Fact Sheet 4

Conducting Criminal History Assessments

Frequently Asked Questions

Which organisations must conduct criminal history assessments for people working or volunteering with children?

Organisations providing the following services wholly or partly for children and young people must conduct criminal history assessments for staff and volunteers working with children in prescribed positions:

- health
- welfare
- education
- sporting or recreational
- religious or spiritual
- child care
- residential

Organisation in this context includes a wide range of bodies who work with children, including businesses, services providers and incorporated and unincorporated groups. An organisation may also consist of a single person.

It includes government, local government and non-government organisations.

What do these organisations need to do?

These organisations need to conduct a criminal history assessment for any person in their organisation who is working or volunteering with children or their records in a prescribed position (unless an exemption applies).

This includes people who:

- have regular contact with children and are not directly supervised at all times or
- work in close proximity to children on a regular basis and are not directly supervised at all times or
- supervise or manage persons who:
  - have regular contact with children or
  - work in close proximity to children on a regular basis or
- have access to records relating to children in connection with child protection services, education services, health services, disability services and court orders and proceedings.

The requirement applies to any person who is employed, contracted, subcontracted, acting as agent of, or volunteering for, a government, local government or non-government organisation.

When do organisations need to conduct assessments for staff and volunteers?

The requirement to conduct criminal history assessments is being phased in over three years, from 1 January, 2011 to 31 December, 2013.

Every six months, different organisations and positions are required to commence the process to conduct criminal history assessments for people working with children.

Once an organisation has been phased in, it must ensure that a criminal history assessment is conducted for each
person working or volunteering with children in their organisation in prescribed positions every three years.

Refer to Fact Sheet 5 for a phasing-in schedule and further information.

**What is the difference between a criminal history assessment and a police check?**

A National Police Check (also known as a National Police Certificate or National Criminal History Record Check) provides a national summary of an individual’s offender history. It includes information about whether a person:

- has any recorded convictions or
- has been convicted of an offence or
- has been charged with, and found guilty of, an offence but discharged without conviction or
- is the subject of any criminal charge still pending before the court

A criminal history assessment requires an organisation to use the information in a police check to conduct an assessment of a person’s criminal history and to make a decision about whether to employ or retain a person to work with children.

In making the assessment, organisations also consider the level of risk posed by the person and the position to which they are appointed. For example, the organisation will take into account factors including seriousness and relevance of the conviction, the level of unsupervised access the person has to children and the length of time since the conviction.

An organisation must ensure they implement appropriate conflict of interest procedures when assessing criminal history information.

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**How does an organisation conduct a criminal history assessment?**

To conduct a criminal history assessment, an organisation must ensure that:

- a report is obtained on the criminal history (if any) of each person working with children in the organisation. The report must be obtained from South Australia Police or an authorised screening unit that is accredited with CrimTrac and

- the information in that report is assessed in accordance with the Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children issued by the Chief Executive of the Department for Education and Child Development under Section 8A (j) of the Children’s Protection Act 1993.

An organisation may conduct the assessment themselves, or apply to an authorised screening unit such as the Department for Communities and Social Inclusion (DCSI) Screening Unit to conduct the assessment on their behalf.

In some cases, an organisation may choose to accept a current criminal history report or criminal history assessment from an employee or volunteer who has obtained it for another purpose, such as for paid employment or as a volunteer for another organisation. For further information, please refer to Standard 4 of the Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children.
Who is exempt?

In some cases, the law will exempt a person from the requirement to undergo a criminal history assessment.

Organisations will need to examine the exemptions to see if any exemptions apply to people working or volunteering in their organisation.

The following organisations, persons and positions are exempt from the requirement to conduct/be subject to a criminal history assessment:

- A person volunteering for a service or activity in which their child ordinarily participates

  **Example 1:** Jane coaches her daughter’s netball team on a voluntary basis. As a parent volunteering in her own child’s activity, Jane is exempt from the requirement to undergo a criminal history assessment, even if her daughter is not present on a particular day due to illness or some other reason.

- A person who volunteers who is less than 18 years of age

- A person working or volunteering for a short-term event or activity of less than 10 days duration or for no more than 1 day in any month

  **Example 2:** Jason volunteers to cook a barbeque at the local scout hall. As this is a once-off activity of less than 10 days duration, Jason is exempt from the requirement to undergo a criminal history assessment.

- A person occupying a position in which all work involving children is undertaken in the physical presence of the child’s parents or guardians and in which there is ordinarily no physical contact with the children

- A person who undertakes, or a position that only involves, work that is primarily provided to adults or provided to the community generally and is not provided to any child on an individual basis

  **Example 3:** A coach of a senior sporting team that has a team member who has not yet attained 18 years of age is not required to undergo a criminal history assessment.

- An organisation that provides equipment, food or venues for children’s parties or events but does not provide any other services for children

- A person who has regular contact with a child as part of an employment relationship with the child (such as a person working alongside a child or supervising an employee who is a child)

  **Example 4:** Andrew is 16 and employed as a trainee administrative officer for a community organisation. Although the organisation provides services to children, Andrew’s position does not involve working with children. His supervisor and fellow employees are not required to undergo a criminal history assessment in order to work with him.

- A person who is appointed as a police officer or is a registered teacher. (Police officers and teachers are already subject to comprehensive criminal history assessments as a prerequisite for employment).

No exemption is available to people who work in positions involving commercial child care; family day care; the administration of the juvenile justice system; child protection; disability services; or residential care and other overnight accommodation specifically for children (unless the overnight accommodation is for no more than 10 days and is provided by a visiting
 interstate worker who does not ordinarily live or perform work in South Australia).

Example 5: Sue often volunteers at her children’s child-care centre in her lunch hour. Sue is required to undergo a criminal history assessment, regardless of whether her children are present or participating in the activity.

It is important to note that organisations may still require people to undergo a criminal history assessment as a matter of good organisational practice, even if an assessment is not required by law.

I am self-employed. How do I obtain a criminal history assessment for myself?

Self-employed people can lodge an application through Australia Post for the DCSI Screening Unit to conduct a full criminal history assessment. A Letter of Clearance will be provided to the applicant as evidence that they have no criminal history that would pose a risk to children.

The Letter of Clearance is valid for three years.

Do organisations need to conduct criminal history assessments for staff or volunteers who provide services or activities primarily to adults, if the service or activity may also be accessed by children or occasionally include children?

Services and activities that are provided primarily for adults, but may also be accessed by children or occasionally include children, are generally exempt.

Organisations that also provide services specifically for children must ensure that the employees or volunteers involved in these services undergo a criminal history assessment.

Can an organisation require me to undergo an assessment even if I am not legally required to?

The Act establishes a minimum standard that organisations must meet in order to help ensure that their organisations are a safe place for children. It does not prevent organisations from requiring other people within the organisation to also undergo an assessment as a matter of good organisational practice.

How long is a criminal history report and assessment valid?

The Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children issued by the Chief Executive, Department for Education and Child Development, establish a maximum validity period of three years.

How much will this cost?

The cost of obtaining a criminal history report (or a “police check”) from South Australia Police varies depending on whether the report is for a paid employee, a concession holder, or a volunteer.

The Government is meeting the cost of obtaining criminal history reports for some volunteers who work with children in volunteer organisations through the Volunteer Organisation Authorisation Number (VOAN) system.

For further information about the VOAN scheme, go to http://www.sapolice.sa.gov.au/sapol/services/information_requests/police_checks/volunteer_organisation_authorisation_number.jsp

Organisations may also apply to the DCSI Screening Unit for a full criminal history assessment.

This service includes an independent assessment of a person’s suitability to
work with children, conducted by trained and experienced staff in strict confidence and in accordance with legislative requirements and standards. Once the assessment is complete, a Letter of Clearance is provided to the applicant.

As of July 2012, the fees and charges for obtaining a report are:

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<tr>
<th>Applicant</th>
<th>SAPOL</th>
<th>DCSI</th>
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<tbody>
<tr>
<td>Individual</td>
<td>$55.00</td>
<td>$55.45</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td>Volunteer</td>
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<td>$36.15</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(39.75 inc GST)</td>
</tr>
<tr>
<td>VOAN volunteer</td>
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<td>N/A</td>
</tr>
</tbody>
</table>


Who is required to pay for a criminal history report?

While organisations are responsible for conducting a criminal history assessment for all relevant employees and volunteers, arrangements for obtaining the report are a matter for negotiation between the organisation and the individual, as part of their employment arrangements.

Can an organisation accept a criminal history report from an employee or volunteer who has obtained it for another purpose, such as for paid employment or as a volunteer for another organisation?

The Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children establish a maximum validity period for criminal history reports of three years.

It is up to the individual organisation to decide if they will accept a criminal history report that has been obtained during this time period or if they will require a volunteer to obtain a new report prior to commencing work in their organisation.

Does an assessment guarantee safety?

Criminal history assessments help organisations to decide who is suitable to work with children and to manage the risks around engaging people to work in positions of trust with children. However, they cannot be solely relied on to protect children from people who may harm them.

Child protection legislation requires that the assessments should be implemented alongside a range of measures directed at keeping children safe from harm. Further information about establishing child safe environments can be found at: www.families.sa.gov.au/childsafe

Who is not allowed to work with children?

It is up to the organisation to determine whether an individual’s criminal history should preclude them from being hired or continuing to act in their current role. This must be determined on a case-by-case basis. Even if a police check reveals a criminal record, it may still be acceptable for a person to work with children.

When making an assessment of risk based on a person’s criminal history, organisations should consider the seriousness and relevance of the conviction, the level of access the
person has to children and the length of time since the conviction.

In assessing a person’s suitability to work with children, organisations must adhere to the standards and guidelines set out in the *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children*

In general, a person convicted of an offence involving serious violence, sexual assault, or where a child was the victim would not be regarded as suitable to work with children. Organisations must also consider the relevance of the conviction to the job role.

For example, where a position involves the transport of children, a history of road traffic offences involving unsafe driving would generally be a bar to employment.

In some cases, a long period of good behaviour since conviction may indicate the person is unlikely to pose an increased risk to children. However, no general rule or rule of thumb can replace the need for an examination of the facts of the individual case.

Under the *Child Sex Offenders Registration Act 2006* some people are absolutely prohibited from working with children because they have been convicted of serious offences against children (generally sex offences or offences of violence with a sexual element). These offenders are recorded on the Australian National Child Sex Offenders Register (ANCOR). It is an offence for a registrable offender to apply for child-related work. A maximum penalty of 2 years imprisonment or $10 000 applies.

**More information**

Further information is available from:  
Email:  
[DECDChildSafe@sa.gov.au](mailto:DECDChildSafe@sa.gov.au)  
Phone: 8463 6468