

The Vulnerable Children Act 2014: Safety checks required for children's workers

NOTE: This *Policy Brief* replaces [Issue 1: The Vulnerable Children Act 2014 Policy Brief](#) released in October 2014.

The Vulnerable Children Act 2014 (the Act) introduces new requirements for children's worker safety checking, bringing about a significant change for many GPs and other health service providers. The safety checks aim to reduce the risk of harm to children by making it easier to identify the small number of people who are a risk to children.

The Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015 made under the Act come into force on 1 July 2015. These regulations set out the details of the required safety checks. This *Policy Brief* outlines the safety checking requirements focusing on their application in general practice.*

Why is this important?

Most GPs will be affected by the children's worker safety checking regime under the Act. The Act was passed on the assumption that consistent vetting and screening helps to assess whether people pose a risk to children, and provides a way to prevent known abusers from working with children. General practices are required to undertake safety checking in accordance with the Act and to meet the RNZCGP Foundation Standard.

The screening and vetting regime is being phased in – commencing on 1 July 2015 for new core children's workers (see below), and then extending to new non-core workers (from 1 July 2016), existing core workers (by 1 July 2018), and existing non-core workers (by 1 July 2019). The Act also prevents people with serious convictions from working in relevant roles in the core children's workforce unless they hold an exemption.

Will I be subject to vetting and screening?

The short answer is very likely 'yes'. Any individual or organisation that is funded (including partly or indirectly) by a State service to provide regulated health services will be required to carry out safety checks for certain workers they employ or engage who are in regular contact with children.

Regulated health services are listed in the Act and include services provided at a public hospital or at a publicly funded medical practice or facility, through medical practices belonging to PHOs, or by health practitioners.¹

Key messages

- Most GPs will be subject to safety checking under the Vulnerable Children Act 2014.
- Employing or contracting organisations are responsible for ensuring safety checks are conducted on their staff, starting on 1 July 2015 for new State-funded core children's workers, and by 1 July 2018 for existing core workers.
- Checks include identity confirmation, gathering information (including from interview(s), work history, references, checks with any professional registration bodies and a New Zealand Police vet), and assessing risk. Fewer checks are required for existing children's workers and for periodic rechecking.
- Organisations may rely on checks done previously or done by others if they meet the required standard.
- Although the Act requires safety checking of self-employed and sole practitioners, the Children's Action Plan Directorate has provided no advice on how this is to be done.

* This *Policy Brief* draws heavily on the information presented in the document [Children's worker safety checking under the Vulnerable Children Act 2014](#) (Children's Action Plan, 29 May 2015)

The Act defines a 'children's worker' as a person who has regular or overnight contact[†] with children, without the parent or guardian of the child present, as part of their role in a regulated service. Children's workers are 'core workers' if they work alone with children or have primary responsibility for children.

A 'child' means a person who is under the age of 14 years or a young person between 14 years and 17 years who is not married or in a civil union (sections 15 and 23 of the Act).

The College interprets the legislative framework to mean that most GPs and GP trainees will fall within the ambit of the children's worker safety checking regime. Practice nurses and other health workers employed or contracted by the practice may also require safety checking. The requirements also apply to people undertaking unpaid children's work as part of an educational or vocational training course.

Conducting safety checks on children's workers

Those who employ or engage children's workers will have to:

- carry out safety checks on all new 'children's workers' that they employ or otherwise engage (from 1 July 2015 for core workers, and from 1 July 2016 for non-core workers);
- ensure they have carried out safety checks on their existing children's workers (by 1 July 2018 for core workers, and by 1 July 2019 for non-core workers); and
- update safety checks every three years.

The responsibility for ensuring that the safety checks are done lies with the State-funded individuals or organisations employing or engaging children's workers to carry out regulated services. In the case of general practice, practices will generally be responsible for ensuring that safety checks are done. Safety check requirements will need to be built into recruitment and human resources processes.

The Act also applies to some, but not all, self-employed persons or sole practitioners. A self-employed person or sole

practitioner who is contracted by an organisation/individual that is funded by a State service to provide regulated activities, or contracted by a State service, will need to be safety checked by the funded organisation/individual or State service, respectively. The situation where self-employed or sole practitioners have formed separate legal entities and are employed or engaged by them can result in a conflict of interest or in no clear person positioned to undertake the required safety checking. Although a separate screening service might be available in the future, the Children's Action Plan Directorate has provided no advice on how checks should be done in these circumstances.

Organisations may rely on checks that have met or exceeded all of the regulatory requirements that they conducted up to three years earlier for previous employees or contractors starting in a new role/contract. Organisations may also rely on checks that have been done by a third party on behalf of the organisation. However, the Children's Action Plan Directorate states that it would be good practice to recheck previous employees/contractors if there has been a significant period of absence, ensure their New Zealand Police vet has been done to the required standard, and have a process to confirm the children's worker is the person who the third party has checked. Employing or contracting organisations should ensure the information meets the required standard as they will be responsible for any checks that are incomplete.

In a similar vein, the Medical Council of New Zealand (MCNZ) is not a 'regulated health service' and is not required to undertake safety checks for the purposes of the Act. However, it might be unnecessary for organisations to repeat the steps taken by the MCNZ if the checks have met the regulatory requirements and documentation of those particular checks is current and available. Notably, the MCNZ does not include New Zealand Police vetting as part of its processes for medical registration or to obtain a practising certificate. The College is aware that some other regulators (e.g. the New Zealand Psychologists Board) conduct a Police vet as a condition of holding professional registration or a practising certificate.



Further information:

[Vulnerable Children Act 2014](#)

[Vulnerable Children \(Requirements for Safety Checks of Children's Workers\) Regulations 2015](#)

[Safety checking](#) (Children's Action Plan website)

[Children's worker safety checking under the Vulnerable Children Act 2014](#) (Children's Action Plan, 29 May 2015)

[Safer recruitment, safer children: guidance for choosing safe people to work with children](#) (Children's Action Plan, March 2015)

[Safer organisations, safer children](#) (Children's Action Plan, February 2015)

[Workforce safety checking and child protection policies](#) (Ministry of Health)

[Ask for Police vetting](#) (New Zealand Police)

[New Zealand Police Vetting Service: Purpose statement and agency approval criteria](#)

[About RealMe](#)

[RNZCGP Foundation Standard](#)

[†] Regular or overnight contact means the person has contact with a child or children overnight, at least once each week, or on at least four days each month.

What will screening and vetting involve?

Safety checks required for new children's workers include:^{2,3}

1. Identity confirmation

Method (a) through an electronic identity credential (e.g. the **RealMe** identity verification service), and a search of personnel records to establish the uniqueness of the claimed identity.

Method (b) following the regulatory process to establish:

- i. the identity exists by checking an original primary identification document;⁴
- ii. the identity is a living identity and is used in the community by verifying an original secondary identity document;⁵
- iii. the identity is linked to the presenter;
- iv. the uniqueness of the identity by searching personnel records.

2. An interview, which should be face-to-face, but may be via telephone or other communications technology. The Children's Action Plan Directorate recommends that organisations should consider whether to conduct two interviews (to enable follow-up and clarification) and whether to have a small panel of interviewers. Interviewers should be chosen for their experience, knowledge, skill, with at least one having broad child protection knowledge. In addition to role-related questions, the interview should explore the children worker's view on safe practice. The Directorate suggests that questioning should provide information on:[‡]

- whether complaints have been made about their professional practice, whether they have been convicted of an offence, and reasons for leaving previous employment
- how they have dealt with a situation (or what they would do if such a situation arose) where a child or young person disclosed abuse

- what they think constitutes professional practice when working with children
- other relationships they have with children outside the working environment
- the kind of relationships they hope to develop with children and families in the new role.

3. Work history – consider the previous five years.

4. At least one referee – consider the information from three referees where possible, which includes information on how the potential children's worker relates to children. Referees must not be related or be part of the individual's extended family.

5. Seek information from any relevant professional organisation, licensing authority, or registration authority (e.g. MCNZ), and confirmation that the person is a member of the organisation or registered by the authority.

6. New Zealand Police vet. To use the Police Vetting Service, agencies and individuals need to meet the required criteria and obtain approval from the New Zealand Police.[§]

7. Assessment of the risk the potential children's worker would pose to the safety of children if employed or engaged by evaluating the above information.

Risk assessment

It is important to follow the correct process, including the completion of a risk assessment of the potential children's worker, and to keep accurate records. All relevant information gathered during the safety checking process must be considered to inform the final decision.

The Children's Action Plan Directorate expects decision making to be reasoned, based on evidence, and to put the child at the centre. Principles to follow include:

- Use professional judgment to identify patterns of concerning attitudes or behaviours. People conducting safety checks should consider the information holistically.
- Always consider indicators in context. Give people the opportunity to respond to concerns about their suitability.
- Follow up on potential indicators (e.g. by asking for evidence).

Moreover, safety checking must always be done in accordance with existing legal protections such as the Privacy Act 1993 and the Human Rights Act 1993. The final decision may be based on a range of factors. Ultimately the decision maker should be satisfied that the children's worker poses no undue risk to the safety of children if employed or engaged. Decision makers should consider whether they need to seek outside expert advice and further referees, and to raise any issues with the children's worker.

For children's workers who are already employed or engaged by the organisation, fewer checks are required: confirmation of identity, checks with the relevant professional registration body or licensing authority, a fresh New Zealand Police vet, and a risk assessment based on these checks.

Periodic rechecking every three years requires: confirmation of any changes of an officially recorded name; updating the checks with the relevant professional registration body or licensing authority; a fresh New Zealand Police vet; and a risk assessment based on these checks.

All aspects of the check must be completed before the children's worker commences work, or continues work after the relevant date for existing children's workers.

Organisations that do not meet the requirements will have committed an offence and be liable for fines of up to \$10,000 for each offence.

‡ Further example interview questions can be found on pages 22 and 23 of [Children's worker safety checking under the Vulnerable Children Act](#) (Children's Action Plan, 29 May 2015).

§ If you meet the required criteria, you can seek approval to use the Police Vetting Service via a secure email to queryme@police.govt.nz.

The Act also introduces a requirement for DHBs (including PHOs), school boards and other State services¹¹ who provide 'children's services' to adopt and report on child protection policies that guide staff to identify and report suspected abuse and neglect.

Where can I find out more?

The [Children's Action Plan](#) website contains a number of publications on children's worker safety checking. This includes [a supporting document](#) with advice on interpreting and applying the safety checking regulations, lists of primary and secondary identity documents, sample interview questions, and a useful checklist.

The Ministry of Health is one of the seven State services working together to implement the Children's Action Plan, and [their website](#) also contains information. For any questions, email admin@childrensactionplan.govt.nz.

References

1. Schedule 1 of the Vulnerable Children Act 2014.
2. Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015.
3. Children's Action Plan. Children's worker safety checking under the Vulnerable Children Act 2014. Wellington; May 2015.
4. Part 1 of the Schedule of the Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015.
5. Part 2 of the Schedule of the Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015.

This document was accurate at the time of publication.

¹¹ The State services covered by this requirement are the Ministries of Education; Health; Justice; Social Development; Business, Innovation and Employment; New Zealand Police and Te Puni Kōkiri.



If you have any questions about this issue, or would like to express a view on this topic, please contact the College's policy team: policy@rnzcgp.org.nz

The Royal New Zealand College of General Practitioners is the professional body that provides training and ongoing professional development for general practitioners and rural hospital generalists, and sets standards for general practice.

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