

Working with Children Check



A
New
Initiative to
Help
Protect
Children

DEPARTMENT
OF JUSTICE

Victoria
The Place To Be

Presentation Overview

This session will cover:

1. What is a WWC Check
2. Who needs to apply for a WWC Check
3. WWC Check application process
4. Privacy
5. Further information contact details



Working with Children Check



1. What is a WWC Check?



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What is the WWC Check?

- A new checking system commencing in 2006
- Helps to protect children from sexual or physical harm
- Assists to prevent those who are a risk to the safety of children from working with them, in either paid or volunteer work
- WWC Check creates a mandatory minimum standard across Victoria
- “Children” means those under 18 years of age
- Employer also includes agencies (as defined by the Act) and voluntary organisations



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Who will be checked?

- People who work or volunteer in “child-related work”
- 5 year implementation phasing in plan - anticipated 650,000 checks will be undertaken
- 20 occupational fields - each year nominated categories will come on board consistent with phasing in plan



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What the Check takes into consideration

- Only relevant offences under the *Working with Children Act 2005*
- Not all criminal offences. Broadly: **serious** sexual, **serious** violent and **serious** drug offences
- Relevant professional disciplinary findings



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How is check undertaken?

- **Initial National Criminal Record Check**
 - Convictions, findings of guilt and charges for **serious** sexual, **serious** violent and **serious** drug offences (*further details in later slides*)
- **Relevant findings from professional disciplinary bodies**
 - Currently Victorian Institute of Teaching (VIT)
 - Other professional bodies in the future
- Applicant will **automatically pass** the WWC Check if they have no **relevant** criminal offences or **relevant** findings made against them by VIT



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The WWC Check Card



WORKING WITH CHILDREN CHECK

CARD NO:
12345678-01

EXPIRES ON:
01-06-2011

ISSUED TO:
Joan B CITIZEN

Joan Citizen

Victoria
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Labels on the left:
Card no. →
Expiry date →
Cardholder's name →
Card holder's signature →
Clear window →

Labels on the right:
Foil stamped holographic repeats of Government logo →
Cardholder's image ←
Foil stamped holographic **E** or **V** to indicate if employee or volunteer card →



The person identified on this card has passed a Working with Children Check

D9999999
EXPIRY DATE
01-06-11
ISSUED IN VICTORIA

If this card is found please contact 1300 652 879
DEPARTMENT OF JUSTICE, VICTORIA

Labels on the right:
Serial no. ←
Expiry date ←



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Ongoing monitoring

- New **relevant** charges, convictions or findings of guilt since the initial National Criminal Record Check; and
- **New relevant** findings from professional disciplinary bodies
- **New relevant** charges, convictions or findings of guilt or findings will lead to re-assessment



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Different to a Police Records Check

- Only **relevant** offences considered
- Employers **may still require** a standard Police Records Check to be undertaken if knowledge of other offences relevant to position or where required by legislation or employer policy
- **Ongoing** monitoring



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Different to a Police Record Check

cont

- Disciplinary **Findings** from professional bodies
- WWC Check valid for **5 years** (unless revoked)
- A new WWC Check is not required when a card holder changes employers or volunteer organisations:
 - Employee (E) WWC Check Cards can be used for **both** paid employment and volunteer work
 - Volunteer (V) WWC Check cards can **only be used** for volunteer work



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Building barriers

- WWC Check is **one** mechanism, alone will not determine person's suitability to work with children
- Employers **need to satisfy themselves** an applicant is suitable to work with or care for children
- WWC Check **complements** good recruitment, selection, supervision and training of staff



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2. Who needs to apply for a WWC Check?



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Who Will Require a WWC Check?

- Not intended to cover all contact with children – only those who work in “child-related work” as defined by legislation. To determine if work is “child-related work”:
 - Is it “work” (either paid or unpaid)?
 - Is the contact with the child/children in connection with one or more of the 20 occupational fields set out in s.9(3)?
 - Does it involve, or likely to usually involve, “regular”, “direct” contact that is not directly supervised by another person?
- Does an exemption apply?



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Who is Exempt?

A person who is:

- Under the age of 18 years
- Currently registered as a teacher with the Victorian Institute of Teaching (VIT)
- A sworn police officer (does not include police officers who are suspended from duty)
- A volunteer parent whose child ordinarily participates in the activity



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Who is Exempt?

cont

A person who is:

- “Closely related” to each child they have contact with in their “child-related work”
- An 18 or 19 year old student volunteer where their volunteer work is at, or organised by, their educational institution (not practical training)
- A visiting worker who does not ordinarily reside and perform “child-related work” in Victoria



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When is a WWC Check application required?

- Unless an exemption applied:
 - DHS Child Protection and Juvenile Justice workers were required to apply by 30 June 2006
 - Foster carers were required to apply by 30 August 2006
- Commencing from 1 July 2006 new types of “child-related work” come on board



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When is a WWC Check application required?

cont

- Commencing in Year 1 from 1 July 2006:
 - Family Day Care
 - School Crossing Services
 - Outside School Hours Care
 - Overnight Camps
 - Fostering Children (non-foster carers)
 - Child Protection and Juvenile Justice (non-DHS)
 - Specific accommodation services generally associated with Child Protection

must apply by **30 June 2007**



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When is a WWC Check application required?

cont

- Commencing in Year 1 from 1 July 2006:
 - Schools must apply by **30 Dec 2007**
- Act allows applicant to commence or continue “child-related work” whilst application is being assessed
 - Unless the person has previously not passed a WWC Check or is subject to sex offender reporting or monitoring requirements
- Other “child-related work” to apply in **Years 2 to 5**
(refer to phasing in plan)



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3. WWC Check application process



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How to apply for a WWC Check

- Applicant needs to obtain Application Form and Guide
- Complete Application Form and submit it at **participating Australia Post outlets** with:
 - Proof of identity documents, and
 - A passport size photo
- Fee - Free for Volunteers, \$70 for Employees and Self-Employed
- Application receipt will be issued by Australia Post
- Applicant needs to keep receipt as evidence of submitting an application



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What happens if an application is not submitted by the due date?

- If WWC Check is not submitted by the due date it will be an offence for:
 - A person to undertake “child-related work”
 - An employer to engage person in “child-related work”
- Offence can incur imprisonment and substantial fine



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Do you need to pass the WWC Check?

- Yes, if a WWC Check is required, it will be an offence for:
 - A person to undertake “child-related work” without passing the WWC Check
 - An employer to engage a person in “child-related work” without a WWC Check
- An applicant will **automatically pass** if they have no **relevant** criminal offences or **relevant** findings made against them by VIT. Applicant will receive in the mail:
 - An Assessment Notice
 - A WWC Check Card



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WWC Check Employee Obligations

- Advise employer they have passed WWC Check
 - Will be asked to present their WWC Check Card as evidence of passing WWC Check
- Holders of a WWC Check must:
 - Inform employer and DoJ in writing within 7 days of **relevant** change in circumstances, i.e. new criminal charges/offences
 - If DoJ revokes a WWC Check, person is required to return their Assessment Notice and WWC Check Card



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Employer obligations

- Ensure all employees or volunteers who are required to have a WWC Check have:
 - Submitted their application by the **due date**, and
 - Passed their WWC Check
- Sight employees' application receipt by the due date
- Sight employees' WWC Check Cards and record that they have passed WWC Check
- Respect employee confidentiality and privacy
- Employers may also verify online the status of a person's WWC Check



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Application Process



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Offences and/or Findings

- If someone has a **relevant** offence and/or finding, an assessment will be undertaken to determine if that person passes the WWC Check
- Assessment is dependant upon type of offence/s:
 - Category 1
 - Category 2
 - Category 3
- Relevant finding: Category 3



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Category 1

- As an adult, the applicant has committed:
 - Sexual offence against a child
 - Serious violent and/or drug offences with a sexual element against a child
 - Child pornography offence
- Applicant subject to reporting requirements under *Sex Offenders Registration Act 2004* or extended supervision order under *Serious Sex Offenders Monitoring Act 2005*



Department of Justice (DoJ) must refuse to give an Assessment Notice (WWC Check)

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Category 2

Are:

- Serious sexual, serious violent or serious drug offences against an adult, or same offences committed by a child
- Trafficking in children
- Certain offences against *SOR Act* or *SSOM Act*
- Certain pending charges (e.g. serious sexual, serious violent and/or drug offences)



Department of Justice issues Assessment Notice (WWC Check) if no unjustifiable risk to the safety of children

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Category 3

- Relevant finding of a prescribed professional body;
- Certain offences or charges against the *Working with Children Act 2005* itself (Part 4)

The Department of Justice must give Assessment Notice (WWC Check) unless it is appropriate to refuse



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Process - Interim Negative Notice

- If DoJ intends to issue a Negative Notice, an Interim Negative Notice will first be issued (where employer known, copy will be provided)
- If Interim Negative Notice issued, Act does not prevent applicant from continuing or commencing “child-related work”
 - Unless the person has previously not passed a WWC Check or is subject to sex offender reporting or monitoring requirements
- Applicant can make submission to DoJ
- DoJ considers submission



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Process - Negative Notice

- Negative Notice issued if DoJ determines:

Category 1: Applicant is the correct person, correct crime and a Category 1 offence and/or subject to sex offender reporting or monitoring requirements

Category 2: Unjustifiable risk to the safety of children

Category 3: Not appropriate to issue an Assessment Notice



- If Negative Notice is issued, applicant cannot undertake “child-related work” (where employer known, copy will be provided)
- Applicant can appeal to VCAT

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Appeals

If a Negative Notice has been issued, the applicant may appeal to Victorian Civil and Administrative Tribunal:

- **Category 1**

- Sex Offenders Registration Act or Serious Sex Offenders Monitoring Act can **only apply** on the grounds that they are not such a person
- All others can apply to have an Assessment Notice issued

- **Categories 2 & 3**

- Can apply for a review of the Department of Justice's decision to give a Negative Notice



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Negative Notice - Obligations and offences

Person issued with a Negative Notice:

- Offence to apply or engage in “child-related work”
- If they have previously been given a WWC Check, they must notify their employer if subsequently given an Interim Negative Notice or Negative Notice
- Cannot reapply for a Check until 5 years after the Negative Notice was issued, unless there has been a relevant change in circumstances



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Negative Notice - Obligations and offences

cont

For employer:

- Offence to knowingly engage a person with a Negative Notice in “child-related work”
- Offence to breach confidentiality except in the limited circumstances defined by the WWC Act



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4. Privacy



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Privacy

- DoJ is bound by Victorian privacy laws
- If applicant has criminal record, DoJ **will not** disclose the details of criminal record to employer
- Where known, DoJ will provide copy of Interim Negative Notice or Negative Notice to employer
 - This **will not** include any information about an applicant's criminal record
- DoJ will only use the information obtained through these Checks as permitted by law



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Summary

- WWC Check is a:
 - New initiative to further protect children
 - Balance between protecting children and safeguarding individual rights
- Those involved in “child-related work”
 - Need to check if they are required to apply for a WWC Check and, if so
 - When? (by checking the phasing in plan)



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5. Further information contact details



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Further Information

- WWC Check Information Line
1300 652 879
- WWC Check website
<http://www.justice.vic.gov.au/workingwithchildren>
- WWC Check email
workingwithchildren@justice.vic.gov.au

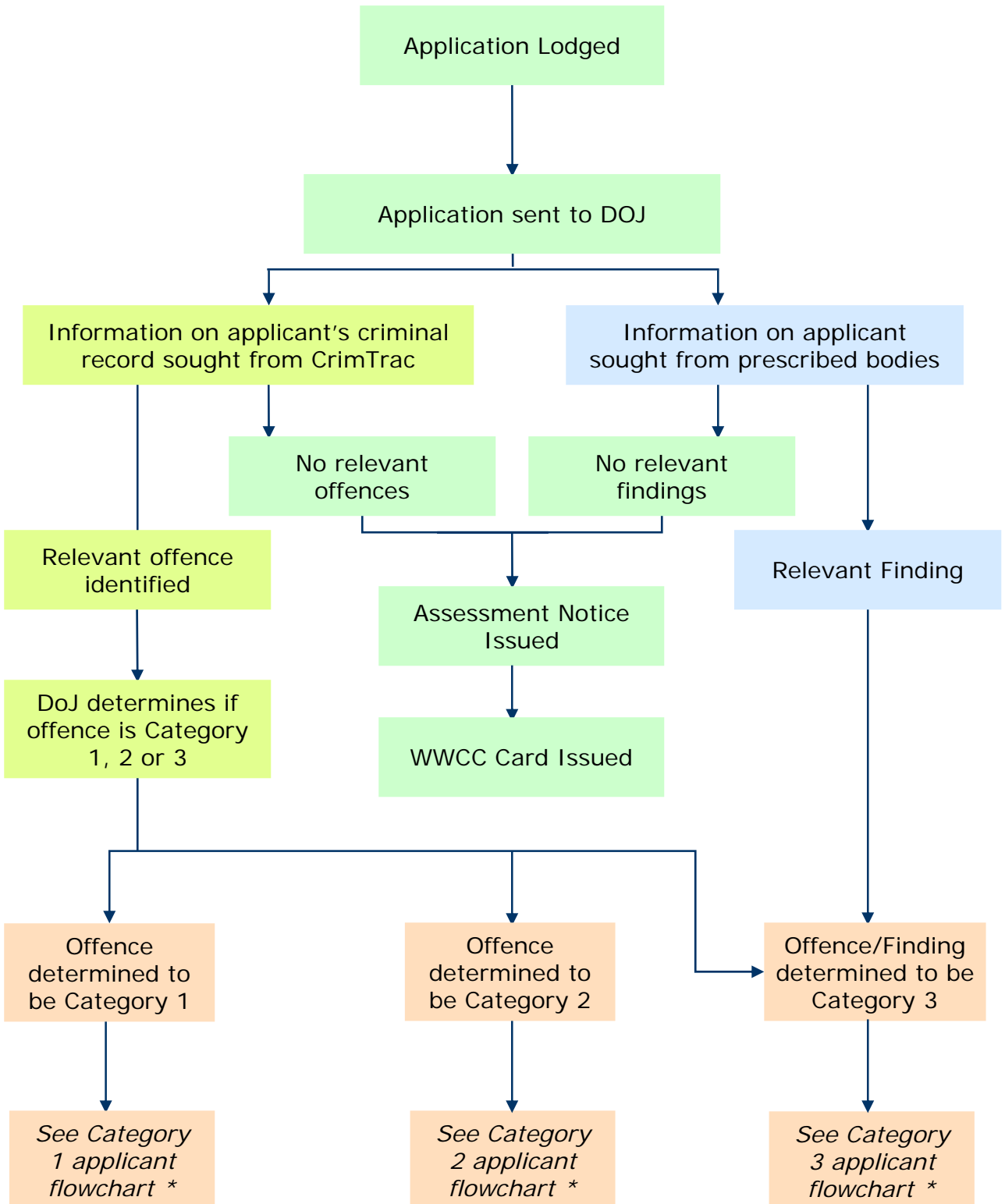


This presentation is a guide only and is not a substitute for legal advice or the relevant legislation

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Working with Children Check Application Process



* refer to Working with Children Check Website