternatively telephone 1300 652 879. It is recommended that principals and managers periodically verify the status of WWC Checks held by people engaged in 'child-related work' at their school as WWC Checks are subject to ongoing monitoring and it is possible that if an individual has a relevant change in circumstances, their WWC Check may cease to be valid.

If an employee has criminal offences or a professional disciplinary outcome that may result in them failing a WWC Check, the employee may be given an Interim Negative Notice or a Negative Notice. An Interim Negative Notice means the Department of Justice is intending to issue a Negative Notice and will provide the employee with an opportunity to explain why s/he should not be given a Negative Notice.

An employee or volunteer who receives an Interim Negative Notice or a Negative Notice is required by law to inform their principal or manager within seven days.

Further information on the effect of an Interim Negative Notice or a Negative Notice on an employee's employment can be found in Ministerial Order 193 - Suitability for Employment (Working with Children and Criminal Records Check) Order 2006.

If a principal or manager becomes aware that an employee has been issued an Interim Negative Notice or a Negative Notice, they must contact the Conduct and Ethics Branch immediately on 9637-2595 or 9637-2594.

Further information on WWC Check outcomes can be obtained from the Working with Children Unit within the Department of Justice, telephone 1300 652 879 or visit their website located at www.justice.vic.gov.au/workingwithchildren.

CONDUCTING A DEPARTMENT CRIMINAL RECORDS CHECK

There are no changes to the procedures to be followed where it is determined that a new employee or volunteer is required, or has elected, to undergo a criminal records check conducted by the Department.

Principals and managers, or their authorised delegate, will continue to process such checks by arranging for the applicant to complete a '[Consent to Check and Release National Police Record form](#)' and these details entered online at www.eduweb.vic.gov.au/PROCS/.

Procedures for processing such criminal records checks and a User Guide may be found under 'Procedures & Forms' at www.eduweb.vic.gov.au/hrweb/employcond/res/crimcheck.htm.

Principals and managers should consult [Circular S183-2006](#) 'New Price Structure for Criminal records checks' for information on the fee payable by the applicant for criminal records check conducted by the Department.

Criminal records checks conducted by the Department are valid for up to three years. Criminal records received by the Department are held by the Conduct and Ethics Branch and are not released outside of that office. Schools are not provided with details of criminal records, if any; they are provided with a copy of the clearance or rejection letter only.

Criminal records received by the Department are not retained and are securely destroyed three months after the criminal records check process is completed.

Where an employee or volunteer is not registered with the [Victorian Institute of Teaching](#), nor do they require a WWC Check under the Act, only a criminal records checks conducted by the Department can be accepted as an alternative to determine suitability for employment and remain valid for up to three years. Criminal records checks obtained directly from Victoria Police or other sources cannot be accepted as the Department cannot be assured that all relevant offences were considered or a 100 point identity check was performed.

Criminal records checks conducted by the Department are for 'child-related work' purposes and permit the release to the Department of both spent and non-spent criminal records and disclose findings of guilt where no conviction was recorded.

There may be circumstances where a principal or manager considers that a criminal records check conducted by the Department may be required in addition to a WWC Check. Such circumstances may include the need to consider whether any offences exist that may be relevant to the duties to be performed, such as dishonesty offences or driving offences, that are not considered by the WWC Check.

Principals or managers should consult the Conduct and Ethics Branch on 9637-2595 or 9637-2594 in such circumstances prior to proceeding.

SCHOOL LOCATIONS

Principals and teachers

Members of the principal and teacher class are employed pursuant to the [Teaching Service Act 1981](#) and are required to be registered with the Victorian Institute of Teaching as a condition of employment.

Teachers and principals who are registered with the Victorian Institute of Teaching are exempt from the *Working with Children Act 2005* and do not require a WWC Check.

There is no change to procedures for the employment of new teachers or principals. New teachers and principals may demonstrate their suitability for employment by producing

evidence of having undergone a criminal records check conducted by the Victorian Institute of Teaching and will not be required to undergo a criminal records check conducted by the Department.

Teachers and principals who have undergone a criminal records check conducted by the Victorian Institute of Teaching will have the letters 'CRC' on their registration card.

Principals are required to sight a prospective teacher's Victorian Institute of Teaching registration card to determine whether a criminal records check has been conducted by the Victorian Institute of Teaching.

Where the prospective teacher cannot demonstrate that a criminal records check conducted by the Victorian Institute of Teaching has occurred, s/he will need to undergo a criminal records check conducted by the Department upon appointment.

As from 1 January 2007, teachers and principals who transfer or promote and can produce evidence of registration with the Victorian Institute of Teaching, are not required to undergo a criminal records check conducted the Department as a condition of the transfer or promotion.

School Service Officers and Student Support Service Officers

On 3 April 2006, the Victorian *Working with Children Act 2005* (the Act) became operational. The Department, School Councils, and employees and volunteers to whom the Act applies including School Service Officers (SSO) and Student Support Service Officers (SSSO), will be required to be compliant with its provisions by 30 December 2007.

As from 1 January 2007, new SSO and SSSO employees may demonstrate their suitability for employment by undergoing a WWC Check. Alternatively, they may undergo a criminal records check conducted by the Department and apply for a WWC Check later but prior to 30 December 2007 should it be their intention to continue in 'child-related work' after that date.

As from 30 December 2007 it will be an offence under the Act to engage in 'child-related work' without having applied for a WWC Check. Penalties will apply to both the employer and employee.

Principals and managers are requested to sight and retain a record of employee's WWC Check unique number. This number will be recorded on a future version of HRMS.

As from 1 January 2007, SSO and SSSO employees who transfer or promote and can produce evidence of having undergone a WWC Check, are not required to undergo a criminal records check conducted the Department as a condition of the transfer or promotion.

Casual Relief Teachers

Casual relief teachers are required to be registered with the Victorian Institute of Teaching. Accordingly they qualify for an exemption from the *Working with Children Act 2005* and do not require a WWC Check.

Casual relief teachers may demonstrate their suitability for employment in one of two ways:

1. Undergo a criminal records check conducted by the Victorian Institute of Teaching. Casual relief teachers who have undergone a criminal records check conducted by the Victorian Institute of Teaching will have the letters 'CRC' on their registration card. Principals are required to sight a casual relief teacher's Victorian Institute of Teaching registration card to determine whether a criminal records check has been conducted by the Victorian Institute of Teaching. Or,
2. Undergo a criminal records check conducted by the Department of Education. These checks are valid for three years. Schools are encouraged to assist casual relief teachers who wish to undergo a criminal records check conducted by the Department.

Other Casual Employees

Casual employees in schools, other than casual relief teachers, are employed pursuant to the *Education Act 1958* and therefore are required to demonstrate their suitability for employment by undergoing a WWC Check or a criminal records check conducted by the Department.

Not all casual employees in schools will be required by the Act to undergo a WWC Check; it will depend on whether their duties meet the definition of 'child-related work' as defined in the Act.

Principals and managers should contact the Conduct and Ethics Branch on 9637-2595 or 9637-2594 for advice on whether the duties to be performed by a casual employee meet the definition of 'child-related work'. Additional advice can be obtained from the Working with Children Unit within the Department of Justice, telephone 1300 652 879.

Casual employees who are required to undergo a WWC Check will need to do so by 30 December 2007 if they intend to continue in their duties after this date. As the Executive Officer of School Council, principals retain the authority to require a casual employee to undergo a criminal records check conducted by the Department irrespective if the employee is exempt from the Act.

Registered Training Organisations

Schools that enter into an agreement with a Registered Training Organisation in which the Organisation provides a teacher or instructor to the school must be satisfied that the teacher or instructor is suitable for employment.

As from 1 January 2007, principals must sight either a criminal records check conducted by the Department, a WWC Check or [Victorian Institute of Teaching](#) provisional registration as evidence that a teacher or instructor is suitable for employment.

As from 30 December 2007, where the Registered Training Organisation's teacher or instructor is not registered with Victorian Institute of Teaching, s/he will be required to demonstrate evidence of having applied for a WWC Check.

Volunteers

Each School Council is responsible for establishing their own policy concerning which volunteers they require to undergo a criminal records check. In establishing their policy, School Councils consider such matters as the level of supervision, the frequency of engagement and any other factors which determined the level of risk.

School Councils will need to review their criminal records check policies prior to 30 December 2007 to account for the legislative obligations created by the Act. Advice on amending or School Council criminal records check policies can be obtained from the Conduct and Ethics Branch, telephone 9637-2594 or 9637-2595.

The Act will require certain volunteers who engage in 'child-related work' in schools to undergo a WWC Check. The Act exempts parents who are volunteering in activities in which his/her child ordinarily participates from requiring a WWC Check. 'Parent' includes the spouse or domestic partner of the father or mother of the child, or a person who has custody of the child.

Principals should contact the Department of Justice's Working with Children Information Line on 1300 652 879 to obtain information about whether a volunteer may require a WWC Check.

Until 30 December 2007, School Councils may accept a criminal records check conducted by the Department or a WWC Check as evidence that a volunteer is suitable to engage in voluntary work in a Victorian Government School.

As from 31 December 2007 it will be an offence to permit a volunteer who requires a WWC Check to perform voluntary 'child-related work' in connection with a school if they have not applied for a WWC Check.

As the Executive Officer of School Council, principals retain the authority to require a potential volunteer to undergo a criminal records check irrespective if the volunteer is exempt from the Act. For instance a parent attending an overnight camp with their child may be exempt from requiring a WWC Check, however a School Council may determine that any person attending an excursion or camp must have either a WWC Check or have undergone a criminal records check conducted by the Department. School Councils should ensure their criminal records check policy reflects this authority.

Home-Stay Families

It is Department policy that all home-stay providers, and each adult member resident in the home, are required to undergo a criminal records check conducted by the Department prior to being eligible to host visiting students.

Until 30 December 2007, principals may accept a criminal records check conducted by the Department or a WWC Check as evidence that home-stay providers are suitable to host visiting students.

As from 31 December 2007, the Act requires home-stay providers, including each adult member resident in the home who to have applied for a WWC Check prior to hosting a visiting student unless an exemption under the Act applies. Where the home-stay provider and adult resident in the home can demonstrate evidence of having applied for a WWC, they will not be required to undergo a criminal records check conducted by the Department.

Further information on the WWC Check in relation to home-stay providers can be obtained from the Working With Children Unit within the Department of Justice, telephone 1300 652 879 or visit their website located at www.justice.vic.gov.au/workingwithchildren.

Student Teachers and Student Internships

Until 30 December 2007, principals may accept a criminal records check conducted by the Department or a WWC Check as evidence that a student teacher/intern is suitable to undertake a practicum in a Victorian Government School.

As from 31 December 2007, student teachers/interns must have applied for a WWC Check prior to commencing a practicum in a Victorian Government School. As student teachers/interns do not receive payment for undertaking a practicum, a volunteer WWC Check may be accepted.

Work Experience

Work experience host employers may require a WWC Check if they are a service, body, place or activity to which the Act is applicable *and* the duties in which they engage is considered to be 'child-related work'.

Advice on whether a host employer will be required to undergo a WWC Check can be obtained from the Department of Justice's Working with Children Information Line, telephone 1300 652 879.

Principals should continue to make arrangements for the person who has direct supervision of a work experience student who is under the age of fifteen years to undertake a criminal records check conducted by the Department. Further information may be found in [Circular 314/2003](#) - Education (Workplace Learning) Act 2003.

Contractors

Principals and managers should assess the duties to be performed by contractors to determine whether they constitute 'child-related work' and will therefore require a WWC Check.

Contractors such as IT Technicians, gardeners and maintenance officers may require a WWC Check as they are frequently in schools during normal school hours.

Contractors such as cleaners are often only in schools outside normal school hours, will not have contact with children and therefore may not require a WWC Check.

Principals and managers should contact the Conduct and Ethics Branch on 9637-2595 or 9637-2594 for advice on whether the duties to be performed by a contractor meet the definition of 'child-related work' as contained in the Act. Additional advice can be obtained from the Working with Children Unit within the Department of Justice, telephone 1300 652 879.

Where a principal or manager determines a contractor is not required by the Act to undergo a WWC Check, consideration may still be given to whether the contractor should be required to undergo a criminal records check conducted by the Department.

Active After-school Communities Program Deliverers

The Australian Sports Commission provides grants to schools to conduct Active After-school Communities (AASC) programs. These programs involve schools using their grant, among other purposes, to meet the fees of the AASC program deliverer.

The Department considers AASC deliverers to be contractors engaged in 'child-related work' and will therefore require a WWC Check unless they produce evidence of registration with the Victorian Institute of Teaching.

As from 30 December 2007, principals and managers should verify that deliverers of AASC programs possess either a WWC Check or VIT registration.

NON SCHOOL LOCATIONS

Employment as a Victorian Public Service (VPS) Officer continues to be conditional on undergoing a criminal records check conducted by the Department. However, VPS Officers may undertake a wide range of duties and it is possible an officer's duties may constitute 'child-related work' and a WWC Check will be required. Managers should carefully assess the duties to be performed by the VPS Officer to determine whether a criminal records check conducted by the Department will be sufficient, or instead whether the appointee will require a WWC Check.

Managers should contact the Conduct and Ethics Branch on 9637-2595 or 9637-2594 for advice on whether the duties to be performed meet the definition of 'child-related work' as contained in the Act. Additional advice can be obtained from the Working with Children Unit within the Department of Justice, telephone 1300 652 879.

Where the VPS Officer's duties will involve 'child-related work' as determined by the hiring manager, the Officer will be required to undergo a WWC Check by 30 December 2007. Alternatively, they may undergo a criminal records check conducted by the Department and apply for a WWC Check later but prior to 30 December 2007.

As from 31 December 2007 it will be an offence for a VPS Officer who requires a WWC Check to engage in 'child-related work' if s/he has not applied for a WWC Check.

RIGHT OF APPEAL

A WWC Check applicant (paid or volunteer) who is issued with an Interim Negative Notice or a Negative Notice should contact the Working with Children Unit within the Department of Justice, telephone 1300 652 879 or visit their website located at www.justice.vic.gov.au/workingwithchildren to discuss any right of appeal that may exist.

An employee who undergoes a criminal records check conducted by the Department and is found to have an unsatisfactory criminal record may, within fourteen days of being notified, apply in writing to the Senior Chairperson of the [Merit Protection Boards](#) for a review of that notification. Further information in relation to such appeals may be found in [Ministerial Order 199](#) - Suitability for Employment (Working with Children and Criminal Records Check) Order 2006.

A volunteer who undergoes a criminal records check conducted by the Department and is found to have an unsatisfactory criminal record may request that the Victorian Ombudsman investigate. The Victorian Ombudsman is an independent officer of the Victorian Parliament who investigates complaints about administrative actions taken by Victorian government

departments. The Victorian Ombudsman may be contacted on telephone 9613 6222 or 1800 806 314, or visit their website located at www.ombudsman.vic.gov.au.

FURTHER INFORMATION AND CONTACTS

Further information on the policies and procedures for determining the suitability for employment (paid or voluntary) within the Department of Education and Training and other related matters can be obtained from the Conduct and Ethics Branch, telephone 9637-2595 or 9637-2594, email conduct.ethics@edumail.vic.gov.au

Further information on the WWC Check, the Act and to whom it may be applicable to can be obtained from the Working with Children Unit within the Department of Justice, telephone 1300 652 879 or visit their website located at www.justice.vic.gov.au/workingwithchildren.