



Factsheet 13: Information for Self-Employed People

What is a WWC Check?

The Working with Children (WWC) Check is a compulsory screening strategy in Western Australia and the Christmas and Cocos (Keeling) Islands for people who engage in certain paid or unpaid work with children, described as “child-related work” under the *Working with Children (Criminal Record Checking) Act 2004* (the WWC Act).

The WWC Check includes a National Police History Check, but is different from a National Police Certificate because it involves the ongoing collection and assessment of information that is relevant to whether a child may be exposed to a risk of harm should a person engage in child-related work.

Self-employed people have a number of responsibilities under the WWC Act which are outlined in this factsheet. If you also engage employees, volunteers or students in child-related work as an employer you should also consider any obligations you may have as an employer. See **Factsheet 5: Information for Employers and Volunteer Organisations**.

Safer Environments for Children - Minimising Risk

Keeping children safe is everyone’s responsibility. Obtaining a WWC Check is **only one** of the practices that responsible organisations put in place to promote safer environments for children. As a self-employed person it is important for you to be familiar with necessary procedures including:

- policies that promote safer and supportive environments for children,
- good supervision and training,
- a work culture which ensures that children’s concerns are heard.



Self-employed people who engage in child-related work have an obligation to have applied for or hold a valid WWC Card. If you engage employees, volunteers or students in child-related work you also have an obligation as an employer to ensure that they have applied for or hold a valid WWC Card. For more information about child-safe practices read the **Safer Organisations Safer Children** booklet.

Who Needs a WWC Check?

Under the WWC Act, people whose usual duties of work involve (or are likely to involve) contact with a child (under 18) in connection with one or more categories of child-related work are required to have a WWC Check. There are 19 categories of child-related work in the WWC Act. For more information, see **Factsheet 1: What is “Child-Related Work”?**

The following steps will help you to identify if you are in child-related work and require a WWC Check:

<p>Question 1: Are you or any employees, volunteers, students within your organisation doing paid, unpaid or volunteer work in connection with any of the categories of child-related work listed in Section 6(1)(a) of the Working with Children (Criminal Record Checking) Act 2004?</p> <p>See Factsheet 1: What is “Child-Related Work”?</p>	<p>YES Go to question 2</p>	<p>NO A WWC Check is not required</p>
<p>Question 2: Do the usual duties of the work involve, or are they likely to involve, contact with a child?</p> <p>(regardless of whether there is supervision from any other adult or a parent/guardian)</p> <p>Contact includes any form of:</p> <ul style="list-style-type: none"> • physical contact • oral communication, whether face to face, by telephone or otherwise • electronic communication <p>but does not include contact in the normal course of duties between an employer and an employee (including employees under 18 years) or between employees of the same employer.</p>	<p>YES Go to question 3</p>	<p>NO A WWC Check is not required</p>
<p>Question 3: Does an exemption apply?</p> <p>To see if an exemption applies see Factsheet 2 Child-Related Work and Exemptions</p>	<p>YES If an exemption applies a WWC Check is not required.</p>	<p>NO If no exemption applies a WWC Check is required.</p>

Note: To improve safety many organisations have policies that require self-employed contractors who do not engage in child-related work or are exempt from applying for a WWC Check to obtain a National Police Certificate.

Exemptions

Certain people don't need to have a WWC Check and must not apply for one. Following are some examples of exemptions. For a full list, read the information in **Factsheet 2: Child-Related Work and Exemptions**.

- Volunteers and unpaid students on placement who are under 18 years of age.

- Short term visitors to Western Australia carrying out child-related work during the period of two weeks after their arrival in Western Australia, and for no more than two weeks in any period of 12 months.
- Parents volunteering in many activities where their child is also involved. This exemption **does not** apply to parents volunteering at overnight camps attended by their children.

Applying for a WWC Check

The WWC Check application form is available at authorised Australia Post outlets throughout the state. A list of these can be found at www.auspost.com.au/workingwithchildren. For instructions on how to complete an application form please read **Completing a Working with Children Check Application Form: Instructions for Employees, Volunteers, Students and Self-Employed People (the applicant)**.

As a self-employed person you may be contacted by the WWC Screening Unit to obtain further information, such as missing personal information or clarification of the child-related work. If you fail to provide the information required within the specified time your application may be deemed to have been withdrawn and you must not engage in child-related work.

If you do not have sufficient identification or if you live in a remote community and are unable to access an authorised Australia Post outlet, please contact the WWC Screening Unit on (08) 6217 8100 or 1800 883 979 (country callers) to find out how to apply.

Renewing a WWC Card

WWC Cards are valid for three years (unless cancelled sooner). If you are continuing your child-related work you must renew your WWC Check before it expires. There are two ways to renew:

- by re-applying and completing a WWC Check application form and lodging it at authorised Australia Post outlet; or
- by completing the online renewal form on the WWC Check website.

You should re-apply at least one month before your current WWC Card expires and no earlier than three months.

Outcome of the WWC Check

If your application for a WWC Check is successful, you will be issued with an Assessment Notice, in the form of a WWC Card. A valid WWC Card permits you to engage in child-related work and remains valid for three years unless cancelled sooner. It is also transferable across paid, unpaid and volunteer work and across all categories of child-related work. Once you hold a WWC Card your eligibility to continue to hold it may be re-assessed if you have a new relevant charge or conviction which indicates you may harm a child while engaging in child-related work.

A Negative Notice is issued where the WWC Screening Unit has identified a risk of harm to a child should the person engage in child-related work. This can occur when you first apply for a WWC Check or if you are re-assessed while holding a WWC Card. A Negative Notice prohibits you from engaging in any child-related work and remains current unless cancelled under the WWC Act.

An Interim Negative Notice may be issued in some cases when the WWC Screening Unit receives information relevant to the immediate safety of children (e.g. a charge or conviction for a relevant offence). This prohibits a person from engaging in child-related work during the assessment or re-assessment until a final decision is made.

Obligations and Responsibilities

As a self-employed person you have obligations under the WWC Act. Not complying with your obligations can result in a **fine of up to \$60,000 and five years imprisonment**. For more information about the offences and their associated penalties please read **Factsheet 11: Offences and Penalties for Self-Employed People**.

If you also engage employees, volunteers or students in child-related work as an employer you should also consider any obligations and responsibilities you may have; see **Factsheet 5: Information for Employers and Volunteer Organisations** and **Factsheet 6: Offences and Penalties for Employers and Volunteer Organisations**.

Below is a list of your obligations as a self-employed person:

- You must not engage in child-related work unless you have a current WWC Card or have applied for one within the required time.

See **Factsheet 1: What is “Child-Related Work”?**
- You must apply for a WWC Check within the time stated if asked to do so by the WWC Screening Unit.
- You must renew your WWC Card before it expires if you are continuing to engage in child-related work.
- You must not engage in child-related work if you have been convicted of a Class 1 offence committed when an adult.
- You must return your WWC Card to the WWC Screening Unit as soon as practicable after being convicted of a Class 1 offence committed when an adult or if your WWC Card is cancelled by the WWC Screening Unit.
- If you are issued with an Interim Negative Notice or Negative Notice you must:
 - not engage in any child-related work
 - if you have a WWC Card you must return it to the WWC Screening Unit as soon as practicable after being issued with an Interim Negative Notice or Negative Notice.

- If you have a relevant change (this is when a person is charged with or convicted of a Class 1 or Class 2 offence) in your criminal record while you are in child-related work you must:
 - give written notice to the WWC Screening Unit as soon as practicable. You are not required to give any details of the change in your record, except that a change has occurred.
- If you have a relevant change in your criminal record after you have applied for a WWC Card, or for cancellation of a Negative Notice, and the WWC Screening Unit has not yet finalised your application (pending application), you must give written notice to the WWC Screening Unit of the relevant change as soon as practicable.
- If your WWC Card has been cancelled because you had a relevant change in your criminal record while you were not engaging in any child-related work you must re-apply for a WWC Check *before* you re-start child-related work.
- You must not give false or misleading information to the WWC Screening Unit.

Below is a list of responsibilities and actions recommended by the WWC Screening Unit to help you comply with your obligations:

- Identify which of the listed categories of child-related work you engage in. See **Factsheet 1: What is 'Child-Related Work'?**
- In some cases you will not commit an offence if you don't have a WWC Card or pending application for one as long as your child-related work is for no more than five days within any calendar year. See information below for more information about the five day defence.
- Keep adequate records that demonstrate compliance with the WWC Act. You may be asked to provide records to demonstrate your compliance by the WWC Screening Unit.
- You should update your address and employment details on the WWC Check website when they change.
- If you are issued with an Interim Negative Notice you cannot withdraw your application for a WWC Card.

The Five Day Threshold and Defence

It is an offence to engage in child-related work without a current WWC Card or having applied for one. However, the WWC Act allows reasonable flexibility to enable employers, volunteer organisations and education providers to deliver services in unforeseen circumstances, such as the illness of a worker. The "threshold" is different for individuals (employees, volunteers, students and self-employed) and employers, volunteer organisations and education providers.

For individuals (employees, volunteers, students and self-employed), the five day threshold is a 'defence'. It allows most people to be engaged in child-related work on no more than five days during a calendar year without a WWC Check.

It also gives individuals flexibility as they are not committing a breach of the Act if they suddenly find that they are required to engage in child-related work, for example if their role changes to include child-related work.

However this defence does not apply to everyone and is not available to:

- people convicted of a Class 1 offence when an adult
- people in child-related work with a licensed child care service
- people who have been issued with a notice from the WWC Screening Unit confirming that their WWC Card has been cancelled because they have:
 - had a change in their criminal record; and
 - advised they are no longer in child-related work
- people who have withdrawn their application for a WWC Check after being required to apply by a “S16 Notice” or “S17 Notice”. These are notices issued by the WWC Screening Unit after it is notified by an employer or by the Police that a person has been charged with or convicted of an offence that may make it inappropriate for them to carry out child-related work
- people who have withdrawn their application for a WWC Check after giving notice to the WWC Screening Unit of a relevant change in their criminal record. When advised of a relevant change the WWC Screening Unit is required to treat it as an application for a further WWC Check. The five day defence does not apply to people who are re-assessed under this provision or withdraw from this automatic application process
- people who have withdrawn their application after receiving a “Proposal to issue a Negative Notice” letter inviting them to make a submission
- people whose WWC Card is being re-assessed after Police have notified the WWC Screening Unit of a new charge or conviction which makes it inappropriate for them to continue to be in child-related work.
- people who are no longer in child-related work and who have been charged or convicted of a Class 1 or Class 2 offence since their current WWC Card was issued.
- people who have a current Negative Notice or Interim Negative Notice.

As a self-employed person if you do not apply for a WWC Check because you do not engage in child-related work for more than five days in a calendar year, you still have obligations under the WWC Act while in engaging in this work which include to:

- report in writing any relevant change in their criminal record to the WWC Screening Unit, and
- cease child-related work immediately if convicted of a Class 1 offence when an adult.

The five day threshold is not an exemption from the Act. Self-employed people engaging in child-related work may still apply, and organisations and education providers can require that you apply for a WWC Check.

Certain people must apply for a WWC Check prior to commencing any child-related work, otherwise they will be committing an offence with penalties of up to a \$60,000 fine and 5 years imprisonment. To see the list of offences and penalties please read **Factsheet 14: Offences and Penalties for Self-Employed People**.

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 5: Information for Employers and Volunteer Organisations

Factsheet 14: Offences and Penalties for Self-Employed People

Safer Organisations Safer Children

Completing a WWC Check Application Form – Instructions for Employees, Volunteers, Students and Self-Employed People

WWC Check Health Check

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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