Children's Act 2014 – Safety Check obligations

Sometimes organisations need to onboard someone quickly to fill an unexpected gap. In the rush, it is important to remember the Children's Act 2014 requires government funded organisations to safety check all children's workers before they are employed or engaged. These checks have to be updated every three years.

A children's worker is a person who is paid to work in, or provide, a regulated service, and the work may, or does involve regular or overnight contact with a child or children, without their parent or guardian being present. The requirements do not apply to volunteers, unless they are working as part of an educational or vocational training course.

If your organisation is captured by the Act, you must **complete** a safety check that complies with the Act **before** employing or engaging someone as a children's worker.

The Act does set out two defences to the obligations, the defence of taking all reasonable steps or relating to short-term emergencies. Absent one of these applying however, failing to comply with the obligations may result in a fine not exceeding $10,000.

What does a safety check require?

For a new children's worker, the organisation must:

- verify their identity;
- obtain a police vet;
- gather information about their work history for the previous 5 years;
- obtain the name of any professional organisation or authority they are a member of or hold a current license, registration or practising certificate for;
- contact at least 1 referee;
- interview them; and
- conduct a risk assessment to determine whether the person does or would pose a risk to the safety of children, and to what extent.

The checks must be periodically carried out again within 3 years after the date of the latest safety check. However, these periodic checks do not require the organisation to collect work history, contact a referee or interview the person.

If the person is regularly vetted (at least every three years) as a requirement of a membership with a professional organisation, or for a license or registration, the organisation is not required to carry out the police vet.

Core worker convicted of specified offence

Children's workers are further classified as either 'core workers' or 'non-core workers'. Core workers are those who are either the only children's worker present with, or someone who has primary responsibility for, or authority over, a child/ children.

Organisations captured by the Act are prohibited from employing or engaging, or continuing to employ or engage someone as a core worker if they have been convicted of a specified offence (unless they hold an exemption). The Act lists the specified offences, most of which involve child victims, or are of a sexual or violent nature. The Criminal Records (Clean Slate) Act 2004 does not apply to safety checks of core workers.

The Act sets out a specific process for suspending and terminating a worker where the organisation believes they have been convicted of a specified offence.

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Want to know more?

If you have any questions about whether your organisation is captured by the Act, or its requirements, please contact our specialist Employment Team.

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