



# Police Check and Working with Children Check Policy

Document number: PO2020-035

## Approval

Policy owner	Executive Director, Corporate Services		
Approved by	Executive Leadership Team and State Council		
Date approved	23.08.2020	Review date	23.08.2022

## Purpose

1. The Society of St Vincent de Paul (NSW) and the company titled the St Vincent de Paul Society NSW (together the Society) have a responsibility to ensure that Society Personnel (members, volunteers and employees) do not place the people we serve and the Society at unnecessary risk. Such risks include risk to people we serve, children and young people, vulnerable people, other Society Personnel, risk to the security of the Society's assets and reputation, and risk to the Society's ability to carry out its works lawfully.
2. The purpose of this policy is to:
  - ensure that the Society appropriately manages potential risks associated with the engagement of Society Personnel
  - provide details regarding the Society's requirements for National Criminal History Checks and Working with Children Checks.

## Scope

3. This policy applies to all Society Personnel (members, volunteers, employees and office holders).

## Related policies and procedures

4. Related Society policies and procedures include:
  - Code of Conduct
  - Privacy Policy
  - Records Management Policy
  - Recruitment Policy
  - Safeguarding Children and Young People Policy.

## Policy principles

5. The Society employs a range of recruitment and selection measures for all Society Personnel to reduce the potential of engaging people who may pose a risk to children and young people, other vulnerable groups and the Society's assets and reputation. These include:
  - National Criminal History Checks ('police checks')
  - Working with Children Checks
  - interview, pre-employment checks and two referee checks
  - compliance learning and development.
6. The Society requires all interviews of potential Society Personnel engaged in child-related work to include child safe interview questions.
7. The Society requires all existing and prospective Society Personnel over the age of 18 years to undertake working with children and national police check screening as part of the employment and engagement process.
8. People under the age of 18 who are engaged as members, volunteers or employees are not required to have a police check or Working with Children Check until they reach the age of 18.

9. All Society Personnel have an ongoing commitment to immediately inform the Society of any disclosable court outcome or criminal convictions. This is a requirement in the Society's Code of Conduct.

### National Criminal History check

10. The Society will ensure that national police checks are renewed every three years and reserves the right to request police checks to be undertaken in respect of any Society Personnel at its discretion.

### Working with Children Check

11. The Society will not allow any person without the appropriate Working with Children Check clearance to engage in any child-related work.
12. Working with Children Checks are valid for five years. In accordance with legislative requirements and the Office of the Children's Guardian procedures, all Society Personnel are required to renew their check before it expires.

### Persons with a criminal record

13. The Society will only discriminate against a person on the basis of a criminal record where it is assessed that the particular criminal record would prevent a person from fulfilling the inherent requirements of their role. The Society will not discriminate on this basis where the criminal record is assessed as immaterial to the person's role.

### Exemptions

14. Exemptions from both police checks and Working with Children Check must only be approved in very limited circumstances, and only where an employee or volunteer, in carrying out their duties, does not have contact with the people we serve or children and young people, and does not have access to the Society's funds. Police check exemptions must be approved by the Chief Executive Officer. Any exemptions from the Working with Children Check must be first reviewed by the Safeguarding team, and approved by the Chief Executive Officer on the advice of the Safeguarding team.
15. As the role of members is to engage with and support the people we serve, they cannot be exempted from these checks.

## Roles and responsibilities

16. All Society Personnel must:
  - obtain and maintain the currency of their Working with Children Check
  - provide Working with Children Check details to the Society for verification
  - provide accurate information and identification for the processing of police checks
  - report any criminal charge, restraining order, loss of licence, or loss of certification or registration which may impact their police check status (this is also a requirement of the Code of Conduct)
  - complete the Child Safe Familiarisation compliance learning and development at required intervals.

17. The Staff Recruitment team, Corporate Services must:

- obtain police checks for all prospective employees
- renew employee police checks as required (3 yearly)
- verify and record Working with Children Check details on employees' files
- conduct a risk assessment and make recommendations to the relevant Executive Director if a police check returns an adverse disclosable court outcome result
- ensure appropriate records of police checks are kept in accordance with the Society's Privacy Policy and Records Management Policy.

18. Regional Directors and/or Regional Retail Managers must:

- ensure all members and volunteers in their area understand their responsibilities under this policy
- ensure the effective implementation of processes for obtaining and renewing police checks for all members and volunteers
- verify and record Working with Children Check details on members and volunteer files in Society People
- conduct a risk assessment and make recommendations to the Executive Director, Members, Volunteers and Regional Operations if a police check returns an adverse disclosable court outcome result
- ensure volunteers in the Vinnies retail outlets are compliant with this Policy and support those who are not compliant to become compliant.

19. The Society's Safeguarding team must:

- determine and make recommendations to the Chief Executive Officer and State Council President regarding whether specified roles (employee/volunteer and members respectively) are demonstrably not child-related work under the *Child Protection (Working with Children) Act 2012* and could therefore be exempt from Working with Children Check screening requirements
- undertake a review and risk assessment of any proposed exemptions to Working with Children Checks or police checks to provide advice to the relevant Executive Director, Chief Executive Officer and State Council President, as required.

20. Executive Directors must:

- consider all risks before recommending an exemption for police checks to the Chief Executive Officer
- approve engagement of individuals with any adverse criminal records finding.

21. The Chief Executive Officer must:

- consider all risks and, based on recommendations from the Society's Safeguarding team, be satisfied that specified positions are demonstrably not child-related before approving an exemption to a Working with Children Check
- not provide an exemption where a Working with Children Check is required under legislation

- consider all risks and, based on recommendations from Executive Directors or Director Retail, be satisfied that specified positions demonstrably do not require a police check before approving an exemption.

22. Conference Presidents must:

- ensure all people applying to be members or volunteers are advised of the requirements of this policy
- liaise with Regional Directors to ensure that all required checks (police, working with children and two referee checks) are completed prior to members and volunteers commencing their roles
- support and assist new and existing members and volunteers with required paperwork
- ensure all Conference members have completed the Child Safe Familiarisation learning and development at required intervals
- ensure all members act in accordance with Society child safe practices and policies.

23. Regional Council and Central Council Presidents must:

- work with the Regional Directors to ensure that effective processes are in place and that members and volunteers are maintaining compliance.

## Review

24. This policy and its implementation will be reviewed every two years, or on a needs basis as required to align with legislative or practice changes.

## Further assistance

25. Society Personnel should speak with their manager or supervisor regarding any questions about the implementation of this policy. For members, this is their immediate superior and could be a Conference President, Regional Council President or Central Council President.

26. Feedback regarding the implementation of this policy can be provided to the Executive Director, Corporate Services.

## References

27. Legislation and regulations relevant to this policy include:

- *Child Protection (Working with Children) Act 2012* (NSW)
- *Child Protection (Working with Children) Regulations 2013* (NSW)
- *Ombudsman Act 1974* (NSW)
- *Children and Young Persons (Care and Protection) Act 1998* (NSW)
- *Privacy and Personal Information Protection Act 1998* (Cth)
- *Crimes Act 1900* (NSW).

## Approval and amendment history

<b>Version</b>	<b>Approval authority</b>	<b>Date</b>	<b>Amendment summary</b>
Version 2	Deputy CEO, Jonothan Campton	July 2013	NA
Version 3	Deputy CEO, Dianne Lucas	March 2014	Not Available
Doc # PO2020- 035	Executive Leadership Team State Council	19.08.2020 22.08.2020	Replaces Police Check Policy V3.

## Appendix 1: Definitions

1. Relevant definitions include:

<p><b>Bar/Interim bar/Auto bar (WWCC)</b></p>	<p>When conducting a Working with Children Check the NSW Office of the Children’s Guardian may determine that there is a risk to the safety of children if the applicant engages in child-related work.</p> <p>If the Office of the Children’s Guardian makes a determination that the applicant has committed a disqualifying offence or there is a risk to the safety of children if the applicant or holder engages in child-related work, the applicant will be issued with a <b>bar</b>. A bar is in place for 5 years at which point it can be reassessed.</p> <p>The Office of the Children’s Guardian may also determine that the applicant or holder is subject to an <b>interim bar</b>, which is a temporary bar on the applicant or holder engaging in child-related work. An <b>interim bar</b> is valid until notification from the Office of the Children’s Guardian or for a period of 12 months.</p> <p>Records listed in Schedule 2 of the <i>Child Protection (Working With Children) Act 2012</i> result in an <b>automatic bar</b> against working with children. Equivalent records from other states and territories also lead to an automatic bar.</p> <p>Once a bar is in place, it is an offence to work with children in a child-related role and penalties apply. It does not matter whether the work is paid or voluntary.</p>
<p><b>Child-related work</b></p>	<p>Child-related work is defined in Part 2 section 6 of the <i>Child Protection (Working With Children) Act 2012</i>, as work in a specific, child-related role or face-to-face contact with children in a child-related sector. Additional child-related roles can be found in the <i>Child Protection (Working With Children) Regulation 2013</i>.</p>
<p><b>Child Safe/Child Safe Culture</b></p>	<p>Child Safe means:</p> <ul style="list-style-type: none"> <li>• adopting strategies and taking action to promote child wellbeing and prevent harm to children and young people</li> <li>• placing children’s participation, safety and wellbeing at the centre of practice by building a culture in alignment with the National Principles for Child Safe Organisations and NSW Child Safe Standards.</li> </ul>
<p><b>Conviction</b></p>	<p>Means any conviction of a person, in NSW or elsewhere, of an offence involving reportable conduct, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction (<i>Ombudsman Act 1974</i>).</p>

<b>Criminal record discrimination</b>	Criminal record discrimination occurs when someone does not experience equality of opportunity in employment because of their criminal record. This may include being refused a job, dismissed from employment, denied training opportunities or being harassed at work on the basis of their criminal record.
<b>Disclosable court outcome</b>	A disclosable court outcome refers to police information that can be released. Disclosable court outcomes may include information relating to court convictions (including penalties and sentences), charges, findings of guilt with no conviction and traffic offences.
<b>Employee</b>	An employee is a paid member of staff unless otherwise specified. This includes full time, part time, fixed term or casual staff, contractors providing services to the Society and those engaged in the performance of duties for the Society from a labour hire agency.
<b>Executive Director</b>	An Executive Director includes all Society Executive Directors and the Society's Chief Financial Officer.
<b>Executive Leadership Team</b>	The Executive Leadership Team includes all Executive Directors, the Chief Financial Officer and the Chief Executive Officer.
<b>National Criminal History Check</b>	<p>A national criminal history check is a 'point in time' name-based check of an individual's criminal history record. The process involves CrimTrac searching against a central index of names of persons of interest to police services in order to identify any potential matches.</p> <p>Where a potential match is identified, the name is referred for evaluation to the respective state or territory police service holding the record.</p> <p>The relevant police service(s) then releases the criminal history information to CrimTrac to pass on. Criminal history information is released subject to relevant commonwealth/state/territory spent convictions, non-disclosure legislation and/or information release policies.</p>
<b>Member</b>	<p>A member is a person who is part of a St Vincent de Paul Society Conference. This is an unpaid or voluntary role. For the purposes of legislative compliance, all requirements set out for volunteers in this policy and in child protection legislation also apply to members as Society Personnel.</p> <p>The term Member includes Conference, Associate and Volunteer members as per The Rule.</p>
<b>Police Check</b>	See National Criminal History Check.
<b>Society Personnel</b>	Any person (or group of people) engaged by the Society to assist in its works. This includes members, volunteers, employees, contractors and consultants.



<b>Volunteer</b>	A volunteer is any person who performs unpaid work for the Society.
<b>Working with Children Check (NSW)</b>	<p>Under the <i>Child Protection (Working with Children) Act 2012 (NSW)</i> a Working with Children Check (WWCC) is a requirement for anyone who works or volunteers in child-related work in NSW. It involves a National Police Check (criminal history record check) and a review of reportable workplace misconduct.</p> <p>For paid employees or those who are self-employed, there's a fee for the Working with Children Check. For volunteers (this includes members), students on a professional placement, potential adoptive parents or authorised carer, there is no fee.</p> <p>Organisations are required to:</p> <ul style="list-style-type: none"> <li>• register online with the Office of the Children's Guardian (OCG)</li> <li>• identify which roles require a Working with Children Check</li> <li>• verify all workers have a valid Working with Children Check, including new paid workers before they are hired, and existing workers and volunteers (new and current)</li> <li>• keep records of each person's date of birth, WWCC number, verification details and employment status (paid or volunteer)</li> <li>• ensure no worker with a 'barred', 'interim barred', or 'not found' Working with Children Check status is involved in child-related work.</li> </ul>

## Appendix 2: Police Check and Working with Children Check Procedures

### Police checks

#### Obtaining and renewing police checks

1. The Society conducts police checks on all Society Personnel aged 18 years and over prior to their engagement with the Society. This requirement must be stated in all position descriptions, job advertisements, and membership and volunteer application forms.
2. The cost of police checks is borne by the Society and allocated to the relevant cost centre.
3. The Staff Recruitment team within Corporate Services will conduct all police checks for employees and prospective employees.
4. Members and volunteers are encouraged to complete the police check online, and must ensure that the report is issued to the Society when completed.
5. Where a prospective member or volunteer is unable to complete a police check online, regional office staff who have been authorised by the Regional Director, will provide links and supporting information to applicants.
6. Police checks must be renewed every three (3) years.
7. The Society will notify all Society Personnel that their police check is due and facilitate the renewal of the police check.

#### Exemptions and risk management

8. Only in case where specified positions are considered low-risk roles, may an exemption from police checking be sought. Exemptions must not be made in situations where there is direct access to people we serve, children or young people or direct access to Society funds.
9. For employees and volunteers, exemptions must be assessed and reviewed by the relevant Executive Director, approved by the Chief Executive Officer, and must be recorded in writing.

#### Police check outcomes and risk management

10. If a disclosable court outcome is received then a comprehensive risk assessment must be conducted in order to determine if the criminal record is relevant to the role and whether it prevents the person from performing the inherent requirements of the role, prior to making a decision about their engagement as an employee, member or volunteer. Based on the individual's disclosable court outcome, the Society must be satisfied that they do not pose a risk to the organisation or the people we serve.
11. When considering the relevance of a person's criminal record, the risk assessment must consider:
  - the relevance of the conviction to the role in question
  - the seriousness of the conviction or offence
  - whether the offence involved violence or risk of harm to children, young people or other vulnerable groups

- whether there was a finding of guilt but without conviction, which indicates a less serious view of the offence by the courts
  - the age of the applicant when the offences occurred
  - the amount of time that has passed since the criminal activity took place
  - whether the applicant has a pattern of offences
  - the circumstances in which the offence took place
  - whether the applicant's circumstances have changed since the offence was committed
  - whether the offence has been decriminalised
  - references from people who know about the offending history.
12. Consideration must also be given to spent conviction schemes both across the Commonwealth and New South Wales. Spent convictions of specific offences will be released where the check is required for certain purposes regardless of how old the convictions are.
13. If the risk assessment indicates that a person should not be employed in a particular position, the person concerned should be given an opportunity to discuss or clarify information relating to the criminal record prior to a final decision being made.
14. The responsibility for this risk assessment and final decision is as follows:
- for all paid employees and volunteers – the relevant Executive Director
  - for all members – the relevant Regional Director and Executive Director, Members Volunteers and Regional Operations, in consultation with the relevant Central Council President.

## Working with Children Checks

### Obtaining and renewing Working with Children Checks

15. Working with Children Checks are obtained and 'owned' by the individual and must be provided to the Society to complete verification.
16. Members and volunteers do not pay a fee, provided they indicate in their application that the check is being obtained for volunteering purposes.
17. Employees must pay a fee when they apply for, or renew, their Working with Children Check.
18. Working with Children Checks must be renewed every five years. All Personnel are required to renew their check before it expires in line with legislative requirements and the processes set out by the Office of the Children's Guardian.
19. As the Working with Children Check is owned by the individual, the Office of the Children's Guardian will contact individuals prior to the expiry of their Working with Children Check to remind them that it is due for renewal. Society Personnel are responsible for renewing their own Working with Children Checks.
20. Society Personnel must keep their contact details up to date with the Office of the Children's Guardian so that they receive renewal reminders. This can be done by logging into the Office of the Children's Guardian website: <https://www.kidsguardian.nsw.gov.au/child-safe-organisations/working-with-children-check>

21. The Society will also remind Society Personnel of the need to renew in the three months prior to the expiry of their Working with Children Check.

### Personnel under 18 years of age

22. People under 18 years of age must not be engaged in an unsupervised high-risk role with direct access to children, other vulnerable people or to large amounts of Society funds. The Society must ensure that a police check is obtained for Society Personnel no later than three months after their 18<sup>th</sup> birthday.
23. Personnel who are under 18 years of age and engaged in child-related work must apply for a Working with Children Check in the three months prior to their 18<sup>th</sup> birthday.

### Exemptions and risk management

24. Where specified employee or volunteer positions are demonstrably not child-related work, and the employee or volunteer will not have any contact with children or young people in the course of their work for the Society, the Manager or Director may seek an exemption through the Society's Safeguarding team. All requests supported by the Safeguarding team must be forwarded to the Chief Executive Officer for approval.

### Bar or interim bar on working with children

25. If a Working with Children Check on a new applicant returns a bar or interim bar from working with children, the Society is not legally able to engage the individual. See the Society's Safeguarding Children and Young People Policy.
26. Where a person currently engaged by the Society receives a bar or interim bar from working with children, the Society will immediately remove them from any child-related role. The person may only continue their engagement in non-child related work with a risk assessment and the approval of the Chief Executive Officer (for employees and volunteers) or relevant Central Council President (for members).

### Record keeping

27. In accordance with the Record Management Policy, police check and Working with Children Check details must be stored in a secure online location on the Society Personnel's individual file.

### Privacy

28. The Society will ensure that police check and Working with Children Check information is treated in the strictest of confidence and in accordance with the Society's Privacy Policy. Only authorised people will have access to police check and Working with Children Check information.