

SCREENING AND CRIMINAL HISTORY CHECKS POLICY GUIDELINES



A Framework for Guiding Screening Practice in Education and Care Settings



Government of South Australia
Department of Education and
Children's Services

A I S S A
AS
ASSOCIATION of
INDEPENDENT
SCHOOLS of SA



Catholic Education
SOUTH AUSTRALIA

Foreword

This document forms part of a set of child protection policies that have been developed by the Department of Education and Children's Services, Catholic Education South Australia and the Association of Independent Schools of South Australia. The government and non-government school sectors are committed to establishing child protection standards that are consistent across all South Australian schools and care environments.

An essential element of a safe learning or care environment is that the adults working and volunteering in that environment pose no threat to the wellbeing of children and young people. One of the ways in which organisations can establish the suitability of employees and volunteers to work with children and young people is to conduct screening and criminal history checks. The 2005 amendments to the *Children's Protection Act 1993* provide the legislative base for employee and volunteer screening in education and care settings. This document outlines the framework within which government and non government education and care organisations will conduct their screening and criminal history checking procedures. Its key features are that it;

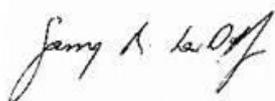
- ◇ promotes consistent standards of screening and monitoring practice across government and non government education and care environments,
- ◇ reinforces that the assessment of an individual's suitability to work or volunteer with children is continuous and does not end with a criminal history check, and
- ◇ commits the government and non-government school sectors to regularly monitor the consistency of their screening practice through inter-sectoral child protection committee structures.



Jan Andrews
A/Chief Executive
Department of Education and Children's Services



Allan Dooley
Director
Catholic Education SA



Garry Le Duff
Executive Director
Association of Independent Schools of SA

1. Scope

This document is the basis for the screening guidelines and protocols of the Department of Education and Children's Services, Catholic Education South Australia and the Association of Independent Schools of South Australia as they relate to entrusted persons and all persons identified in legislation as requiring a criminal history check who work, train or volunteer in a care or educational environment. Each sector provides advice to its education communities regarding the implementation of these guidelines.

2. Objectives

The objectives of this policy are to:

- 2.1** Minimise and guard against potential risks to children and young people in education and care settings.
 - 2.2** Establish the suitability, integrity, identity and credentials of persons working and volunteering in education and care settings.
 - 2.3** Ensure screening practices meet legislative requirements as they apply to persons working and volunteering in education and care environments.
 - 2.4** Establish optimum consistency of screening practice and standards in government and non government education and care settings.
 - 2.5** Limit the need for persons to undergo multiple or duplicate screening processes.
 - 2.6** Promote consistency of screening standards between the three school sectors and the Teachers Registration Board.
 - 2.7** Help clarify professional standards in education and children's services to inform the work of key appeal, licensing and registering bodies.
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3. Principles

This policy is based on the following principles:

- 3.1** The safety of children and young people is of paramount concern and shall not be overridden by any other interests.
- 3.2** Persons must be suitable to work or volunteer with or in close proximity to children and young people at all times.
- 3.3** A determination about a person's suitability to work or volunteer with or in close proximity to children and young people must be based on sufficient and relevant information.
- 3.4** The assessment and monitoring of a person's suitability to work or volunteer with or in close proximity to children and young people is continuous.

- 3.5 Risks to children and young people must be responded to whenever they become known or suspected.
- 3.6 Personal and sensitive information about a person's history must not be misused.
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4. Consent

Employment and volunteer screening shall be conducted with the informed consent of the person being screened.

5. Definitions

For the purposes of this policy the following definitions apply.

5.1 Chief Executive Officer

The most senior person responsible for the day to day running of the organisation.

5.2 Credentials

Anything which is the basis for the belief or trust of others in a person's abilities or integrity.

5.3 Entrusted Person

Any individual who works, trains or volunteers in an organisation where their position is defined as:

- (a) working with or in close proximity to children and young people or
- (b) having access to records relating to children and young people or
- (c) contributing to policy or decisions affecting children and young people in education and care environments
- (d) supervising or managing persons who work with or in close proximity to children and young people
- (e) a position defined under legislation as requiring a criminal history check

The definition of a **Volunteer Entrusted Person** is provided in the attached sector specific guidelines.

5.4 Identity

To recognise or establish as being a particular person.

5.5 Informed consent

Consent provided following the provision of information relating to the conduct and requirements of the screening process.

5.6 Integrity

Soundness of principle and character.

5.7 Organisation

A group of people such as an independent school, government department, education authority, education association or body with a role in providing education or care to children and young people or in approving/licensing others to do so.

5.8 Probity

The level of integrity necessary to ensure the honest, conscientious and safe conduct of one's working and volunteering relationships and activities.

5.9 Shall

Indicates that a statement is mandatory.

5.10 Should

Indicates a recommendation

5.11 Close proximity

In a location or role where regular opportunities arise for formal or informal contact, conversation or observation of children and young people.

5.12 Checking Agency

South Australia Police, agency recognized by South Australia Police or agency defined in legislation.

5.13 Volunteer

An individual who undertakes defined activities of their own free will, without payment (other than out of pocket expenses), which will be of benefit to the community and the organisation.

6. Entrusted Person Screening

6.1 Probity

Probity shall be addressed at the recruitment stage and stressed as a primary requirement. It should be monitored during the term of employment or volunteering. Existing entrusted persons shall be screened to meet the same standards required of potential entrusted persons where legislation or the contract of employment allows.

6.2 Responsibility

The Chief Executive Officer shall ensure that the organisation has in place an effective process that provides for the screening of all current and potential entrusted persons in keeping with legislation and child protection commitments.

6.3 Risk Management

This policy forms part of the organisation's risk management strategy. The level of screening conducted on an entrusted person for the role should be commensurate with the level of risk posed by that particular role, as identified through the risk management process.

The child protection risk strategy used by the organisation assesses levels of risk, based on the following considerations:

- (a) Nature of the contact
 - (i) sustained or short term
 - (ii) level of supervision
 - (iii) on or off the site
 - (iv) physical or non physical
 - (v) day or overnight

- (b) Nature of the child/young person
 - (i) age/maturity,
 - (ii) social awareness and competence,
 - (iii) physical or intellectual disability,
 - (iv) language/ cultural based vulnerability (such as new arrivals)
 - (v) social/emotional based vulnerability (such as children under the Guardianship of the Minister /children in care.)

6.4 Basic Requirements

- (a) The organisation has a process that provides for effective screening of entrusted persons.

- (b) The organisation has child protection policies relating to employee and volunteer training, professional conduct, supervision, and, complaints and investigations that are essential to supporting the principles of Clause 3.

- (c) The requirement for full and honest disclosure during the screening process shall be a condition of initial and ongoing engagement. Potential entrusted persons shall be informed in writing of their responsibility to notify the organisation should there be a significant change in their personal circumstances that relates to the screening purpose; for example criminal offence charges and convictions, restraining orders, injunctions, intervention orders, disciplinary proceedings, investigations.

- (d) This process shall also include a risk assessment of all new programs, activities and positions.

- (e) To fulfil the objectives of Clause 2, education and care organisations shall regularly assess the consistency of their screening practices through inter sectoral structures.

6.5 Process For Potential Employee Entrusted Persons

To fulfil the objectives of Clause 2 the following checks shall be undertaken in the process of verifying the identity, integrity and credentials of entrusted persons.

(a) Identity

- (i) An identification check is conducted to confirm that the entrusted person is who they purport to be.
 - Organisations shall use the “100 points system“ of identification.
 - Organisations shall not require an individual’s tax file number as proof of identity as this is an offence under the Taxation Administration Act.
- (ii) Verify address.

(b) Integrity

The following shall be checked

- (i) *Curriculum vitae* to ensure there are no unexplained gaps or anomalies
- (ii) Character references. In order to establish a history of probity, personal references and employment references should be sought. Organisations should undertake whatever follow up with referees is necessary in order to establish confidence in the entrusted person.
- (iii) Criminal history checks (National criminal record check) shall be conducted through a checking agency that is either the South Australian Police, SAPOL, or an agency recognised by SAPOL or legislation, for example CrimTrac.
- (iv) Determinations about whether an individual’s criminal history shall preclude them from working or volunteering with children and young people should be risk managed in the following ways. Persons undertaking determinations
 - should be without vested interest in the appointment or recruitment of any particular individual.
 - shall be required to meet at least the screening standards outlined in 6.5
 - shall possess the necessary experience and qualifications to assess criminal histories on behalf of the organisation.
 - shall be familiar with any protocols relating to the movement of staff between sectors or exchange of information with the Teachers Registration Board.
- (v) With the knowledge of the entrusted person, checks shall be made of any other relevant databases where this is permissible under legislation / agency agreements. Such checks shall be undertaken by the identified screening personnel in the organisation.

(c) Credentials

Sight the following:

- (i) All of the entrusted person's declared academic qualifications and relevant professional memberships.
- (ii) References. Checks shall be undertaken with former employers or relevant human resource departments of large employers to verify employment history credentials such as dates of employment and positions held. Reference checking should include whatever follow up is required to establish confidence in the entrusted person's credentials.

(d) Employer notification obligations

- (i) Current employees whose employment is affected by an unfavourable finding during the screening process shall be informed of any legislative or administrative rights of review or appeal available.
- (ii) The organisation shall use its best endeavours to ensure there has been no breach of human rights or discrimination legislation before advising a potential employee of their failure to gain a position.

6.6 Process For Potential Volunteer Entrusted Persons

The following shall be checked

- (a) Character references. In order to establish a history of probity, suitable character references shall be sought. Organisations should undertake whatever follow up with referees is necessary in order to establish confidence in the entrusted person.
- (b) Criminal history checks (National criminal record check) shall be conducted through a checking agency that is either the South Australian Police, SAPOL, or an agency recognised by SAPOL or legislation, for example CrimTrac.

6.7 Communication

An effective communication strategy is a key element in the successful implementation of entrusted person screening. All entrusted persons should be informed why screening is undertaken and how this process will impact on the organisation's employment/recruitment process. All forms of advertising for entrusted person positions should include a statement about the organisation's commitment to child protection.

6.8 Special requirements

Organisations are responsible for ensuring that their screening protocols meet legislative requirements relating to employees and volunteers working with children and young people.

ATTACHMENT

Clarification of criminal history screening requirements

Legal Requirements

Responsible authorities are required to obtain criminal history screening reports prior to the appointment of new employees or volunteers in prescribed positions or as soon as possible for existing employees, contractors, subcontractors, agents and volunteers in prescribed positions pursuant to section 8B of the *Children's Protection Act 1993*.

This section requires criminal history screening checks for employees, volunteers, agents, contractors and/or subcontractors who are currently occupying or acting, and who are appointed/engaged to act, in a prescribed position requiring or involving the performance of any of the following prescribed functions:

- regular contact with children or work in close proximity to children on a regular basis; or
- supervise or manage persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis; or
- have access to records relating to children.

Standards issued by the Chief Executive, Department for Families and Communities, "Dealing with information about criminal history of employees and volunteers who work with children", specify a maximum validity period for criminal history screening reports of three years.

The following information has been developed to clarify the screening requirements for specific groups in education and care settings. Worksite managers should use this information as a guide to assess the screening requirements for other groups.

Screening of volunteers

Education and care settings are unique in the degree to which they encourage and accommodate participation by parents and caregivers. Positive partnerships with parents and caregivers play a significant role in the overall effectiveness of the education and care process. The following groups of volunteer parents, care givers and others have been identified for criminal history screening in consideration of their regular contact with and/or their close proximity to children on a regular basis:

- attending any overnight camps/school sleep-overs or billeting programs
- working one to one with children or working in close proximity to children on a regular basis eg LAP, music, drama, coordination skills etc (this includes a parent working regularly with only their own child but in proximity to other children)
- acting as a coach or manager of teams or groups of children and young people
- working in resource centres, offices, managing canteens etc
- accepting a position on governing/school councils, boards or committees. (This is to protect against people adversely influencing the protective climate of an education/care environment through the decisions of committees or boards. The organisation shall determine the screening requirements for each committee.)

Criminal history screening checks are not required for one-off guest presentations such as guest speakers, concert performers or for attendance at one-off events such as sports days, working bees and whole of school/centre events.

There may be volunteers that provide services other than those identified in the above list. It is the responsibility of site managers to assess the requirement for a criminal history screening check based on legislation and the risks, including the regularity and proximity of contact with children.

Sites follow established selection, mandatory notification training, supervision, monitoring and record keeping procedures for volunteers. Where volunteers may interact with students, the volunteers should be made familiar with the expectations contained in the *Protective Practices for Staff in their Interactions with Students Guidelines*.

Site leaders have the right to

- Require a volunteer to withdraw from volunteering programs at any time if concerns exist about their suitability to be working with children
- Bar a person (parent, caregiver or otherwise) from the school grounds if their behaviour threatens the well being of staff, parents or children.

Screening of adult re-entry students

The participation of adults in education programs in adult re-entry colleges and local schools provides significant benefits to the individuals and the community as a whole. Schools which enrol adults as re-entry students are required to develop enrolment and supervision processes to support the maintenance of child safe environments. Accordingly, school enrolment processes should include the following questions:

Have you ever been found guilty of a criminal offence?

Have you ever been investigated for allegations of a sexual nature?

and require the applicant to endorse the following statement

I understand that the principal of the school can require me to undergo a criminal history screening check at any time and that my continued enrolment is conditional on my giving consent to such a screening. Furthermore, I understand that my enrolment will be terminated if subsequent to obtaining the results of my criminal history screening, it is determined (by DECS) that I present an unacceptable risk to children and young people at the school.

This enrolment process applies to adult re-entry students both within DECS colleges and local school sites.

Managers of adult re-entry colleges should require adult re-entry students to consent to a criminal history screening check if at any time during the enrolment process there is an indication that the student's enrolment may pose a risk to children. If the student refuses to provide consent enrolment should be denied.

Managers of local schools are required undertake criminal history screening checks for any adult re-entry student as a condition for enrolment in further education programs and may require adult re-entry students to undergo a criminal history check at any time at their discretion. This requirement does not apply to *continuing* students.

Screening of Out of School Hours Care staff and volunteers

Out of school hours care programs provide a valuable service to the community. Legal operators of OSHC services including Governing Councils which oversee the delivery of out of school hours care or vacation care programs, are required to establish employment practices which include the criminal history screening of all new employees prior to their engagement and of all contract employees before they enter into a new contract of employment. New and renewed contracts should contain a condition that the employee agrees to undergo a criminal history screening check when required by the employer or at least every three years.

All employees are to be screened every three years. Where it is not feasible to concurrently undertake criminal history checks for all current employees, the order of the screening may be prioritised based on risk. Worksite managers should seek advice if a current employee refuses to consent to a criminal history screening check from the following:

- DECS sites — from the DECS Criminal History Screening Unit
- Independent schools — from the Association of Independent Schools of SA
- Catholic schools — from the Catholic Diocesan Police Check Unit.

Legal operators of OSHC services must also ensure that all volunteers who are or wish to be involved in out of school hours or vacation care programs undergo a criminal history check prior to engagement and then at least every three years.

Criminal history screening checks are not required for one-off centre based activities such as concert performers, sport clinics or specialist art and craft workshops where staff are present.