



5 steps to creating a safer environment for children

A simple guide for sport and recreation organisations



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About this guide

Every sport and recreation organisation has a responsibility to provide a safe environment for children and young people.

Since July 2000 legislation has been progressively introduced in NSW that has affected all people working with children. This legislation includes the:

- *Commission for Children and Young People Act 1998*
- *Child Protection (Offenders Registration) Act 2000*
- *Commission for Children and Young People Amendment Act 2005.*

All have implications for sport and recreation organisations.

You can ensure child protection legislative requirements are dealt with efficiently and effectively by having a good understanding of what is needed.

This booklet outlines five key steps that will assist you to meet your requirements:

- Step 1 – undertake the Working with Children Check
- Step 2 – appoint a child protection/member protection information officer
- Step 3 – establish a child protection/member protection policy
- Step 4 – manage allegations of reportable conduct
- Step 5 – report incidents.

More information

This booklet provides an overview and is a handy reference.

More detailed guidelines are available from NSW Sport and Recreation by calling 13 13 02 or can be downloaded from our website at www.dsr.nsw.gov.au/children

The Working with Children Check is overseen in NSW by the Commission for Children and Young People (CCYP).

For more information on child safe, child friendly environments or to obtain a copy of the *Employers Working with Children Check* guidelines contact:

Commission for Children and Young People
phone (02) 9286 7219 www.kids.nsw.gov.au

Play by the Rules provides information and online learning about child protection, and the prevention of discrimination and harassment at www.playbytherules.net.au

The Australian Sports Commission provides child protection strategy and policy and code templates at www.ausport.gov.au

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Undertake the Working with Children Check

The Working with Children Check (WWCC) helps determine whether a person is suitable to work with children. Employers must use the WWCC for people in child related employment. It is an offence not to do so.

The WWCC involves an employer:

1. Undertaking probity checks (eg. referee checks)
2. Asking all paid and unpaid employees (including volunteers) working with children to sign a *Prohibited Employment Declaration* to declare that they are not a prohibited person
3. Conducting background checks on applicants for paid positions working with children and other mandatory categories (using a *Working with Children Background Check Request Form*)
4. Reporting inappropriate conduct.

Conducting the Working with Children Check

- Determine the Approved Screening Agency to use. NSW Sport and Recreation is the Approved Screening Agency for NSW sport and recreation organisations
- Identify positions within the organisation that are child related (definitions available in the Important terms section on page 9)
- Register your organisation as an employer with the Approved Screening Agency
- Request all employees in identified positions (including volunteers) to complete and return to you a *Prohibited Employment Declaration*. Store these in a secure location.

- For new paid people request completion and return of a *Working with Children Check Consent Form*
- Sight 100 points of identification
- Forward the *Working with Children Check Request Form* to the Agency
- For short-term employees a check is valid for 12 months from the date of check.

Important

All forms required to conduct the WWCC can be located on www.dsr.nsw.gov.au under Child Protection

- There is **no cost** to your organisation when submitting a *Working with Children Background Check Request Form* to the Approved Screening Agency for mandatory categories
- There is no age minimum on the WWCC
- If an issue arises during the checking process the Agency will provide guidance to your organisation
- Employers face heavy penalties for failing to ask employees to sign a *Prohibited Employment Declaration*. Individuals who falsely sign this form are committing a criminal offence
- *Prohibited Employment Declarations* and the *Working with Children Background Check Consent Forms* need to be kept in a secure manner by the employer, and **are not sent** to the Agency as part of the WWCC request. These forms are an auditable item.

Step 2

Appoint a child protection/ member protection information officer

An important step in creating a safer environment for children involved in your sport is to appoint a child protection/member protection information officer for your organisation.

A child protection/member protection information officer coordinates your organisation's child protection activities and needs to convey a clear message about the importance of child protection to the people involved in your sport.

A child protection/member protection information officer also needs to assist with the implementation of your organisation's:

- WWCC responsibilities
- Record keeping associated with the WWCC
- Awareness raising initiatives for people involved with your organisation (eg. child protection policy and relevant codes of conduct).

In addition, it is important that the child protection/member protection information officer:

- Knows the DoCS Helpline number – 132 111
- Has copies of standard reporting forms
- Is aware of, or creates, reporting procedures to deal with allegations of reportable conduct
- Promotes child protection awareness in the organisation
- Ensures children and adults in the organisation have someone to go to if they have a concern or need information on child protection/member protection.

Establish a child protection/ member protection policy

As part of creating a safe environment for children, your organisation should adopt a child protection policy or incorporate it into a member protection policy.

It is also a good way to make sure that everyone knows your organisation is taking its responsibility for the welfare of children and young people seriously.

The Australian Sports Commission provides guidance on what a Member Protection Policy should include:

- A clear statement about what behaviour is unacceptable
- Complaint Handling Procedures that are appropriate for allegations of child abuse
- Clear definitions on who the Policy applies to, examples and definitions of behaviour, and what the Member Protection Information Officer's role is
- Clear guidance on organisational and individual responsibilities for ensuring child abuse, discrimination and harassment does **not** occur
www.ausport.gov.au/ethics

Step 4

Manage allegations of reportable conduct

What is reportable conduct

- Reportable conduct – any sexual offence or sexual misconduct, committed against, with or in the presence of a child, including a child pornography offence
- Any child related personal violence offence
- Any assault, ill treatment or neglect of a child
- Any behaviour that causes psychological harm to a child, or
- An act of violence committed by an employee in the course of employment and in the presence of a child.

An allegation of reportable conduct involving an “employee” is a very serious matter and must be handled with a high degree of sensitivity. Here’s a basic outline of the investigative process your organisation should follow:

- Initial response
 - Clarify the details of the allegation
 - Follow your established reporting procedures (eg. child protection officer)
 - Assess the risks and take interim action to ensure the child’s safety
 - Report to DoCS and NSW Police if necessary
 - Address the support needs of the child and the employee
 - Maintain confidentiality, fairness and trust
 - Communicate appropriately with relevant parties.
- Next steps
 - The child may need to be interviewed by a professional (eg. DoCS, NSW Police)
 - Identify people who can provide relevant information
 - Document all details
 - Where required, appoint an independent person to conduct an investigation.
- Information gathering
 - Collect relevant documentary evidence and record all witness interviews
 - Review the initial risk assessment and take action to address concerns.
- Procedural fairness and natural justice
 - Maintain strict confidentiality
 - Put the allegation to the employee in an interview with your disciplinary body
 - The employee may have an observer and adviser present
 - The employee may respond during the interview and in a written submission.
- Making a finding
 - The decision makers should be separate from the investigator
 - Consider all the information and make a decision
 - Clearly document the rationale.
- Taking action
 - Decide on the action to be taken and report to your organisation
 - Report to the Commission for Children and Young People where it meets the definition of a completed employment proceeding*.

*Refer to the Guidelines for Sport and Recreation Organisations – Working with Children Check and Child Protection for details.

Report incidents

Employers must provide details to the Commission for Children and Young People of any employee who has been the subject of completed relevant employment proceedings*.

Under child protection legislation, some people are legally required to report concerns they have about the safety, welfare and wellbeing of a child.

Mandatory reporter

A mandatory reporter is any person who delivers services to children as part of their **paid** professional work.

You are also a mandatory reporter if you hold a management position and you are responsible for or supervise the provision of these services. Further clarification can be found in the *Children and Young Persons (Care and Protection) Act 1998*.

A mandatory reporter is required by law to make a report to DoCS if they have current concerns about the safety, welfare or well-being of a child (under 16 years of age).

Reporting

If you suspect a child is at risk of harm you should report to the DoCS Helpline (phone 132 111).

You don't need to be certain, you only need to make sure that your concerns are well founded and based on information you know or have from a reliable source.

If you are unsure it is best to contact DoCS for advice.

DoCS will make an assessment and determine the actual risk of harm and the appropriate action to take. Further investigation and assessment may be required.

Your report is confidential and legislation provides protection for those making reports.

*Refer to Employer Guidelines www.kids.nsw.gov.au

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Important terms, questions and answers checklist



Important terms

Apprehended Violence Order (AVO) – with regard to the *Commission for Children and Young People Amendment Act 2005* an AVO is defined as an order made by a Court on the application of a police officer/public official or interstate restraint order made for the protection of a child.

Approved Screening Agency – designated agencies that undertake requests for background checking on behalf of employers.

Allegation – an assertion made without absolute evidence.

Background checking – checks for offences including child assault, child pornography, sexual activity, acts of indecency, relevant AVO and employment proceedings. It must be conducted on all preferred applicants for paid child related positions as well as other mandatory categories by an Approved Screening Agency.

Child related employment – employment (including volunteers) that primarily involves direct, unsupervised contact with children. (A child is defined as a person under 18 years of age). This means that one of the essential duties of the position involves direct unsupervised contact with children.

Child related personal violence offence – In NSW, a child related personal offence is specifically the offence of:

- Maliciously wounding or inflicting grievous bodily harm to a child; or
- Maliciously shooting at, or discharging any kind of loaded arms at a child.

Employment proceedings – employment related proceedings completed in NSW or elsewhere, where an employer (including sport and recreation organisations) has found:

- Reportable conduct; or
- That an act of violence has been committed by an employee in the course of employment and in the presence of a child.

Prohibited person – a person convicted of a serious sex offence, the murder of a child, a child related personal violence offence or a registrable person. A prohibited person is not allowed to work or continue to work in child related employment. It is an offence for a prohibited person to apply for a position working with children. A person on the sex register is also a prohibited person.

Reportable Conduct – refer to page 6.

Prohibited Employment Declaration – a form to be completed by all paid and unpaid employees (including volunteers) prior to employment in child related positions.

Risk of harm – current concerns about a child over basic physical or psychological needs not being met, medical care not being arranged, the child being at risk of serious physical or psychological harm or at risk of physical or sexual abuse.

Serious sex offence – an offence (involving sexual activity, acts of indecency and other offences included in legislation) that is punishable by a prison sentence of 12 months or more.

Working with Children Check – the overall process used to help determine whether a person is suitable to work with children.

Working with Children Background Check Consent Form – a form completed by preferred applicants for child related positions and other mandatory categories. Used by employers to get permission to conduct background checking. Kept on file by the employer.

Frequently asked questions

What is the difference between the Working with Children Check (WWCC) and background checking?

The WWCC is the entire process of looking at a person's suitability to work with children. It includes these three key components:

- *Prohibited Employment Declaration* – completed by all employees (paid and unpaid) working with children.
- Background checking – conducted on preferred applicants for paid positions working with children and other mandatory categories.
- Reporting relevant employment proceedings to the Commission for Children and Young People.

In other words, the WWCC describes the entire process. Background checking is one key part of the WWCC.

Where does the Working with Children Check apply?

Employers must use the WWCC for people in child related employment – that is, employment that primarily involves direct and unsupervised contact with children. It covers areas such as child care, schools, pre-schools, detention centres, hospitals, refuges, sporting clubs and organisations, associations and religious organisations.

Am I an employer?

You are an 'employer' if you or the organisation you represent has responsibility for 'employees' who work or provide services to children:

- Under contract or agreement
- As a sub contractor

- As a volunteer
- Whilst undertaking practical training involving children.

The legislation also applies to self-employed people. You must ensure your compliance with the child protection legislation by completing the registration process outlined at www.kids.nsw.gov.au (due for implementation in 2008).

Who should be checked in our sport or recreation organisation?

Who needs to be checked will vary from club to club and sport to sport. The WWCC applies to all child related employment. Your club or association must determine who and what positions fall into this category and then follow the processes outlined in Step 1.

What about volunteers and the WWCC?

Volunteers are required to undergo required components of the WWCC. Where relevant, all volunteers must fill out a *Prohibited Employment Declaration*.

What happens if a person is found to be not suitable to work with children?

If an issue arises about a person's status during background checking, the Approved Screening Agency will conduct an estimate of risk to help your organisation determine whether that person is suitable to work with children. The decision to employ that person is ultimately yours. You must notify the Commission for Children and Young People if you decide not to employ the applicant as a result of the estimate of risk. The Employment Decision Notification form can be found on our website (attachment 7).

Frequently asked questions

Does our child protection officer take responsibility for dealing with a person identified as presenting a level of risk through the WWCC?

Not necessarily. The manner of communication with a person identified as presenting a risk, either in person or by correspondence, is the decision of the employer.

What if a person refuses to sign a *Prohibited Employment Declaration*?

A person is not permitted to work with children if he/she refuses to sign the form. It is every individual's right however to determine whether they wish to sign a form or not, but if they decline, they must **not** be employed to work with children in child related positions.

Employers face heavy penalties for failing to ask applicants to sign a *Prohibited Employment Declaration*. Individuals who falsely sign this form are committing a criminal offence.

How is privacy protected during the WWCC?

There are strict provisions to protect the privacy of people being checked. It is an offence for any person to inappropriately obtain or tell another person about information gathered during the checking process.

Child protection checklist

There are a number of steps you need to take to help create a safe environment for children and young people to enjoy sport and recreation activities. Use this checklist to assist your organisation.

Your organisation

- Establish a child protection policy/member protection policy
- Nominate a child protection officer/member protection information officer
- Ensure all employees, parents, players and members are aware of your policy and procedures
- Identify child related employment positions (paid and unpaid)
- Register with NSW Sport and Recreation to get an Employer ID Number
- Establish record keeping procedures for the WWCC
- Report any relevant completed employment proceedings against an employee
- Raise child protection awareness amongst your organisation
- Keep records secure and treat information as highly sensitive.

New staff in child related employment

- Add information to recruitment packages for identified child related positions (paid)
- Conduct structured referee checks on preferred applicants
- Have prospective (paid and unpaid) staff sign a *Prohibited Employment Declaration Form*
- Background check preferred applicants for paid positions.

Contacts

NSW Sport and Recreation

Child Protection Infoline: 1300 366 407
Email:
workingwithchildrencheck@dsr.nsw.gov.au
www.dsr.nsw.gov.au/children
Offers a range of child protection brochures

Commission for Children and Young People

Office hours: 9am–5pm
Phone: (02) 9286 7220
Fax: (02) 9286 7201
Email: kids@kids.nsw.gov.au
www.kids.nsw.gov.au
WWCC Employers Guidelines

Australian Sports Commission

Phone: (02) 6214 1111
www.ausport.gov.au
Policy and Code templates

Play By The Rules

www.playbytherules.net.au
Free online training programs on child protection, discrimination and harassment.

NSW Police

Emergency: 000
Police Assistance Line: 131 444
7 days a week, 24 hours a day

NSW Department of Community Services

DoCS Helpline: 132 111
www.community.nsw.gov.au

Kids Helpline

Phone: 1800 551 800
Email: admin@kidshelp.com.au
www.kidshelp.com.au

