

Safer recruitment Safer children

Guidance for choosing safe people
to work with children



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About this guide

Every day thousands of people work with children in both paid and unpaid roles, providing them with care, support and new opportunities. The overwhelming majority are safe, conscientious people who keep the children in their care safe and protected.

Unfortunately, we know that a small number of individuals seek positions with organisations to gain access to children and harm them. Others are simply not prepared or committed to protect the children in their care.

Although many organisations have checks to ensure unsuitable people do not work with children, there is no consistent safety checking approach and there are sometimes gaps.

These guidelines give a broad, cross-sector approach that is consistent with international best practice in safety checking (also called 'vetting and screening'). We hope they will help all kinds of organisations to improve their safety checking and reduce the risk posed to children in our communities.

The guidelines are in addition to the regulatory requirements for safety checking under the Vulnerable Children Act 2014. The regulations are specifically for government-funded paid employees and provide legal minimum standards.

The guidelines give community and voluntary sector organisations in the wider children's workforce helpful information about good screening practices and can be used alongside the regulations.

While there is no legal requirement to use these guidelines, many organisations will show their commitment to the safety of children by adopting the more vigilant practices described in them.

Whether their care comes from the government, private or non-profit sectors, all children deserve the same level of safety, respect and protection.

In accordance with the spirit of partnership and cooperation outlined in the White Paper and Children's Action Plan, this guide was produced through an innovative collaborative partnership between a government agency and a not-for-profit organisation.

Working together, the Children's Action Plan and Child Matters have developed these best practice guidelines to help all organisations select safe staff to work with children.

Nau te rourou, naku te rourou, ka ora te iwi

*With your basket of knowledge and my
basket of knowledge we will succeed*

Contents

About this guide	ii
1. Introduction	2
Why these guidelines are needed	3
Background to these guidelines	3
What is covered in these guidelines	4
Who these guidelines are for	4
Glossary	5
Statutory considerations	6
2. Supporting vetting and screening	8
A culture of child protection	9
Vetting and screening as an expectation	9
Treating people fairly	10
An expert workforce	10
3. The vetting and screening process	12
Principles of vetting and screening	13
What to look for in candidates	14
The vetting and screening process	16
4. Attracting and gathering information about suitable candidates	18
Advertising a position	19
Application forms	19
CVs	20
5. Learning more about candidates	22
Gathering information from application forms	23
Interviews	23
Preparing for the interview	24
Interview questions	24
Referees and references	27
Electronic media	30
6. Other checks	34
Checking a candidate's identity	35
Qualifications, certifications and other databases	38
The Police Vetting Service	39
Criminal conviction history checks	40
Responding to negative results	43
7. Making a final decision	46
8. Other ways to keep children safe	50
Making screening less difficult	52
Basic screening	52
9. The ongoing relationship	56
Evaluating the screening process	57
Regular rescreening	57
10. Appendices	60
Relevant acts	61
Reference tables	66
Further reading	67



Introduction

Page 3	Why these guidelines are needed
Page 3	Background to these guidelines
Page 4	What is covered in these guidelines
Page 4	Who these guidelines are for
Page 5	Glossary
Page 6	Statutory considerations

Why these guidelines are needed

Every day thousands of men and women work with children in both paid and unpaid roles, providing them with care, support and new opportunities. The overwhelming majority are safe, conscientious people who keep the children in their care secure and protected.

Unfortunately, we know that a small number of individuals seek positions with organisations to gain access to children and do them harm. Others are simply not prepared or committed to protect the children in their care. Abuse can take many forms and may involve neglect or emotional, physical and sexual maltreatment. The consequences can be devastating for the child, the family, co-workers, the organisation itself and also the wider community.

Effective screening, as part of a comprehensive organisational child protection policy, can help identify potentially unsuitable people before they have the opportunity to do harm to children or allow harm to be perpetrated by others.

No process is fool proof, and studies of convicted child abusers have shown that they often employ a number of systematic techniques to avoid detection. However, by following a rigorous process that looks at the information available about a person, you can significantly reduce the risk faced by your organisation.



The more widely known that an organisation has a comprehensive checking process, the better. Potential child abusers are often deterred by the fact that they will be checked and that other staff are trained in child protection.

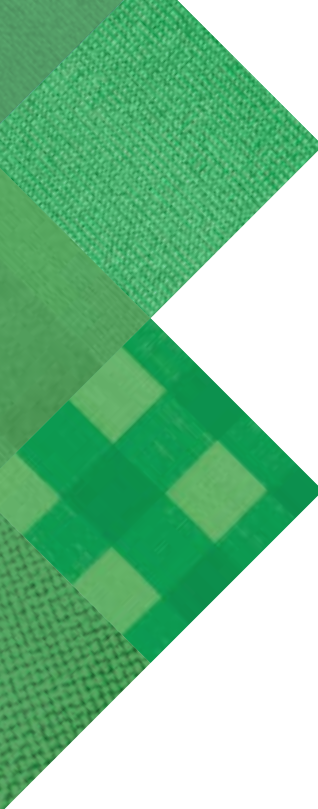
Background to these guidelines

The need to promote good screening practices was made clear in the 'White Paper for Vulnerable Children',¹ and the Children's Action Plan.² In response, the Government has introduced Vulnerable Children legislation, which will create minimum standards for the Government-funded children's workforce.

To support the Children's Action Plan's vision of a safe children's workforce, the Ministry of Education and Child Matters, a non-government organisation with experience providing training and support to organisations to improve their vetting and screening processes, have entered into a partnership to produce guidelines that describe best practice for vetting and screening.

¹ <http://childrensactionplan.govt.nz/action-plan/white-paper/>.

² <http://childrensactionplan.govt.nz/action-plan/>.



What is covered in these guidelines

As an aid to help protect the safety of children, these guidelines provide advice on tools and techniques for collecting and assessing information about a person applying for a role with your organisation. They should be used in conjunction with your organisation's child protection policies, as well as with government guidance on legislative and regulatory obligations you may have, including guidance released in the future to support the implementation of the Vulnerable Children legislation.

These guidelines cover all aspects of the recruiting process, including:

- ◆ What should be involved in the application process.
- ◆ How to check a person's identity.
- ◆ How to gather information about the history and behaviour of candidates, using:
 - » application forms
 - » interviews with candidates
 - » reference checks.
- ◆ Other checking processes.
- ◆ How to analyse the information gathered and assess risk.
- ◆ What legal and statutory obligations your organisation needs to consider.

Who these guidelines are for

Vetting and screening should be part of your organisation's recruitment process for all roles that involve contact with children. It doesn't mean you will have to set up a new or special body, rather it extends the skills already being used for recruiting and employing staff.

Potential users include:

- ◆ Employers of paid workers, contractors or volunteers who work with children.
- ◆ Agencies that provide temporary workers to organisations that work with children.
- ◆ Anyone else who wishes to ensure that the people they will trust with children have been adequately checked.

It is likely that you will use some information, such as evidence of a current Police check, provided by another person or body, but the final responsibility for checking staff **always** rests with the organisation employing or engaging the person.



These guidelines provide a reasonable standard of screening and are recommended for all roles involving children, including volunteer work.

Following a formal process for all roles, including for volunteer roles, is one of the ways you can ensure proper checks are done.

Sometimes a recruitment or appointment process is not practical because the role may be short term or of a temporary nature, or there is a low risk to child safety, (for example, if the person in to the role will be subject to constant, high-quality supervision).³



In such situations it is still important to carry out a safety-check. See the safety options in Part 8 on page 52.

Glossary

'Candidate' means the person being screened. In these guidelines this also includes volunteers.

'Child' means a child or young person under the age of 18.

'Children's worker' means any person working (either in a paid or a volunteer role) with children.

'Provider, employer or organisation' includes voluntary, commercial, private or independent agencies or organisations providing services for children and families.

'Safety' means that children in an employer's care are not exposed to a risk of abuse or neglect that could reasonably have been predicted or prevented by the organisation.

'Screening' means an internal process for analysing the information gathered and identifying suitable candidates – in this case, those who can be relied on to keep children safe.

'Vetting' means the formal process of obtaining checks from another agency, e.g., the Police Vetting Service, criminal conviction history checks.

³ Note that organisations subject to the State Sector Act 1988 have specific additional obligations relating to the need to use formal recruitment processes.

Statutory considerations

When implementing these guidelines keep in mind that your organisation may have regulatory requirements it must meet or contractual obligations it has to fulfil. If you're unsure, seek advice on what these are for your sector.

In addition, you should fully understand your legal obligations around equal and fair treatment and managing personal information appropriately.

You should be confident that you understand the obligations created by:

- ♦ The Human Rights Act 1993.
- ♦ The Privacy Act 1993.
- ♦ The Employment Relations Act 2000.
- ♦ The Vulnerable Children Act 2014.⁴



Information about how each of these affect employment processes can be found in the Appendices. See page 60.

The Appendices also have information regarding significant legislative requirements for various roles, and documents that can be used to verify identity.

⁴ The standard safety checking requirements of the Vulnerable Children Act 2014 come into force by July 2015. See: <http://childrensactionplan.govt.nz> for more information.

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Supporting vetting and screening

Page 9 A culture of child protection

Page 9 Vetting and screening as an expectation

Page 10 Treating people fairly

Page 10 An expert workforce

A culture of child protection

A screening policy alone cannot guarantee a safe environment for children. Instead, it should be part of an organisation-wide commitment to creating a culture of child protection.

An organisation with a culture of child protection is one that is open and accountable, understands the needs of children, and makes their safety and security a priority. Organisations will have clear policies that describe best practice to keep children safe. These will include rules and boundaries about how staff interact with children, when and how to touch, comfort or discipline children and the procedures to be followed if a staff member is alone with a child.

Organisations with a culture of child protection will also ensure that staff are trained to recognise the symptoms of abuse or neglect, and are alert to warnings and signs when something is wrong.



For an introduction to material and ideas on how to create a culture of child protection in your organisation see: Child Matters www.childmatters.org.nz

Vetting and screening as an expectation

All people who will have access to children should be screened. Vetting and screening may be a daunting experience for some candidates who haven't been through the process before or who do not understand its purpose. Some organisations may find it a challenge to insist on vetting and screening highly regarded members of the community or trusted members of an organisation, particularly when such people are freely offering their time or expertise.

This is why it is important to have clear expectations around the process. Written policies describing the screening that your organisation undertakes will make it clear what is needed for each role and, consequently, vetting and screening becomes less about particular individuals and more about the expectations of working with children.

All candidates should be treated with respect and warmth and volunteers should be reassured that they will be treated with the same fairness and respect as employees.



Treating people fairly

Screening involves making judgements based on very personal information about a person's character and attitude. It is vital that it is done fairly and consistently. In this case, being fair means:

- ♦ Treating each candidate as an individual and not making assumptions about them based on their age, gender, sexual orientation, religious beliefs or other irrelevant factors.
- ♦ Always allowing people the opportunity to respond to any concerns raised about them. Information may be incorrect or there may be an innocuous explanation for something that initially causes you concern.
- ♦ Explaining that unless there are exceptional circumstances, their information will be kept confidential. Describe the circumstances where information may need to be divulged to protect children from harm.
- ♦ Recognising that people come from different cultural backgrounds and have different ways of expressing themselves and that it is important to ask clarifying questions if there is uncertainty or confusion.
- ♦ Meeting all your legal obligations and managing personal information appropriately.

Fair treatment also means managing conflicts of interest. The following rules should be followed:

- ♦ Candidates should not be screened by someone with whom they have a close personal relationship.
- ♦ Screening staff should never screen a person they would feel uncomfortable about rejecting because of a personal or perceived connection.

An expert workforce

Vetting and screening relies on exercising professional judgement. The skills needed to do this can be built and developed by providing managerial and peer support for workers making screening decisions and by investing in professional training for key people.

To help ensure processes are followed consistently, delegate someone in your organisation to have responsibility for screening. For example, the role of 'Screening Officer' could be established, giving someone primary responsibility for understanding these guidelines, ensuring relevant staff understand them properly and monitoring implementation of the processes. This person should also work to build positive relationships in the community with assistance and expertise, from sources such as local Police and Child, Youth and Family.

The role could be part of, or supported by an organisation's 'Designated Person for Child Protection' or the 'Child Protection Coordinator', if such roles (or equivalent) exist in your organisation.

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3



The vetting and screening process

Page 13 Principles of vetting and screening

Page 14 What to look for in candidates

Page 16 The vetting and screening process

This section introduces the vetting and screening process, and describes the principles that underpin it. Subsequent sections break the process down into detailed steps.

Principles of vetting and screening

Vetting and screening has two parts:

- ♦ Gathering information about a candidate.
- ♦ Evaluating that information to make a decision about whether a candidate is suitable for a given role.

Vetting and screening is not about ticking boxes to figure out if a candidate fits a particular profile of someone who might abuse children. Instead, it is about gathering enough information to paint a complete picture of a candidate, to exercise professional judgement about whether the person is suitable for a particular role.

During the process, the following principles should be remembered:

- ♦ **Look for patterns of concerning attitudes or behaviours** – it is very rare that screeners will find a single piece of damning evidence suggesting a likely child abuser. Instead, people undertaking the screening of candidates need to be looking for patterns that allow for a professional judgement to be formed about the person's suitability. The patterns are likely to become evident in the candidate's background and responses to questions.
- ♦ **Always consider the facts in context** – the same facts (a criminal conviction, gaps in employment history, a negative reference), can take on different significance in different contexts. Whenever possible, give candidates an opportunity to respond to concerns about their suitability.
- ♦ **If you have a doubt about a candidate, always follow it up** – screeners should always ask follow-up questions until they are comfortable they fully understand the situation. For example if the candidate talks about rehabilitation, ask for evidence of this, which might include programmes entered into, periods without reoffending and the name of a qualified person who can testify to the candidate's suitability to work with children.

Ultimately, the vetting and screening process relies on the judgement of the person doing the checking. If this person does not have any child protection experience they should talk through the issues with a child protection specialist or with the organisation's Screening Officer, Designated Person for Child Protection or Child Protection Co-ordinator if one of those roles has been established. Ideally, one of these people would also be on the interviewing panel and will have made some of their own judgements.



What to look for in candidates

There is no typical profile of a potential abuser. Some are charismatic and professional team members and leaders. Others are dutiful staff members who are notable for their helpfulness and willingness to take on extra responsibility. Some fit neither category. Detection is a difficult task.

A candidate's attitudes and past behaviour are likely to indicate their ability and willingness to promote a child protection culture in the workplace. By assessing past behaviour and attitudes, employers gain opportunities to learn more about the way a person might behave in the workplace.

The following section describes some attitudes and behaviours that reflect values that should be considered when thinking about the questions to ask candidates and referees. Questions should cover the candidate's attitudes towards the control and punishment of children, issues of power and appropriateness, openness and trustworthiness and a willingness to protect children from abuse.

Deception and secrecy

A culture of child protection is built on trust. Misleading or deceptive behaviour can indicate an unwillingness to build that culture. Patterns of fraudulent behaviour, misdirection or misleading conduct, and other indications that a person is untrustworthy, should be explored further.

Protecting children requires openness and transparency, to ensure that suspected abuse is reported and appropriate action taken.

A candidate who expresses a willingness to hide things, including hiding the behaviour of children, for example, observed sexualised play, is someone who may pose a risk. A candidate should be able to show that they do not collude with any behaviour that is damaging to children and if a situation arises, to be able to make difficult decisions to protect children.

However, while past secrecy or deception is always an issue that should be considered, it is important to understand the context fully, as there may possibly be a legitimate or compelling reason not to have passed on information.

Lack of boundaries or lack of understanding of appropriate conduct

Children's workers should recognise the importance of boundaries and understand what constitutes appropriate and inappropriate behaviour around children. A candidate who seems to want solely to be a child's friend, without a balancing recognition of their role and responsibilities, may place children in unsafe situations.

Similarly, candidates who feel emotionally closer to children than adults, who claim to have children as personal friends or who attribute childlike qualities to themselves, may have issues with maintaining appropriate boundaries while they work.

Note that the above qualities are often seen as positive, showing that a candidate can work well with children. This illustrates the difficulty in the screening process. There is a key difference between a candidate who can relate well to children and who understands that they are in a role of power and responsibility and one who may treat children inappropriately or without professional distance.

In order to clarify the candidate's understanding of the importance of professionalism, appropriate adult behaviour and ability to maintain appropriate boundaries while at work, it is essential to use probing, follow-up questions.

Inappropriate attitudes to discipline

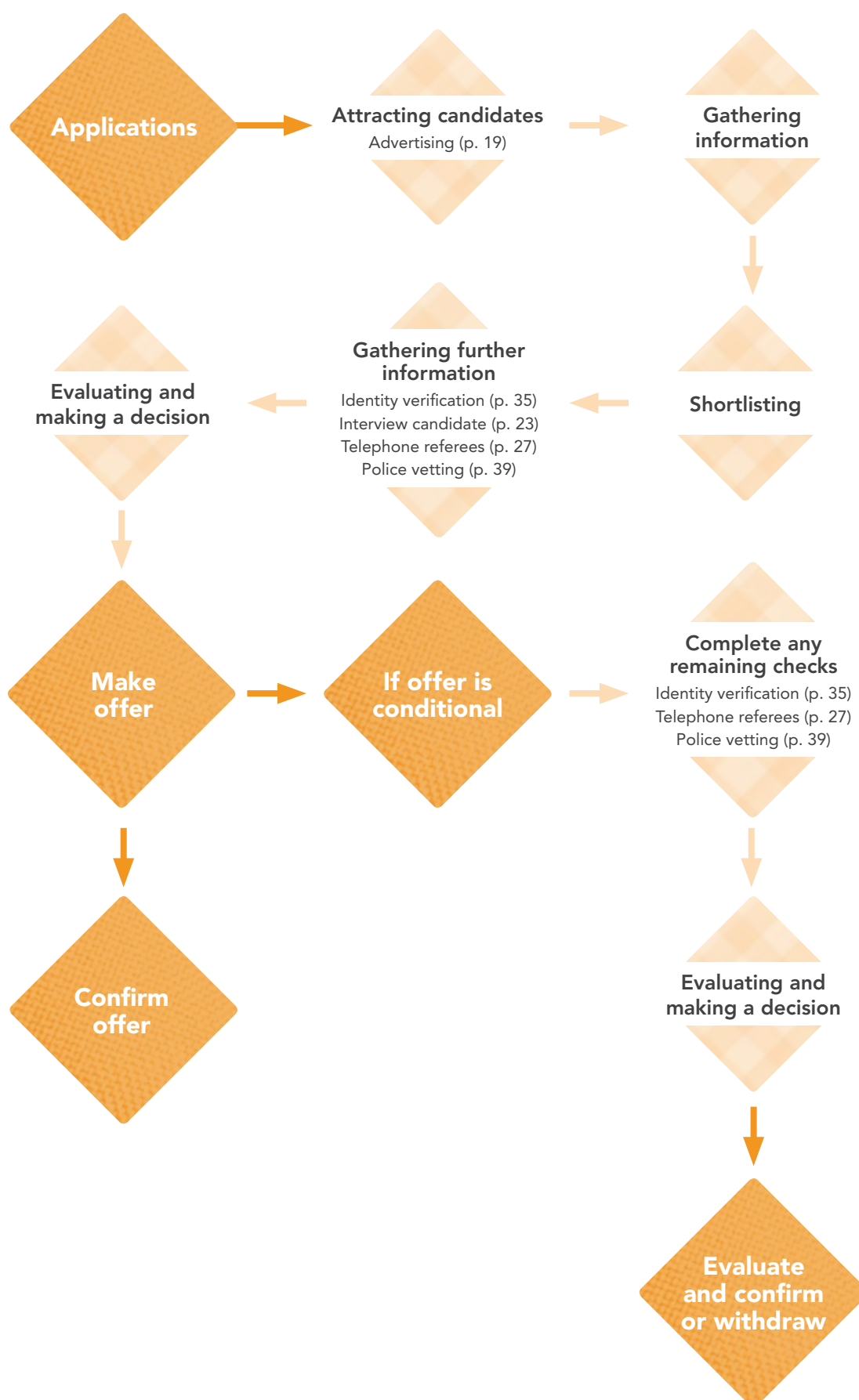
Children's workers are in a position of power and control over young people who can be vulnerable. It is important that workers approach their jobs with maturity and level-headedness. A person who has a negative, punitive or patronising view of children may not be able to deal with children appropriately when they misbehave or may not treat their problems with kindness and respect.

Lack of understanding of the needs of children

Children's workers need to have a basic knowledge of child development, an interest in children's issues, an understanding of the emotional requirements of children and be able to address children's needs appropriately.

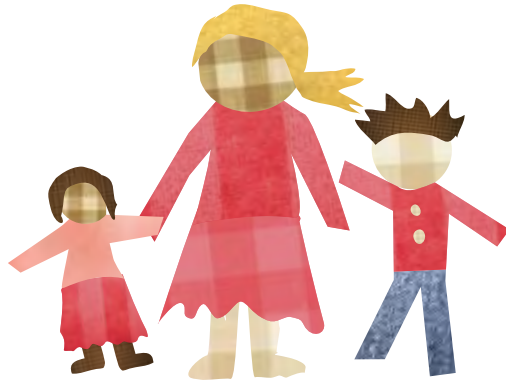
A candidate should be able to show evidence of empathy with children. This does not simply mean that children like the candidate. It means that the candidate has an adult understanding of the ways children think as they develop, the problems and challenges they face at each stage of development and that the candidate can make children feel comfortable coming to him or her with problems or concerns. The person should be able to demonstrate too, how to maintain professional boundaries, while also relating well to children.

The vetting and screening process



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Attracting and gathering information about suitable candidates

Page 19 Advertising a position

Page 19 Application forms

Page 20 CVs

Advertising a position

Advertising a role and receiving applications is the first step in recruiting workers or volunteers. An advertisement that clearly communicates the screening required for the role helps manage candidate expectations, and application forms can provide important information.

A role description and some information to help guide candidates through the process should be made available. This should state the degree of child contact, the level of responsibility for children involved and should affirm the employer's commitment to child protection. Candidates should be notified that they will be assessed to make certain that they are a safe person to work with children and told of any external checks, for example by the Police Vetting Service, that are part of the process.

Unsuitable people may be less likely to apply for a position that has a sound, consistent vetting and screening process. Openness around the process can also actively enhance public confidence in both the organisation and the workforce. Additionally, it will help manage candidate expectations about a sometimes sensitive process.

Application forms

A standard application form is an important source of information about a candidate and can also be cross-referenced with other sources.⁵ It should **always** be used in addition to a CV.

It is recommended that application forms include space for the candidate to provide:

- ♦ Personal details, including their name, any previous names and their current address. This information will be important for verifying a candidate's identity.
- ♦ Details of any relevant academic or vocational qualifications, including the date received and the awarding body or institution.
- ♦ A chronological list of previous employment (both voluntary and paid) with commencement and end dates. The candidate should give details of the last five positions they have held. There should be space for the candidate to explain any periods when they were not in employment, education or training.
- ♦ Their reason for leaving these previous jobs.
- ♦ Contact details for any referees and the relationship between the candidate and each referee.
- ♦ A general consent to contact the referees provided or any other person or organisation necessary to gather information to assess the candidate's suitability for the position.⁶

⁵ For a sample application form see www.childmatters.org.nz or www.childrensactionplan.govt.nz

⁶ Even with this consent, it is good practice to seek permission from the candidate before contacting a person who they have not explicitly listed as a referee.

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- ♦ Consent or non-consent for the current employer to be contacted (some candidates may only consent to their current employer being contacted if the candidate is the preferred candidate).
 - ♦ A declaration of whether or not they have been convicted of a criminal offence, which is not eligible to be concealed under the Criminal Records (Clean Slate) Act 2004 and space to provide an explanation.
 - ♦ Consent to undertake a Criminal Conviction History Check or Police Vet, using the required forms.
 - ♦ Any other necessary disclosures. For example, details of their professional registration status and any previous employment or professional disciplinary history that could be relevant to child safety.

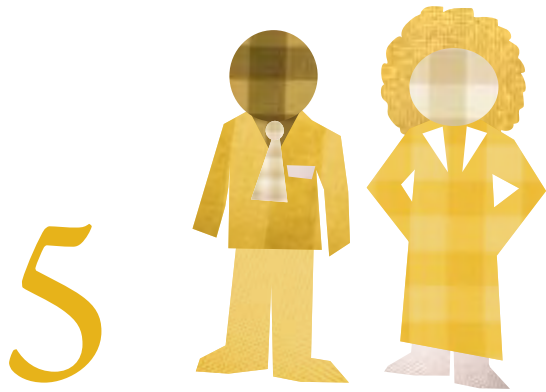
CVs

While a CV can be a valuable source of information about a person, it should not be relied on in isolation. As CVs are normally prepared by the candidate, there may be an incentive to leave out unflattering details or to exaggerate accomplishments.

Because of this risk, you should be very careful of simply relying on a CV and should validate a CV against an external source, such as a referee.

Your notes

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Learning more about candidates

- Page 23 Gathering information from application forms
- Page 23 Interviews
- Page 24 Preparing for the interview
- Page 24 Interview questions
- Page 27 Referees and references
- Page 30 Electronic media

The next task is to start building a picture of the candidate. The information you use to do this will come from the candidate themselves and from external sources, such as referees.

Gathering information from application forms

Application forms provide an important source of information about a candidate. They should **always** be used in addition to a CV.

A high-quality application form will give information about:

- ♦ Past convictions and disciplinary matters.
- ♦ Unexplained gaps or omissions on the candidate's work history.
- ♦ Qualifications awarded by unfamiliar bodies.
- ♦ Unusual working patterns, such as transiency or geographically scattered short-term jobs.
- ♦ Reasons for leaving previous jobs.
- ♦ Inconsistencies in information.

These issues are common and require follow up for you to clarify whether they indicate an underlying problem. Consider them when planning the questions to ask candidates during interviews or explore them further during reference checking.

Some candidates will disclose criminal offences. As with all other information, you should assess it on a case by case basis, looking at the circumstances of the offending, and evidence of rehabilitation. Your organisation may already have a clear policy about criminal convictions that you will need to follow.

Interviews

All candidates should be interviewed face-to-face before being selected for a role that allows access to children. The way a candidate responds to careful questioning can provide substantial insight into their personality and their attitudes towards children. An interview also provides the opportunity to confirm the information collected through the application process and to clarify information previously given.

It is recommended that:

- ♦ Two interviews are conducted. This enables follow up and clarification on any issues you have identified. Reference and other checks can be carried out between the two interviews.
- ♦ A small panel of people are involved in one of the interviews, allowing for multiple perspectives on a candidate. Panel members should be chosen carefully for their experience, knowledge and skills, with at least one having broad child protection knowledge.

Preparing for the interview

An interview should have a definite structure and include planned, open questions that invite a response from the candidate. Open questions are ones that start with words like *what, where, who or how* and encourage a descriptive response. Consideration should be given to:

- ♦ A time and location for the interview that is likely to be comfortable for the candidate. A person's true personality is more likely to shine through when they are relaxed and comfortable.
- ♦ Pre-planning the questions, and who will be asking them. Be prepared to use follow-up questions in addition to the planned ones to explore problematic or incomplete responses.
- ♦ Letting the candidate know well in advance where the interview will take place, how many people will be on the interview panel and that the candidate is permitted to bring a support person or people. You should, if possible, name the panel members so that the candidate can advise you of any potential conflicts of interest.
- ♦ Ensuring that the people interviewing are confident and comfortable asking questions about child safety.

Interview questions

Interviewers should use a pre-planned question programme designed to get candidates to describe their own past behaviours, beliefs and attitudes.

Avoid using many closed questions. These are questions that invite a yes or no answer and generally start with words like *did* or *have*. Yes or no answers seldom provide very useful information. Closed questions may make candidates feel as if they are being interrogated. This could lead them to become defensive and less forthcoming in their responses.

Asking questions about past actions can be very helpful. While hypothetical questions can be useful to assess the way a person thinks, such questions tend to get hypothetical responses, which are often theoretical or idealised rather than a true reflection of the candidate. Instead, where possible, ask candidates to describe a specific example from their own experiences.

Questions should be designed to give information about the:

- ♦ Candidate themselves.
- ♦ Candidate's views on disciplining children and keeping safe around children.
- ♦ Candidate's attitudes.
- ♦ Candidate's experiences and relationships in working with children.

Questions that provide information about the candidate themselves:

- ♦ All qualifications and experience and how these relate to the role the candidate is applying for.
- ♦ The child protection training that the candidate has received.
- ♦ The training the person has had in child and adolescent development.
- ♦ Whether complaints have ever been made about the candidate's professional practice and how they have responded to them.
- ♦ How they would describe their own personality.
- ♦ Whether they have ever been convicted of an offence.⁷
- ♦ Whether the candidate has ever been the subject of a complaints procedure during their employment.
- ♦ Reasons for leaving previous jobs.
- ♦ Why they applied for this position.

Look for:

- ♦ Honesty.
- ♦ An understanding of the needs of children.
- ♦ A real interest in this job.
- ♦ Personal awareness.

Be wary of:

- ♦ A self-view that is very different from how others describe the candidate.

Questions that explore the candidate's attitudes:

Ask whether there has ever been a time when the candidate has had to deal with the following situations, and discuss the process and outcome. If that situation has not arisen, ask what the person would do if:

- ♦ A child or young person disclosed abuse.
- ♦ A child or young person lied to them or asked them to keep an inappropriate secret.
- ♦ A child or young person was cheeky.
- ♦ A child or young person hit them.
- ♦ They discovered two children fighting or engaged in sexual play or who had stolen property.
- ♦ A child or young person invited them to become involved in intimate or touching behaviour.
- ♦ A child or young person threatened to make a false allegation of abuse about them.

⁷ Candidates covered by the Criminal Records (Clean Slate) Act 2004 may not be required to disclose minor offending in some circumstances – see Section VII).

Look for:

- ♦ Attitudes showing respect for children and an understanding of appropriate ways of interacting with them.
- ♦ Openness and readiness to involve other people.
- ♦ A willingness to act on information that suggests a child might be at risk.

Be wary of:

- ♦ Indications of blaming or belittling children.

Questions that indicate the candidate's views on child safe practice:

- ♦ How they believe children should be disciplined.
- ♦ Their thoughts on being alone on the job with children and young people.
- ♦ The chances of abuse allegations being made about them, if they were accepted for the job.
- ♦ How to comfort a child or young person who has been hurt or needs consolation.

Look for:

- ♦ Understanding of safety around children.
- ♦ Understanding the needs of children.
- ♦ Understanding professional roles and behaviour.

Be wary of:

- ♦ Rigid and punitive attitudes.

Questions that describe the candidate's experiences and relationships in working with children:

- ♦ What rewarding experiences they have had working with children.
- ♦ What difficulties they have encountered and how they overcame these.
- ♦ The exact nature of their previous work with children.
- ♦ The parts of that work they liked and disliked and the reasons for this.
- ♦ Whether they have ever taken a child they work with to their house and why.
- ♦ What they think constitutes professional practice when working with children.
- ♦ Other relationships they have with children outside the working or volunteer environment.
- ♦ The reason they think they get along with children or why children like them.
- ♦ The kind of relationships they hope to develop with the children and families in this organisation.

Look for:

- ♦ An understanding of boundary issues regarding themselves and children.

Be wary of:

- ♦ Lack of understanding of boundary issues regarding themselves and children.
- ♦ Lack of a sense of personal responsibility towards the safety of children.



If any of the candidate's responses leave you in any doubt, explore the issues with searching, follow-up questions.

Referees and references

Reference checking can be time-consuming and it can be tempting to give up trying.

However, **checking references is one of the most important parts of the employment process** and should be done thoroughly.

Referees

Referees provide a hugely valuable source of information about a person's skills, attitudes, values, past behaviours and relationships. They are also able to corroborate information given by candidates on CVs or application forms.

Two, but preferably three, referees should be contacted. Ideally, they will be contacted in person – usually by telephone. If this is not possible immediately, questions may be given to a referee to be answered in writing, and then followed up by telephone (or other technology that enables the referee to discuss the candidate).

Referees should be chosen for their ability to answer questions about the candidate's relationships with children, for their recent knowledge and understanding of the candidate and for the role they held in relation to the candidate.

The current or immediate prior manager or supervisor of the candidate should always be contacted. However, a candidate may not want it known that he or she is applying for a new position and you should respect that wish. Consider whether the employer can be contacted once a job offer is about to be made.

When a referee is involved with a business or organisation, it is safer to contact that person on a business telephone number to confirm they genuinely work for that employer.



A candidate's consent should be obtained before referees are contacted. If a candidate gives general consent it is good practice to advise them before contacting someone they have not provided as a referee. This ensures their privacy is respected and they can opt out of the application process at this time if they wish, or explain why they believe that referee is inappropriate.

Employers should be wary if the candidate has lived in the area for considerable time but cannot list any local referees or if the candidate is hesitant to provide telephone contacts for referees.

Disciplinary action regarding child safety or wellbeing provides warning signs and should be investigated fully. The candidate should be given an opportunity to provide an explanation and their response should be compared to the explanation provided by the referee. The employer must exercise professional judgement and involve child protection experts if two explanations are inconsistent.

All allegations must be treated with extreme caution and the safety of children should be the primary consideration. Sometimes it may be difficult or impossible for a candidate to reply to historical allegations against them, especially when firm evidence is lacking or they have never heard the information previously. To be as fair as possible to the candidate, you should consider other sources of information that can help you in reaching an overall decision about their suitability for the role.

Written references

Referees are likely to be more explicit in person and on the telephone than in writing. A conversation can explore issues but written references can leave much unsaid, so if possible, call rather than write.

However, written references have some value when:

- ♦ The references are reasonably recent, are written by someone in a good position to judge the candidate's work history and personality, and describe in detail their suitability for the specific role being applied for.
- ♦ There is opportunity to follow up with the referee and to clarify comments or gain further information.
- ♦ The candidate (or the referee) describes the relationship between them. [References provided by a referee who is a close friend or relation of the candidate will be less useful, as such references can be subject to a conflict of interest. Similarly, references supplied by someone who knows little about the candidate will not necessarily be reliable.]
- ♦ The relationship between the referee and the candidate is a work relationship (without a strong personal component), that occurred as close to the current day as possible.

You should place less weight on written references where:

- ♦ The referee has a limited relationship with the candidate, for example, the candidate worked for the organisation for a very short time.
- ♦ The candidate provides generic written references, such as those addressed to “whom it may concern”, that are not specifically relevant to the role being applied for.
- ♦ It is undated and the name, role or contact details of the referee are not clear.

Questioning referees

Speaking directly with a referee enables you to confirm other information provided by the candidate and to explore any concerns. Referees can confirm that the candidate is telling the truth in their CV, application form or at interviews. It is therefore useful to have the CV and application form available when calling a referee.

Referees may need to be reminded that they should be honest and ensure they do not make misrepresentations about the candidate. They should also be asked, preferably at the beginning of the conversation, whether they are willing for their comments to be shared with the candidate. Be aware that referees are entitled to ask that the reference be given in confidence.

Be sure to ask only questions that clearly relate to the person’s suitability for the job. The most useful questions are open-ended and relate specifically to the candidate’s attitudes and past behaviours in the employment context and to how they relate to children. However, closed questioning, asking for specific factual information (eg, whether the candidate has been disciplined for misconduct involving children) can also provide useful information. Objective information, such as whether complaints were sustained, is also helpful, as it relies less on personal opinion.

Generic questions can cover:

- ♦ Whether the referee considers the candidate suitable for the role and if not, why not.
- ♦ Whether they consider the candidate suitable to work with children and if not, why not.
- ♦ Details, including duties, position and job title, about the candidate’s employment.
- ♦ Specific evidence that the referee can verify, about the candidate’s performance during employment.
- ♦ The specific reason that the person left that role.
- ♦ Details of any disciplinary procedures that resulted in formal action against a candidate.

- ◆ Details of any concerns relating to the safety and welfare of children, or the candidate's behaviour towards children.⁸
- ◆ Whether there were any sanctions relating to the safety and welfare of children, including whether or not such sanctions have expired.
- ◆ Whether they would employ the candidate again.

Example of specific questions:

- ◆ Do you trust the candidate and if not, why not?
- ◆ Have you ever had reason to suspect the candidate's honesty?
- ◆ Has the candidate ever mislead you?
- ◆ Has the candidate ever been disciplined for misleading or fraudulent conduct?
- ◆ How would you describe the way the candidate acts around children?
- ◆ Was the candidate ever subject to formal disciplinary actions or complaints regarding their behaviour towards children?
- ◆ Do you think the candidate should be unsupervised around children?
- ◆ Was the candidate ever subject to formal disciplinary action or complaints regarding their disciplinary techniques?
- ◆ How well do you think the candidate understands children?

Questionnaires

When it is not possible to contact a referee personally, they can be asked to complete a questionnaire. The questionnaire should be sent with a covering letter explaining who wants the information and the reason for it. At a later time the information provided should be discussed in person, whenever possible.

Electronic media

It is increasingly common to search for information about candidates on the internet and on social media. These sources can provide the employer with useful publicly available information about:

- ◆ Whether the candidate is being truthful in their application documents.
- ◆ Bullying behaviour or harassment of others.
- ◆ Unauthorised disclosure of confidential information.

Searching on electronic media should be treated with caution, as it is an evolving area of privacy and human rights concern.

Remember, you may not intrude on a person's privacy unfairly or unreasonably and you must never base an employment decision on discriminatory grounds, such as race, marital status, age, or health background.

⁸ Adverse comments can be prejudicial to the candidate and should not be given serious consideration unless there is evidence to back them up.

To help you meet your legal obligations, you should:

- ♦ Keep a record of the reason for any employment decisions you make that were based on the internet or social media.
- ♦ Provide an opportunity for the candidate to explain their side of the story. Statements taken out of context may be misleading.
- ♦ Consider having an agency or a non-hiring staff member do the search and provide you with a written copy of relevant information, omitting personal material.



Remember: not everything reported on social media is correct. If in doubt, check.

32

Your notes

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6



Other checks

- Page 35 Checking a candidate's identity
- Page 38 Qualifications, certifications
and other databases
- Page 39 The Police Vetting Service
- Page 40 Criminal conviction history checks
- Page 43 Responding to negative results

The final step in assessing candidates involves undertaking checks to verify information. Sometimes these checks will be made on the preferred candidate, and a conditional offer may be made based on these results. Some specific sectors and roles may have legal or regulatory requirements for external checks that need to be carried out. It is the responsibility of employers to ensure that their screening processes meet these requirements.

Checking a candidate's identity

There are reported cases of people gaining employment in the children's workforce using another's identity and credentials. Verifying a person's identity is a very important part of screening. Without it any other information is unreliable.

A candidate's identity should be verified at the shortlisting stage, generally at the time of face-to-face interviewing.

How to verify identity

The following standard should be used to verify identity. It is based on the Department of Internal Affairs', *'Evidence of Identity Standard v2.0'*.

The standard is known as the '**A + B + PHOTO + RECORDS**' process.

Category A ('A')

The candidate should supply a '*Primary Identification Document*' (**Category A**) to establish that the claimed identity exists. This is a closed (limited) list of acceptable documentation that includes an original birth certificate, a passport, a citizenship certificate, a New Zealand certificate of identification or a New Zealand firearms licence; **AND**

Category B ('+B')

A second form of official identification document that shows the claimed identity is used in the community. This is an open list and includes many common forms of documentation used in day-to-day life. For example, driver licences, HANZ 18+ cards and IRD numbers; **(+ Category B); AND**

PHOTO

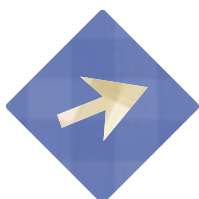
One of the two forms of identification must be photographic, verified in person against the candidate (+ **PHOTO**); **AND**

RECORDS

A large organisation should search its records to check that no other person has claimed the identity, for example, payroll search. (+**RECORDS**).



Common documents for each category are summarised in the Appendices.



For further information on the Evidence of Identity Standard see: www.dia.govt.nz

Documentary evidence

Ideally, all documentation sighted for identification purposes should be original. Where a candidate can only supply copies during the recruitment process, they should provide original documentation before they start work.

Documentation should be checked for authenticity. Warning signs include rips, tears, discolouration or other damage, inconsistencies in lettering and inconsistent spelling of names or other details. Checks should be made across the same document and between documents.

The Department of Internal Affairs publishes a '*Document Verification Guide*'. It contains pictures and explanations of the security features of documentation you are likely to encounter. It is available online and can be used to confirm the validity of documentation. You can find out about updates by emailing docverify@dia.govt.nz or contacting the issuing agencies listed in the Appendices.

Other specific services that may be available to your organisation include the Department of Internal Affairs Identity Information Confirmation Service, which allows registered organisations to validate the information in official identity documentation, and the Immigration New Zealand VisaView service, which allows registered organisations to verify the information in immigration documentation, including passports.

Photographic evidence, record checking and proof of address

Photographic evidence of identity (**+PHOTO**) is important. It links the documentation presented, to the person applying for the job. Candidates may claim that a photograph no longer looks much like them because of its age. If this is true, it is the responsibility of the candidate to provide more recent identification.

The final step in identity verification (**+RECORDS**) is making sure that no other members of your organisation already claim the specific identity. This step is most crucial for large organisations. It is simple to implement and will usually just involve a search of payroll or registration records.

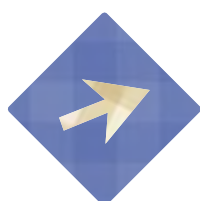
Proof of address is useful, particularly for establishing a person's identity in the community. Proof of address can be provided by a bank statement, utility bill or other service-provider invoice, issued in the last 12 months, that has the candidate's name and address on it.

When evidence is unavailable

In the rare case where a person is unable to provide documentation, they could recommend a referee to confirm their identity. Identity referees should not be related to the candidate, or have lived with the candidate. They must have known the candidate for at least twelve months and should either be part of your organisation or a person of standing in the community. This process should be accompanied by at least one other form of documentation.

The most common situation where people may not have the required documentation is when they are an overseas candidate, who may not have standard New Zealand identity documentation. Where possible, use documentation (usually visas) provided by Immigration New Zealand. Residency permits are good evidence of identity, as substantial vetting of the candidate occurs before they are issued. Be aware that refugees may only possess a Certificate of Identity.

Only official foreign documents should be accepted – not informal documentation. Translations of documents must be carried out by the issuing authority, an embassy of the issuing country or by an authorised New Zealand translation service. Translations should be accompanied by the original document.



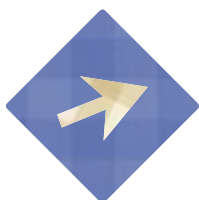
For a comprehensive list, by country, of documents individuals should be able to provide and where they can get them from see: The United States Department of State Guide: travel.state.gov/visa/fees/fees_3272.html

Name changes

New Zealand law recognises the rights of individuals to be called by the names they prefer. When people have officially changed their name and it does not match the name on their primary identification, they will need to provide evidence of a link between the two.

Evidence can be provided through supporting documentation that links the candidate with the name on their primary identity (**category A**) documentation. For documentation that can be evidence of a name change see the Appendices. A clear identity verification trail will need to be provided, therefore a degree of caution should be applied. Employers should be completely satisfied that the person's identity can be verified. Do not hesitate to ask for any documentation you require to ensure you are convinced of the person's identity.

The Department of Internal Affairs can be contacted for assistance at: identity@dia.govt.nz



For additional information on the proper use of names see: Department of Internal Affairs. www.dia.govt.nz/Identity---Resources-and-publications-about-identity-theft

Electronic identity verification

The identity verification process described above, assumes that you will be checking identity by hand using a paper process, but an electronic process that meets or exceeds the standard is also acceptable.

An example of an electronic process that meets the requirements, is the verified 'RealMe' system. RealMe enables people to access multiple online services with the same username and password. A verified RealMe account goes further by enabling people to prove their identity online. Upgrading to a verified account involves an application process, including having a photograph taken at a participating New Zealand Post retail outlet.

For more information on RealMe see: www.realme.govt.nz

Qualifications, certifications and other databases

Candidates should provide transcripts and proof of educational achievement. Educational achievements are frequently misrepresented on CVs and job applications. Candidates may imply that they have a qualification that they don't have, that they graduated from a particular institution when they may only have attended it for a short time or that they have a degree in one field when they really have a degree in another field.

Checking educational records also provides an opportunity to learn more about a person's honesty.

Wherever possible, check qualifications and certifications with the organisations that issued them. This should certainly be done when the institution is unknown to you. Some institutions will allow this to be done online, while others can be contacted via email or telephone.

The Police Vetting Service

A **Police Vet** should be obtained for all roles that involve caring for children. This is because the Police have access to information, beyond a criminal conviction history, that may be relevant to child safety.

Your organisation may seek approval to use the Police Vetting Service via a secure email: **queryme@police.govt.nz**

The purpose of the New Zealand Police Vetting Service is to contribute to public safety, particularly the protection of vulnerable members of society. Your organisation will be able to access the Service if you meet the approval criteria published on the Police website:

www.police.govt.nz/advice/businesses-and-organisations/vetting

If your organisation is approved you will be expected to agree to the terms and conditions, which include maintaining the security and confidentiality of information received.

The Police Vet will provide details about any convictions, including the location of the court, the date of the offence and the sentence imposed. However, the Service is not limited to providing information about convictions and may give:

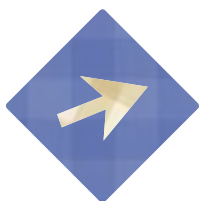
- ♦ Information on active charges and warrants to arrest and any other information received or obtained by the New Zealand Police.
- ♦ Information about any concerns the Police have in any context, including family violence, even if:
 - » there have not been charges
 - » charges have been withdrawn
 - » the person has been acquitted (found not guilty) of a charge.

Information that relates to unproven allegations, i.e., no conviction entered, should be treated with caution and you should be vigilant to look out for patterns of offending.

Police may hold relevant information that they are unwilling to disclose for privacy, confidentiality, or law enforcement reasons, and (through a process known as the 'red stamp process') may recommend against unsupervised access to children or vulnerable persons.

Police vetting requires the consent of the candidate. Candidates should be provided with a New Zealand Police Vetting Service *Request and Consent Form* to complete and sign. If the organisation requesting the Police Vet has incorporated the *Request and Consent Form* within its own application form then the candidate should be provided with either a copy of the *Police Vetting Service – Information Sheet for NZ Vet Check (New Zealand-based checks)* or be directed to the website www.police.govt.nz/advice/businesses-and-organisations/vetting

Note: The processing period for Police vetting may be up to 20 working days.



Note: The process changes from time to time.
For more information see: www.police.govt.nz

Criminal conviction history checks

Organisations not approved to access the Police Vetting Service should apply to the Ministry of Justice for records of candidates' criminal convictions.

It is necessary to get the written authorisation of the candidate. You must use the form *Request for Criminal Conviction History – Third Party* to apply for a copy of a candidate's record. Send the completed form to the Ministry of Justice. The Ministry will send the candidate's criminal conviction history directly to you.

The application form is available online at the Ministry of Justice website www.justice.govt.nz/services/criminal-records, by email criminalrecord@justice.govt.nz or by writing to the Criminal Record Unit at:

Ministry of Justice
Criminal Records Unit
SX10161
Wellington

The Criminal Records Unit can also be contacted at **04 918 8800**. However, information about a candidate's criminal conviction history will not be given out over the telephone.



Processing a correctly completed application takes up to 20 working days.

You should not make simultaneous requests to both the Police Vetting Service and the Ministry of Justice.

The Criminal Records (Clean Slate) Act 2004

Some criminal convictions will not be available because of the Criminal Records (Clean Slate) Act. Under this Act, eligible offenders can have offences concealed, (including Police Vetting Service and criminal conviction history checks) if they have not offended within the last seven years.

However, offences will not be concealed in specific circumstances, such as if the person has ever been:

- ♦ Sentenced to a custodial sentence, e.g., prison, borstal.
- ♦ Detained on mental health grounds as part of a criminal case.
- ♦ Convicted of a specified offence including sexual offending against children.

Furthermore, Section 19 of the Act allows for full disclosure where the role being screened for predominantly involves the care and protection of a child or young person (for example, a foster parent, or a caregiver), but not their education.

For more details, see www.justice.govt.nz/services/criminal-records/about-the-criminal-records-clean-slate-act-2004.

The Vulnerable Children Act 2014 will make some changes to the Criminal Records (Clean Slate) Act. More information will be made available to organisations as the Act is implemented.

Overseas criminal convictions

It is recommended that you ask candidates who have lived overseas to provide copies of police certificates from their countries of citizenship and from any country in which they have lived for one or more years within the last ten years.

When a candidate cannot provide a police certificate (some overseas jurisdictions do not have this provision), it will be necessary for them to give you proof of their attempts to obtain a certificate. They should also make a statutory declaration that states whether they have any overseas criminal convictions or not. When no police certificate is available, extra checking should be undertaken to compensate.

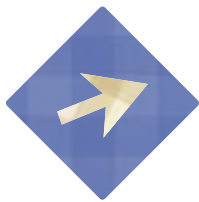
Just because a person is not recorded as having a criminal record, does not mean they have not engaged in behaviour that is an offence in New Zealand. Some things that are illegal in New Zealand are not illegal in other jurisdictions and similarly, some overseas convictions may be for behaviour that is not illegal in New Zealand.

In the future it may be possible to check Australian criminal histories via the New Zealand Police Vetting Service.

Assessing criminal histories



The Vulnerable Children Act contains a list of certain serious offences that make it unlikely that a candidate is appropriate to work with children. These are generally serious sexual or violent offences.



The Act will make it unlawful to employ people with convictions for these offences in certain children's workforce roles, unless they have an exemption. More information about the exemption process will be made available on: www.childrensactionplan.govt.nz as the Act is implemented.

You will need to consider any criminal history carefully. To do this you should collect enough information to understand the following factors:

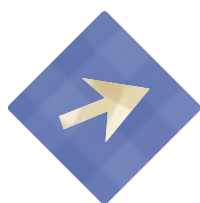
- ♦ The relevance of the conviction to child-related work and safeguarding children. An offence against children or other vulnerable people has an obvious relationship. Patterns of fraudulent offending can also be a concern, given the importance of trust in the children's workforce.
- ♦ The context of the role being screened for. A conviction for drink driving may be more prejudicial for a school bus driver than another role but may still give concern for working with children.
- ♦ How long ago the conviction was. Convictions followed by a long period without reoffending may indicate successful rehabilitation but don't guarantee it.
- ♦ The age of the candidate at the time of the offending. Convictions occurring when the candidate was young, followed by a sustained period of non-offending may indicate that the candidate has successfully rehabilitated.

Responding to negative results

Sometimes candidates' disclosures are not consistent with information you've collected from other sources. There may be a serious or deliberate omission of a serious criminal offence or a misleading claim about qualifications or certifications. This can indicate that the person might be a direct threat to safety or they are intentionally deceptive and misleading. It is recommended that the candidate is not employed.

Similarly, when the Police have 'red stamped' a candidate (which means they recommend that the candidate is not unsupervised with children, older people or other vulnerable members of society) such candidates should not be employed or volunteer with children.

When a check shows less serious inconsistencies, it is appropriate to meet the candidate to discuss these discrepancies. The candidate may have a reasonable excuse for failure to disclose a minor criminal conviction or for some omission or error about professional qualifications or certifications.



Where the candidate notifies you that he or she challenges the accuracy of the Police Vetting result, you should notify Police via the QueryMe disputes process on: www.police.govt.nz

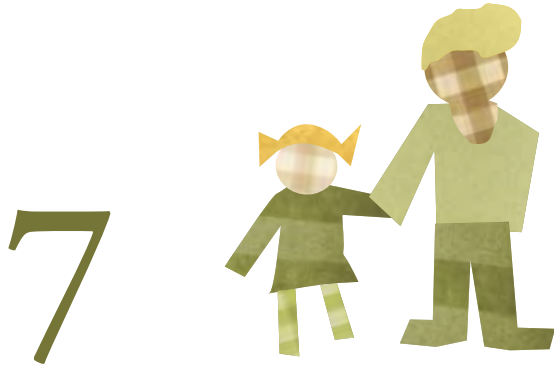
Also, if a candidate notifies you that he or she challenges the accuracy of a criminal conviction history provided by the Ministry of Justice, you should notify the Ministry via criminalrecord@justice.govt.nz



Your notes

Your notes

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Making a final decision

The responsibility to take all reasonable care in making an appointment lies with you and your organisation.

Although you can obtain useful information from professional bodies, from a Criminal Record, from the Police Vetting Service and other sources, the ultimate responsibility lies with you to take all reasonable steps to assess the risk that a person would pose to the safety of children.

Your final decision will be based on a collection of factors. You will want the person you employ to:

- ◆ Be a safe person to work with children.
- ◆ Understand the needs and development of children and know how to act to ensure these are met.
- ◆ Actively contribute to a culture of child protection.
- ◆ Support and adhere to the child protection policies that your organisation has established.
- ◆ Be prepared to make the safety of a child a priority.

In making your appointment you will weigh up all of the information that you have gathered and select a person who you believe has the above qualities. In coming to your decision you will need to exercise your trained professional judgement over many issues.

There are likely to be a number of pieces of information that, taken a certain way, could raise concerns for you. It is your responsibility to examine that information in its proper context to come to a conclusion that is fair to the candidate and safe for the children in your organisation. You are well advised to:

- ◆ Seek outside expert advice from someone with whom you can discuss a concern or who can meet the candidate.
- ◆ Talk to more referees if the information you have is not conclusive.
- ◆ Check with the candidate anything that is unclear, inconsistent or gives you concern.
- ◆ Talk to a colleague about anything that does not sit completely comfortably with you. It doesn't hurt to listen to your 'gut' instinct but always work through an issue before making a decision.
- ◆ Take your time before making a decision. While hiring staff can be time-consuming and expensive and the need to appoint someone can be strong, putting yourself under pressure to make an appointment means you can overlook an issue that could prove very damaging to your organisation.
- ◆ Undertake professional development in both vetting and screening and in child protection.

Safer recruitment, safer children

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8



Other ways to keep children safe

Page 52 Making screening less difficult

Page 52 Basic screening

There are thousands of community groups, sporting groups and trusts that support volunteers to help children. Volunteers fill many valuable community roles (eg sport coaches, club and youth group leaders and administrators, 'parent helpers', drivers and interest groups).

The full safety checking of volunteers may feel like a deterrent for clubs and community groups and it may not always be possible to carry out a full safety check on every worker who has contact with children. For example, full screening may not be feasible for a temporary worker doing a day's work in a crèche or volunteers helping teachers on a school trip. Unfortunately, some people specifically seek out those groups that are desperate for people to help, so it is important to consider what screening can be done to minimise and manage any risk to children. This chapter outlines how to make screening less difficult and describes basic screening.

Organisations are encouraged to take all opportunities to put good safety checking processes in place to keep children safe. The suggested approaches in this chapter complement the mandatory requirements for the regulated core workforce. Regulations under the Vulnerable Children Act 2014 provide legal minimum standards specifically for government-funded paid employees.

It is essential to build a child protection culture across the entire children's workforce, and ensure that volunteers and temporary workers as well as regulated children's workers are part of that safe culture.



People who have only been partially screened should not be put in charge of children or work alone with children.

This section outlines a minimum process that can be followed for:

- ♦ Volunteers working one day a month to guide children around a nature reserve.
- ♦ Drama and music teachers.
- ♦ Cultural club assistants.
- ♦ Sports coaches and club administrators.
- ♦ Parent helpers at schools, clubs, youth groups.
- ♦ School holiday helpers and Sunday School teachers.
- ♦ Temporary workers hired to fill a short shift at a children's event.
- ♦ Parents helping out around the children of others.



This section should be undertaken only in compliance with your organisation's Child Protection Policy. If the policy states that no children will be in the care of a person whose safety cannot be ascertained, then the policy should be adhered to.

Making screening less difficult

While carrying out a full screening process for temporary workers and volunteers may at times seem impractical, there are often ways to reduce the workload borne by one organisation, without compromising child safety. Consider:

- ♦ Pooling resources with other organisations that have similar needs and workforces. Allowing workers to carry the results of a recent successful check between trusted organisations may be a way to increase overall standards cheaply and easily. This will need to be with the agreement of the candidate. It is advisable to seek legal advice before establishing any such information-sharing arrangements.
- ♦ Creating a 'safe list' by screening temporary workers fully, even if they're just helping out for a day. If that worker is used again and has been well vetted once, that screening will stand until a normal rescreening process would be appropriate.

Basic screening

The following can be used in situations where the accepted level of screening is not feasible or is impractical. It is not a full screening process and will not support the safety of children to the same extent. However, it does provide some protection where otherwise there might be none.

Identity verification



Identity verification can be done relatively easily. The identity of casual and temporary workers and volunteers can usually be verified. See Verifying identity on page 35.

On occasions when this is not possible, the following should be considered a minimum:

- ♦ Use a trusted referee to endorse the identity of the candidate (see page 37).
- ♦ Use the interview process with the candidate, even just on the telephone, to assess authenticity.
- ♦ In combination with one of the above, check photographic identification when they arrive for training or work.

Collecting information and assessing risk

External checks may be difficult to obtain for many volunteer, temporary or casual roles, particularly if they are at short notice. This means that risk will need to be assessed by whatever means available.

Candidates could be asked to:

- ♦ Disclose previous criminal convictions. If undisclosed convictions come to light their misleading conduct may be the basis of immediate and future exclusion.
- ♦ Confirm that they feel adequate for, or confident in, the role. This might identify people who require more training or supervision.
- ♦ Provide referees who can attest to their previous work with children, including casual or temporary work, or where they have volunteered before. A person who can't give any examples or details of previous casual or volunteer work will need to be more closely assessed.
- ♦ Attend an interview, even if it is just on the telephone or by a senior staff member when they arrive, to assess suitability. The interview that includes some questions about their background and motivations can provide a sense of their suitability. Candidates who refuse to answer, become offended or react with hostility, may not be best-placed to work with children, even on a casual or temporary basis.
- ♦ Participate in a training exercise that will assist the evaluation of candidates. This should be based on child safeguarding, and appropriate behaviour around children.

Managing risk

When there is not the time or resources to check all volunteers, it is recommended that they are not given a job that involves children. At the very least always ensure that there is another screened and trusted adult with the volunteer whenever they are around children.

Even with the most thorough screening, risk can never be completely eliminated. If your organisation cannot be confident that children will be safe with the person being considered, risk management strategies should be put in place and formalised before that person starts work. These strategies should be consistent with your organisation's child protection policy.



With positive strategies and processes in place, the situation can be managed effectively and proactively and will create a culture of child protection that includes:

- ♦ Volunteers being expected to attend training on appropriate conduct around children and be introduced to the policies for child protection and safe practice.
- ♦ The person being supervised at all times by staff or volunteers who have been fully vetted and screened. Good supervision can significantly reduce risk by limiting opportunities for inappropriate conduct.
- ♦ Having robust complaint processes and systems for dealing with concerns, accusations or disclosures within your organisation.
- ♦ Developing policies and best practice guidelines that handle common situations that may put children at risk. For example, providing clear rules for supervising children when there are contractors on site.

Your notes

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9



The ongoing relationship

Page 57 Evaluating the screening process

Page 57 Regular rescreening

Maintaining the safety and integrity of the children's workforce does not end with the recruitment process. It requires an ongoing commitment to child safety.

This section briefly outlines recommendations for managing the ongoing vetting and screening expectations of staff after they have been appointed.

Continuous safety checking should be part of your organisation's overall human resources and child protection policies.

Evaluating the screening process

Screening processes should be monitored regularly to ensure they are effective at preventing the employment of unsuitable candidates, are compliant with the regulatory requirements of the sector and are understood, accepted and perceived as fair by staff.

Regular rescreening

It is recommended that at least every three years a check is made for all relevant staff with:

- ♦ The Police Vetting Service or the Ministry of Justice for a Criminal Conviction History Check (as appropriate). This will capture any convictions staff have received since being employed that you are unaware of.
- ♦ The registering or certificating body of registered professionals to check whether there have been any disciplinary matters or other issues with the employee's continuing registration.

Some organisations will use more regular rescreening. Your organisation, after assessing its needs and adhering to the legislation, should set out in a formal policy how often rescreening will occur. This should be included in your child protection policy.

You should investigate fully any issues that arise during this process, while ensuring that the person is treated fairly and in good faith. Where investigations are pending or ongoing you should seek legal advice on the best way to handle them. Employees should be made aware of the requirement for ongoing screening as part of their employment conditions.

58

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10



Appendices

- Page 61 Relevant acts
- Page 66 Reference tables
- Page 67 Further reading

Below is some information about your legal obligations. It is not intended to constitute formal legal advice. If you have any specific questions or issues, please seek the advice of a lawyer. A number of Community Law Centres can provide advice to non-government organisations (NGOs) and community organisations as employers.

Relevant acts

The Human Rights Act 1993

Sections 21 and 22 of the Human Rights Act make it illegal for employers of paid and voluntary workers to discriminate against someone, except in specified limited circumstances, because of:

- ♦ Sex, (including pregnancy and childbirth), sexuality and sexual orientation.
- ♦ Age.
- ♦ Marital and family status.
- ♦ Religious, ethical or political beliefs.
- ♦ Colour, race, nationality or ethnicity.
- ♦ Disability.
- ♦ Employment status.

Section 23 of the Human Rights Act forbids the use of an application form “which indicates, or could be reasonably understood as indicating, an intention” to use the information to discriminate against the candidate on the grounds specified under the Act.

Make it clear that all questions are asked solely to assess the person’s suitability for the role. For example, if the job requires a person to be away from home for long periods, simply ask whether the person can fulfil this aspect of the role. Do not ask about family life and whether there would be a family reason that might make this difficult.

Occasionally, issues such as age, political belief or religious belief might be requirements for the role, but unless there is an absolute requirement to do so, and to avoid a perception of discrimination, it is best not to ask questions about any of these things, either directly or indirectly.



For further information see: *Getting a job: An A to Z for employers and employees Pre-employment Guidelines*. Human Rights Commission: www.hrc.co.nz

The Employment Relations Act 2000

The Employment Relations Act places an obligation on employers to act in good faith when dealing with their employees. An employer is legally obliged to treat anyone employed, including workers who have been employed but have yet to start work, in a procedurally fair way and in good faith. While not a requirement under the Act, we also recommend that candidates and volunteers also be treated in good faith as a matter of best practice. To act in good faith, it is important that:

- ♦ The same processes and standards are applied consistently to everyone in the organisation.
- ♦ The employer is open, communicative and honest about processes and practices, so that staff, volunteers, candidates, clients and other stakeholders all know what to expect.
- ♦ Nothing is done directly or indirectly that might mislead or deceive employees, candidates or volunteers.
- ♦ All concerns and complaints are listened to and dealt with according to the employer's written processes.
- ♦ Accurate records are always maintained. Where a proposal is made that has an adverse effect on an employee, that person is provided with access to relevant information and given the opportunity to comment.

While not a requirement under the Act, it is strongly recommended that potential employees are given the opportunity to defend themselves if allegations are raised against them or if prejudicial information about them becomes known.



For further information see: www.dol.govt.nz/er/

Information management and the Privacy Act 1993

Vetting and screening often requires collecting sensitive personal information from and about candidates. It is therefore very important to follow the legal obligations and to have appropriate processes in place around the collection, use and sharing of this information.

Collecting information

Under the Privacy Act, employers are obliged to collect only information that is relevant and necessary to fulfil the screening process.

The challenge is to be comfortable that the candidate is not a risk to children and at the same time, ensure that candidates do not feel that the questions are intrusive, irrelevant or discriminatory.

It must be made clear that the questions being asked are solely to build an understanding of the candidate's suitability. Finding out about a person's attitudes, and personality are important factors in developing this understanding.

The Act also emphasises openness and transparency about information collection and handling. Candidates should be informed about:

- ♦ Why they are being asked for particular information. This is important for managing candidate expectations and in deterring potential abusers.
- ♦ Who will be able to see their information. Generally, this will be limited to staff involved in recruitment. Information should generally not be shared without the consent of the candidate, unless a child's safety is threatened.
- ♦ Whether answering particular questions is compulsory or optional. Typically, disclosure will be compulsory. To encourage open disclosure you should emphasise, where appropriate, that disclosures will not automatically exclude a candidate.
- ♦ The candidate's right to access and correct information that is held about them. Generally, candidates have a right to access information held about them that wasn't provided in confidence. This applies to notes taken during interviews, which may have to be recreated from memory if destroyed. For this reason, it is recommended that employers keep information about unsuccessful candidates on file for a reasonable time after the process concludes.
- ♦ Who has been spoken to or who is intended to be spoken to, to assess the person's suitability for the role.



A person who is unwilling to give information, is unlikely to be the right person for the role.

Sharing information

Principle 11 of the Privacy Act clearly provides for the release of information when “the disclosure is authorised by the individual concerned”. This means that with the candidate’s authorisation, there is no legal barrier to prevent another person providing the information sought. People who are uncertain about their responsibilities tend to use the Privacy Act as an excuse not to pass on information. Referees should not use the excuse that “information cannot be disclosed because of the Privacy Act”.

Candidates can authorise prospective employers to make enquiries of such people the employer considers necessary to assess the candidate’s suitability. Referees should feel entitled to answer questions about the character, or performance, of previous employees who have consented to disclosure of this information.

Information given in confidence

While candidates have a general right to access information held about them, some information may be given to the employer in confidence. Referees may want to disclose particularly sensitive information in confidence. It is important always to confirm with the person being questioned whether or not the information they are providing is being given in confidence. Information explicitly obtained in confidence to evaluate an individual’s suitability for an employment role may be withheld from a response to an access request by that individual under section 29(1)(b) of the Privacy Act. However, information can sometimes be anonymised or summarised, allowing the candidate to respond to the content without jeopardising the anonymity of the referee.

Handling and storing information

Information needs to be appropriately stored. Typically, screening information will be kept on a candidate’s personnel file. Files should be stored in a secure location with access only available for appropriate staff. The information can be retained for as long as it is required for a lawful purpose but once it is no longer needed, should either be destroyed or returned to the candidate (as appropriate). It is good practice to let the candidate know what is happening to their information.



For questions and concerns about the operation of the Act: contact the Office of the Privacy Commissioner on: **0800 803 909**.



For further information about the operation of the Privacy Act see: *Privacy at Work* at: www.privacy.org.nz

The Vulnerable Children Act 2014

The Vulnerable Children Act introduces new requirements for the vetting and screening of paid staff in the government-funded children's workforce.

The new requirements include:

- ♦ A standard safety check.
- ♦ A workforce restriction that prevents people with certain serious convictions from working in some roles. This will be subject to an exemptions process.

The requirements do not come into force immediately and will be phased in over a number of years. Future announcements will explain the process of implementation in more detail. In the meantime, agencies will be working together, in consultation with sector representatives, to determine what the content of the standard safety check should be and to implement the workforce restriction exemptions process.



For additional information about these changes, as well as the Children's Action Plan see: www.childrensactionplan.govt.nz

Reference tables

A	B	Photo	Document	Issuing agency	Name
✓		✓	Passport (either NZ or other with visa/permit)	If NZ, Department of Internal Affairs (Identity Services)	
✓		✓	New Zealand Emergency Travel Document	Department of Internal Affairs (Identity Services)	
✓		✓	New Zealand Refugee Travel Document	Department of Internal Affairs (Identity Services)	
✓		✓	New Zealand Certificate of Identity	Department of Internal Affairs (Identity Services) or Department of Labour (Immigration)	
✓		✓	New Zealand Firearms or Dealer's Licences	New Zealand Police	
✓			New Zealand Birth Certificate	Department of Internal Affairs (Identity Services)	✓
✓			New Zealand Citizenship Certificate	Department of Internal Affairs (Identity Services)	
	✓	✓	New Zealand Driver Licence	Land Transport New Zealand	
	✓	✓	18+ Card	Hospitality Association of New Zealand	
	✓		Community Services Card	Ministry of Social Development (MSD)	
	✓		Electoral roll record	Enrolment Centre of New Zealand Post	
	✓		IR Number	Inland Revenue	
	✓		SuperGold Card/ Veteran SuperGold Card	Ministry of Social Development	
			New Zealand Marriage Certificate	Department of Internal Affairs (Identity Services)	✓
			New Zealand Civil Union Certificate	Department of Internal Affairs (Identity Services)	✓
			Record of Name Change by Statutory Declaration	Department of Internal Affairs (Identity Services)	✓
			New Zealand Name Change Certificate	Department of Internal Affairs (Identity Services)	✓
			New Zealand Divorce Papers	Ministry of Justice	✓
			Certificate of Annulment	Ministry of Justice	✓

Common identity verification documentation

Sector	Role	Current requirements
Education	Teachers/principals	Education Act 1989
	Non-teaching staff in schools	Education Act 1989
	Contractors working in schools	Education Act 1989
	Teachers in licensed early childhood education centres	Education Act 1989
	Non-teaching staff in licensed early childhood education centres	Education Act 1989
	Contractors working in licensed early childhood education centres	Education Act 1989
	Limited childcare centres	Health and Safety in Employment Act 1992
	Music teachers	Music Teachers Act 1981
	Persons living where home-based education and care is undertaken	Education Act 1989
Welfare	Registered social workers	Social Workers Registration Act 2003
	Out of School Care and Recreation (OSCAR) providers	Social Security (Childcare Assistance) Regulations 2004
	MSD-approved providers	Children, Young Persons, and their Families Act 1989
Health	Regulated Health practitioners	Health Practitioners Competence Assurance Act 2003

Further reading

Erooga, M. (2009). *Towards safer organisations: Adults who pose a risk to children in the workplace and implications for recruitment and selection* London: NSPCC.

Erooga, M., Allnock, D., and Telford, P. (2012). *Towards safer organisations II: Using the perspectives of convicted sex offenders to inform organisational safeguarding of children* London: NSPCC.

Smith, M., Aitken J. (2012). *Ministerial Inquiry Into the Employment of a Convicted Sex Offender in the Education Sector*

US Department of Health and Human Services (2007). **Preventing Child Sexual Abuse Within Youth-serving Organizations: Getting Started on Policies and Procedures.**

68

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