



Factsheet 10: Offences and Penalties for Employees and Volunteers

This factsheet should be read in conjunction with **Factsheet 9: Information for Employees and Volunteers**.

There are a range of penalties for not complying with the *Working with Children (Criminal Record Checking) Act 2004* (WWC Act). Some obligations and penalties differ depending on whether you are an employee, volunteer, student or self-employed person.

Below is a summary of the WWC Act offences and penalties that apply to people who engage in child-related work as an employee or volunteer. If you engage in child-related work outside of child-related employment (e.g. you may carry out a side business that involves child-related work), or your circumstances change, other obligations and penalties may also apply. Please refer to the following factsheets if they apply to your current circumstances, **Factsheet 13: Information for Self-Employed People** and **Factsheet 14: Offences and Penalties for Self-Employed People**, and/or **Factsheet 11: Information for Students** and **Factsheet 12: Offences and Penalties for Students**.

Child-related **employment** for the purposes of the WWC Act means:

- (a) Child-related work carried out by an individual under a contract of employment or training contract (whether written or unwritten),
- (b) Child-related work carried out on a voluntary basis by an individual under an agreement (whether written or unwritten) with another person,
- (c) Child-related work carried out by an individual as a minister of religion or in any other capacity for the purposes of a religious organisation, or
- (d) Child-related work carried out by a student with another person that may or must be undertaken as part of the student’s course of study.

Under the WWC Act the term “child-related **business**” means child-related work carried out by an individual for gain or reward otherwise than in the course of the child-related employment referred to above.

Offences and Penalties

It is an offence to:	Penalty
engage in child-related employment if you have been issued with a Negative Notice or Interim Negative Notice and that notice is still current.	Fine of \$60 000 and imprisonment for 5 years.

It is an offence to:	Penalty
<p>engage in child-related employment when you do not have a current WWC Card.</p> <p><i>There are statutory defences that apply to this offence, including if the person has a pending application which has not been withdrawn (except for a person who has been convicted of a Class 1 offence committed when an adult) or works for no more than five days in a calendar year. However, there are exceptions to the five day defence depending on a person's specific circumstances. Please refer to Factsheet 9: Information for Employees and Volunteers for further information.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>fail to apply for a WWC Check after the WWC Screening Unit has issued you with a written notice requiring you to do so within ten days after the date of the notice.</p>	<p>Fine of \$1,000</p>
<p>fail to give written notice of a relevant change in your criminal record as soon as practicable after the change occurs.</p> <p><i>For the purposes of the WWC Act, there is a relevant change in a person's criminal record if the person is charged with or convicted of a Class 1 or Class 2 offence (see Factsheet 3: Class 1 and Class 2 Offences). Notifying of a relevant change does not require a person to provide details of the offence.</i></p> <p>You must give written notice of a relevant change:</p> <ol style="list-style-type: none"> 1. to the WWC Screening Unit <i>and</i> your employer (or volunteer organisation) when you are engaged in child-related employment including where you: <ul style="list-style-type: none"> • are the holder of a current WWC Card; • are not the holder of a current WWC Card but have applied for a WWC Check and that application is still pending; or • are able to lawfully engage in child-related employment without a WWC Card (e.g. where a defence under section 25 of the WWC Act applies); <p>and</p> <ol style="list-style-type: none"> 2. to the WWC Screening Unit alone where you: <ul style="list-style-type: none"> • are not in child-related employment but hold a current WWC Card; • have applied for a WWC Check and the application is pending but you are no longer engaged in child-related employment; or • have applied to the WWC Screening Unit to have a Negative Notice issued to you cancelled and the application is pending*. <p><i>*Note: A person must not carry out any child-related work, whether by being employed in child-related employment or carrying out a child-related business, while they have a pending application for the cancellation of their Negative Notice.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>

It is an offence to:	Penalty
<p>use your current WWC Card to re-engage in child-related work when there has been a relevant change in your criminal record since your WWC Card was issued.</p> <p>That is,</p> <ol style="list-style-type: none"> 1. if you are not engaged in any child-related work but are the holder of a current WWC Card (e.g. you are between jobs), and 2. there has been a relevant change in your criminal record since that WWC Card was issued, <p>then you will commit an offence if you re-engage in any child-related work unless you have:</p> <ul style="list-style-type: none"> • applied for a <i>further</i> WWC Check which is pending, or • been issued with a <i>further</i> WWC Card. <p><i>This applies whether a person decides to re-engage in child-related work either by being employed in child-related employment or carrying out a child-related business.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>fail to give a proposed employer written notice of a relevant change in your criminal record since your current WWC Card was issued and that you have applied for a further WWC Check and that application is pending, where:</p> <ol style="list-style-type: none"> (a) you have a current WWC Card and are no longer engaged in any child-related work* (e.g. you are between jobs), and (b) there has been a relevant change in your criminal record since the WWC Card was issued to you, and (c) you are offered child-related employment. <p><i>*The person may have previously carried out child-related work either by being employed in child-related employment or by carrying out a child-related business.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>fail to give a proposed employer written notice of a relevant change in your criminal record where:</p> <ol style="list-style-type: none"> (a) your WWC Card was cancelled by the WWC Screening Unit after you gave written notice to the WWC Screening Unit of a relevant change in your criminal record in circumstances where you had a current WWC Card but were not engaged in child-related work, (b) you have applied for a further WWC Check and that application is pending; and (c) the proposed employer proposes to employ you in child-related employment. <p>In such circumstances, you must give written notice to your proposed employer of any relevant change in your criminal record since the cancelled WWC Card was issued to you.</p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>

It is an offence to:	Penalty
<p>engage in any child-related work* after a relevant change in your criminal record and that change is a conviction for a Class 1 offence committed when you were an adult.</p> <p><i>*This applies to both being employed in child-related employment or carrying out a child-related business.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>give information for the purposes of the WWC Act that you know to be false or misleading in a material particular to:</p> <ul style="list-style-type: none"> • a person who employs, or proposes to employ, you in child-related employment, or • the WWC Screening Unit. 	<p>Fine of \$24 000 and imprisonment for 2 years.</p>
<p>fail to return your WWC Card to the WWC Screening Unit as soon as practicable after:</p> <ul style="list-style-type: none"> • being convicted of a Class 1 offence committed when you were an adult; • the WWC Screening Unit issues you with a Negative Notice or an Interim Negative Notice; or • the WWC Screening Unit gives you written notice of the cancellation of your WWC Card. 	<p>Fine of \$12 000 and imprisonment for 12 months.</p>

More Information

For more relevant information please visit the website www.workingwithchildren.wa.gov.au and specifically:

Factsheet 2: Child-Related Work and Exemptions

Factsheet 3: Class 1 and Class 2 Offences

Factsheet 9: Information for Employees and Volunteers

Factsheet 11: Information for Students

Factsheet 12: Offences and Penalties for Students

Factsheet 13: Information for Self-Employed People

Factsheet 14: Offences and Penalties for Self-Employed People

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Disclaimer

The WWC Screening Unit is committed to providing clear information to help you understand your rights and meet your obligations. Every reasonable effort has been made to ensure information is accurate and up to date. However, errors can occur and changes after the time of publication may impact on the accuracy of the information in a factsheet.

The latest publication of a factsheet and further information about the Working with Children law is available on our website at www.workingwithchildren.wa.gov.au. If you require additional assistance you may also contact us on (08) 6217 8100, for country callers using a landline 1800 883 979 (toll free).

The information in this factsheet is provided on the understanding that it is not to be relied on for legal or professional advice.

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Working with Children Screening Unit

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