
Safety Checking Requirements: The Vulnerable Children Act 2014

[The Vulnerable Children Act](#) (the Act) was passed by parliament in June 2014. It forms a significant component of comprehensive measures to protect and improve the wellbeing of vulnerable children and strengthen New Zealand's child protection system.

There are two key components to the Act:

- I. Management of suspected or actual child abuse and neglect; and
- II. Safety checking requirements.

General practice staff will be required to meet the conditions of the Act and its regulations as it provides regulated services as set out in [Schedule 1 of the Act](#). This includes publically funded medical practices or facilities and medical practices belonging to primary health organisations (PHOs).

The Act refers to different requirements for two categories of workers – core and non-core workers.

“Core workers work alone with, or have primary responsibility or authority over, children. Examples of roles that may meet these definitions include teachers, nurses and youth counsellors; as well as “health practitioners, and support staff working in health practices, who may have regular contact with children.”¹

Non-core workers have regular, but limited, child contact; “examples of roles that may meet this definition include: non-teaching school staff, general hospital staff and many social and health workers”².

For the purpose of the Act, a child is defined per the Children, Young Persons, and Their Families Act 1989. That is a young person below the age of 17 years, excluding any young person who is married (from 14 years).

Safety Checking Requirements

The regulations outline the requirement for good practice pre-employment activity. This includes:

- I. Confirmation of the identity of the worker. The first requirement underpinning effective safety checks is to ensure people are who they say they are. The applicant must either:
 - use an electronic identity verification service e.g. RealMe; or
 - Provide two identity documents: (i) a primary identity document e.g. New Zealand or overseas passport; New Zealand birth certificate (must be issued after 1 January 1998 carrying a unique identification number) or New Zealand citizenship certificate; and (ii) a secondary identity document e.g. New Zealand driver licence; New Zealand employee photo identification card; or Inland Revenue number.

¹ <http://www.childrensactionplan.govt.nz/assets/CAP-Uploads/childrens-workforce/Childrens-worker-safety-checking-under-the-Vulnerable-Children-Act-RC-v1-02.pdf>

² <http://childrensactionplan.govt.nz/legislation-/faqs/>

If the identity documents do not contain a photograph of the applicant, they must provide further proof that the documents relate to them. A list of further acceptable identity documents is set out in the [Schedule to the Regulations](#).

- II. Collection of a range of information about the applicant, including a work history, a referee check (we suggest two referee checks is best), an interview and third party checks with their professional registration body or licensing authority (as appropriate).
- III. Evaluation of this information and assessment of the risk the person would pose to the safety of children if employed or engaged as a children's worker, including consideration of whether the role is a core children's workforce role.
- IV. The criminal records vet.

Safety Checking Timing

Vetting obligations are:

- From 1 July 2015 all new core workers must be safety checked before their employment or engagement commences.
- From 1 July 2016 all new non-core workers must be safety checked before their employment or engagement commences.
- By 1 July 2018 all existing core workers must have been safety checked.
- By 1 July 2019 all existing non-core workers must have been safety checked

Please note engagement of core and non-core 'new' workers is considered as those appointed either permanently, fixed term, as a locum, student / trainee doctor or nurse, casual and/or self-employed.

Children's workers must be re-checked every three years.

When the Act was introduced, the government provided a period of 'grace' to allow employers some time to understand the requirements of the Act and to allow the police to vet the high volume of applications received. The full requirements of the Act are now in place. Section 25 of the Act states:

(1) A specified organisation must not employ or engage a person as a children's worker without ensuring that a safety check of the person that complies with section 31 [of the Act] is completed **before** the employment or engagement commences.

Failure to comply with the above may result in the employer being fined up to \$10,000.

Safety Checking Process

Under the Act, employers are responsible for ensuring that safety checks are conducted. Third party organisations e.g. recruitment agencies or contracting organisations can complete parts of the checking on the behalf of employers, but the responsibility remains with the employer to ensure all checks have been carried out as per the Safety Checking Regulations.

Any financial costs associated with safety checking are borne by the employer.

The Act determines that the decision about whether or not a person is safe to work with children remains the sole responsibility of the employer. The exception to this ruling is if the vetting and/or safety checking evaluation process

identify a serious offense or workforce restriction. Here the Act requires the employer must not employ or engage the applicant.

The decision to employ or engage a person must be made in accordance with existing obligations under the Privacy Act 1993, the Human Rights Act 1993 and the Employment Relations Act 2000.

We recommended that employers implement a structured process and policy as part of their child protection procedures in order to respond to identified concerns either during the recruitment process or when vetting existing workers.

This information is not a substitute for legal advice, and organisations are encouraged to seek independent advice if an issue arises implementing the new requirements.



Assistance with the safety checking requirements for your practice can be provided through our Support Plus HR service. Simply get in touch:

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