



## **STATE AND TERRITORY COMPARISON TO OBTAINING WORKING WITH CHILDREN CHECKS**

Volunteering Strategy for South Australia, Project Team Three has compiled a table giving a national snapshot of the level of checking used by states and territories to process Working with Children Checks (WWCCs).

The comparison table is the result of the increased national focus towards a consistent approach to WWCCs and shows the different, as well as the common sources of information each state and territory draws upon in determining whether to approve a WWCC.

While WWCCs are undertaken in some form in all states and territories in Australia, each of the eight states and territories has established its own independent process for issuing WWCCs. However, each one has two common base elements: Australian Criminal Intelligence Commission (ACIC) (formerly CrimTrac) National Criminal History Check (NCHRC), and the expanded criminal history check through the National Exchange of Criminal History Exchange - Levels 1 and 2 from comparison table.

South Australia does not have a process named the WWCC. Currently, in South Australia a Relevant History Assessment can be undertaken pursuant to the *Children's Protection Act 1993* by an organisation assessing criminal history, or a DCSI Screening Unit Child-Related Employment assessment may be undertaken which assesses criminal history, child protection and care concern information. The Child Protection Systems Royal Commission 2016 (SA) has recommended the removal of the two-tiered system and that it is replaced with only one system for WWCC in South Australia. This has been implemented by the recently passed *Child Safety (Prohibited Persons) Act 2016 (SA)*. This Act is yet to commence.

The application fees for a DCSI Child-Related Employment screening for volunteers are highest in South Australia. Although it is a reduced rate for volunteers at \$57.20, compared to \$103.40 for an employee, this rate is well above the next highest, Tasmania at \$18.36. Four states do not levy any fee for volunteers obtaining WWCCs. It is noted however, that South Australia is the only jurisdiction to offer up to 5 different screening types for the one fee (this equates to \$11.44 for each screening).

Many volunteer organisations in South Australia currently obtain a national police check at a reduced rate of \$39.25 or at no cost if they are a VOAN organisation (Volunteer Organisation Authorisation Number), and then undertake a Relevant History Assessment of the criminal history under the *Children's Protection Act 1993*. This does not include an assessment of Exchange of Criminal History Information for People Working with Children (ECHIPWC) information, child protection or care concern information.

Under the inter-jurisdictional agreement for the ECHIPWC, only an authorised screening or WWCC Units in each jurisdiction can access this information.



Each state and territory also consider other local jurisdictional (state based) records that may prohibit a person from working with children e.g. notifications of concern from the Ombudsman (NSW), disciplinary information from professional organisations (QLD), Department of Corrective Services (WA) Child Protection Reports (SA)(Level 3 from the comparison table). This results in differences in the relevant history considered for a WWCC in each jurisdiction.

Ongoing monitoring of a person's criminal history has been introduced by the majority of states and territories. The South Australian Government has approved and funded the development and implementation of the continuous monitoring of South Australian criminal history, child protection information and care concern information commencing in July 2017. In all jurisdictions, continuous monitoring process only monitors those who hold WWCC criminal history within their state. This means that any changes in a person's criminal history in other states are not necessarily detected under the next full WWCC is undertaken.

### **Future points for discussion**

- Other forms of issuing a WWCC in South Australia rather than a letter as currently done?
- Reviewing South Australia's 'fee for volunteers' to obtain DCSI Screening Unit Child-Related Employment clearances and National Police Certificates.

The comparison table was developed in consultation with all state and territory departments responsible for conducting WWCCs and follows the release of a [discussion paper on the transferability of WWCC](#); a [fact sheet](#) in response to legislative changes to the South Australia *Disability Services Act 1993*; and more recently, a [flow chart](#) to assist organisations to approach the task of determining whether volunteers are required to undergo a national police certificate or a Relevant History Assessment or DCSI Screening Unit Child-Related Employment Screening under relevant legislation(resources abovementioned are outcomes of the *Volunteering Strategy for South Australia 2014-2020*).



## State and territory comparison to obtaining Working with Children Checks

State	Type of check	Authorised Screening Agency	Type of check conducted	Inter-jurisdictional information obtained (information exchanged under the National Exchange of Criminal History Information for People Working with Children [ECHIPWC])	Extra inter-jurisdictional information available upon request	Other relevant jurisdictional information that <u>may</u> be considered (and may also be obtained from similar authorities in other jurisdictions)	Risk Assessment conducted	Fee for volunteers	Continuous monitoring	Duration	Portability
			<b>(Level 1)</b>	<b>(Level 2)</b>		<b>(Level 3)</b>					
ACT	Working with Vulnerable People (children and disadvantaged adults)	Access Canberra, Chief Minister, Treasury and Economic Development Directorate (formerly Office of Regulated Services, Justice and Community Safety Directorate)	National Criminal History Record Check (NCHRC) via Australian Criminal Intelligence Commission (ACIC) (formerly CrimTrac)	Expanded criminal history information	Case by case and dependent upon availability of information.	<ul style="list-style-type: none"> <li>- Apprehended violence orders</li> <li>- Care and protection orders</li> <li>- Professional disciplinary proceedings against the person.</li> <li>- AHPRA</li> <li>- Child Education and Care</li> <li>- Legislation permits the Commissioner to seek any further relevant information for a person / entity</li> </ul>	Risk assessed based on criminal and other non-conviction information. Relevant offences are outlined in the 'Risk Assessment Guidelines'.	<b>Fee free</b> (if the volunteer also works in a regulated activity they are required to pay \$79 fee)  <a href="#">Click here for current fees.</a>	Ad-hoc monitoring via compliance team. Registered person is required to self-disclose all new offences.	3 years	Usually portable across regulated activities and employers for employees, but some may be role-based or subject to certain conditions
NSW	Working with Children Check	Office of the Children's Guardian	NCHRC via ACIC and check of workplace records	Expanded criminal history information	Circumstances information where authorised by ECHIPWC or legislation	<ul style="list-style-type: none"> <li>- Findings by prescribed reporting bodies of sexual misconduct or serious physical assault against children (not available from similar authorities in other jurisdictions)</li> <li>- Notifications of concern from the NSW Ombudsman identified through the reportable conduct scheme (not available from similar authorities in other jurisdictions)</li> <li>- Information from any other relevant source, including government and non-government agencies, courts and the Director of Public</li> </ul>	Risk assessed based on risk to the safety of children.	<b>Fee free</b>	Criminal history and workplace record information from NSW	5 years	WWCCs are portable across roles and employers.  Clause 20 of the Regulations allow certain persons to be exempt from requiring a WWCC for particular periods of time (5 days, 30 days).



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						Prosecutions (not available from similar authorities in other jurisdictions unless authorised by ECHIPWC or legislative authority). - Chapter 16A information provided by designated agencies (not available from similar authorities in other jurisdictions)					
NT	Working with Children Clearance Notice  (also known as an Ochre Card)	Screening Assessment for Employment – Northern Territory, Northern Territory Police	NCHRC via ACIC	Expanded criminal history information	Circumstances information	- Employment and/or disciplinary proceedings - Experience working with children - Child protection records - Domestic violence records - History of drug or alcohol abuse and any relevant treatment undertaken - Mental health history information that has resulted in criminal charges being discontinued - Any identifiable attempts to change behaviours or underlying triggers.	Risk assessed on whole criminal record including violent and sexual matters not just limited to offences against children.	<b>\$5</b>  <a href="#">Click here for current fees.</a>	Criminal history from the Northern Territory	2 years	WWCCs are portable across roles and employers
QLD	Working with Children Check  (also known as a 'Blue card check')	Blue Care Services, Public Safety Business Agency  Note – from 1 July 2016, operation of the blue card	NCHRC via ACIC  In Queensland, criminal history check requests are sent to the Queensland Police Service	Expanded criminal history information	Circumstances information	- Child protection prohibition orders - Whether the person is subject to reporting obligations under various sex offender laws - Disqualification orders - Disciplinary information from professional organisations associated with teachers,	Risk assessment considers: known police or disciplinary information investigative information from Queensland Police Service complaint	<b>Fee free</b> (if the volunteer is moving into regulated paid employment they are required to pay \$84.25)  <a href="#">Click here for</a>	Criminal history from Queensland only is monitored on a daily basis through an interface between Blue Card Services	3 years	WWCCs are portable across roles and employers for employees  (both paid and volunteer)



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			(Level 1)	(Level 2)		(Level 3)					
		system will be administered by the Department of Justice and Attorney-General.	who then request this information from ACIC. Queensland do not directly engage with ACIC.  Queensland WWCC considers charges and convictions (including spent convictions and convictions not recorded)			<ul style="list-style-type: none"> <li>childcare services providers, foster carers and certain health practitioners</li> <li>- Information that the Police Commissioner may provide in relation to police investigations into allegations of serious child-related sexual</li> <li>- Information from any other relevant source, including mental health information relevant to a conviction or charge.</li> </ul>	information; relevant information obtained during assessment e.g. police briefs, child protection information, mental health information, court records etc.; Information provided by the applicant in support of their application e.g. supporting statement, referees etc.	<a href="#">current fees.</a>	and the Queensland Police Service.		however, employers and employees must notify Blue Card Services if they commence regulated child-related work with a new organisation. This is done by completing and lodging an <u>Authorisation to confirm a valid card/application form.</u>  If a person has a volunteer WWCC and moves to paid regulated child-related employment, they must transfer their



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											volunteer card to a paid card. This is done by completing a <i>Volunteer to Paid transfer form</i> and providing payment.
SA	Child-related employment screening  (Note Child Safety (Prohibited Persons) Act 2016 introduces WWCC in SA once it commences.  <b>OR</b>	Screening Unit, Department for Communities and Social Inclusion (DCSI)	NCHRC conducted via ACIC	Expanded criminal history information	Circumstances information	In South Australia this information is considered for every Relevant History Assessment - Care Concern database (DCSI and Department for Education and Child Development [DECD]) information regarding any allegations of children in care - Child protection information (DCSI and DECD)	Relevant history assessment of criminal, child protection and care concern information conducted before engaging people to work with children in a 'prescribed position'	<b>\$57.20</b> (GST inclusive)  <a href="#">Click here for current fees.</a>	Continuous monitoring will be introduced in 2017	3 years	Clearance letter – portable across organisations within SA



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	Relevant History Assessment under the Children's Protection Act	South Australia Police issue National Police Certificate	NCHRC conducted via ACIC  (criminal history information which can only be disclosed)	N/A	N/A	N/A	Onus on employer to conduct criminal history assessment before engaging people to work with children in a 'prescribed position'	<b>\$39.25</b> for non-VOAN organisations  <b>Fee free</b> for VOAN organisations  <a href="#">Click here for current fees.</a>	No ongoing monitoring	Point in time check	Not portable. The relevant History Assessment is role/organisation specific.
TAS	Working with Vulnerable People  (modelled on ACT and NSW scheme)	Working with Vulnerable People Registration, Department of Justice	NCHRC via ACIC	Expanded criminal history information	- Circumstances information; - Charge information	- Apprehended violence orders - Care and protection orders - Findings by prescribed entities that an applicant has engaged in sexual misconduct with or the serious physical assault of a child - Any other disciplinary action taken against the person for workplace misconduct. - Child protection investigation findings	Risk assessed based on risk of harm to children and will be expanded to include risk of harm to vulnerable adults in 2017.	<b>\$18.36</b>  <a href="#">Click here for current fees.</a>	- Criminal history from Tasmania - Child Protection investigation findings - Future expansion possibilities: Teacher Registration Board investigations findings and Child Care Regulator investigation findings	3 years but may be extended to 5 years	Usually portable across roles and employers for employees, but some may be role-based or subject to certain conditions.  Volunteer registration is portable across volunteer bodies.  Volunteer registration can be changed to Employment/Volunteer



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											registration which is fully portable across both employment and volunteer settings
VIC	Working with Children Check	Working with Children Unit, Department of Justice and Regulation	Initial NCHRC via ACIC and on renewal after 5 years. Weekly monitoring of state-based offences by Victoria Police.  (excludes certain non-conviction information)	Expanded criminal history information	Circumstances information	<ul style="list-style-type: none"> <li>- Disciplinary findings by the Victorian Institute of Teaching and Out-of-Home Care Suitability Panel</li> <li>- Determinations by the Victorian Civil and Administrative Tribunal relating to certain health professionals.</li> <li>- Information from government agencies, such as Corrections Victoria or Child Protection records from the Department of Health and Human Services can be requested for purposes of conducting an assessment.</li> </ul>	Statutory risk assessment based on a number of factors to ensure applicant does not pose an unjustifiable risk to the safety of children. Factors include - the nature and gravity of the conduct and its relevance to child-related work; period of time since offending; and likelihood of future threat to a child. (e.g. see s13 of <i>Working with Children Act 2005</i> (Vic))	<b>Fee free</b>	Criminal history and certain disciplinary information from Victoria	5 years	WWCCs are portable across roles and employers, but volunteer WWCCs are not transferrable to paid child-related work.
WA	Working with Children Check	Working with Children Screening Unit, Department for Child Protection and	NCHRC via ACIC	Expanded criminal history information	Circumstances information	<ul style="list-style-type: none"> <li>- WA Police</li> <li>- the Director of Public Prosecutions</li> <li>- the Department of Corrective Services</li> <li>- the Department of the Attorney General</li> </ul>	Risk assessed based on all relevant information, not just criminal history information that is relevant to whether a child may	<b>\$11</b>  <a href="#">Click here for current fees.</a>	Criminal history from Western Australia.  There are also reporting responsibilities	3 years	WWCC cards are portable across roles and employers





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		Family Support				<ul style="list-style-type: none"> <li>- the courts</li> <li>- Child protection information</li> <li>- Any other information considered relevant to risk in child related work.</li> </ul>	be exposed to an unacceptable risk of harm.		for employers and WWC Card holders when there is a relevant change in criminal history.		



### **What is the Australian Crime Intelligence Commission (formerly CrimTrac)?**

The Australian Crime Intelligence Commission (ACIC) is an Executive Agency of the Australian Government within the Attorney General's portfolio. It was established in 2000 through an Inter-Governmental Agreement. ACIC's purpose is to provide national law enforcement information systems for all Australian Police Jurisdictions.

ACIC partners with police agencies to provide the National Police Checking Service (NPCS). The service enables controlled access to disclosable police history information from all Australian police agencies. ACIC's National Criminal History Record Checking (NCHRC) program provides accredited agencies and police services with national criminal history information to support their processes of assessing people's suitability for employment or appointment to positions of trust.

There is no ongoing funding for ACIC from the Commonwealth budget and it therefore relies on user pay funding from police jurisdictions and agencies.

### **Authorised screening agency**

An organisation approved by the ACIC and the Australian Police Forces to access National Criminal History Record Check (NCHRC) services through the ACIC in accordance with the Accreditation procedures to Access NCHRC Services.

They manage criminal history applications and reports in accordance with the security and confidentiality requirements of their contract with the ACIC.

### **National Criminal History Record Check (NCHRC)**

A national criminal history check is one step in employment screening of individuals working with vulnerable individuals or groups and high risk positions or positions of trust.

Applicants names are checked against the National Names Index (NNI) and the relevant police jurisdictions will release information about any relevant criminal convictions. Release of this information is subject to relevant spent convictions legislation, non-disclosure and/or information release policies. Legislation and policy varies from State to State.

### **National Exchange of Criminal history information for people working with children**

In 2013, the National Exchange of Criminal History Information for People Working with Children (ECHIWC) was established. It provides for the exchange of **expanded criminal history information** across jurisdictions, to include spent convictions, non-conviction charges, pending charges, acquittals and information about the circumstances of an offence or a charge. This information can only be accessed by screening agencies for the purposes of Working With Children Checks.

### **Expanded criminal history information:**

Exchange of criminal history information held by inter-jurisdictional police services:

- Spent convictions;
- Pending charges; and
- Except for Victoria, non-conviction charges, including acquittals and withdrawn charges

This information can only be accessed by screening agencies for the purposes of the WWCC.

**NOTE:** Victoria and non-conviction charges: Parties acknowledge that Victoria will not exchange non-conviction charges or information relating to Victorian non-conviction charges under the Exchange.

### **Circumstances information**

If available, further information held by inter-jurisdictional police services- typically in prosecution briefs or statements of material facts- about the circumstances of an offence or alleged offence that might not be clear from the bare record of the offence or alleged offence, such as:

- When the offence was committed or was alleged to have been committed;
- The age of the offender or alleged offender;
- The age of the victim of the offence or alleged offence;



- Whether the offence or alleged offence involved, might have involved or was intended to involve a child or children;
- The relationship, if any, between the offender or alleged offender and any child involved in the offence or alleged offence;
- The circumstances and nature of the behaviours constituting or involved with the offence or alleged offence; and
- Other factors relevant to a decision about whether a person poses a risk of harm to children.

### **Expanded Offender History Information Release Practices**

SAPOL is compelled by the South Australian Spent Convictions Act 2009 when determining what to release on a National Police Certificate. Under the Act, it is an offence to release information regarding the convictions of a person if those convictions are deemed to be 'spent' under the Act.

However, in South Australia the following organisations are authorised / legislated to receive all convictions and no-convictions:

- Authorised Screening Units under the National Exchange of Criminal History Information for Persons Working with Children Intergovernmental Agreement.
- The Australian Health Practitioners Regulation Agency for the screening of health practitioners under the Health Practitioner Regulation National Law (South Australia) Act 2010.
- SA Teachers Registration Board for the screening of teachers under the Teachers Registration and Standards Act 2004.
- Department for Communities and Social Inclusion for screening of persons applying to work with / care for children and vulnerable groups under the Information Privacy Principles Instruction (1992) for the protection of the government as an employer.

### **Criminal History Assessment**

An assessment of certain information relating to a person in order to determine whether a person presents a risk to the people receiving a service (such as children or people with disabilities). A criminal history assessment may be conducted through DCSI Screening Unit or by the employer organisation itself.

### **VOAN (Volunteer Organisation Authorisation Number)**

A number supplied by the South Australian Police. The VOAN allows eligible non-profit / volunteer sector organisations to receive police checks free of cost for eligible volunteers.

### **Prescribed position (South Australia)**

Defined under the [Children's Protection Act 1993 \(SA\)](#) as a position in which a person is engaged in one or more of the following prescribed functions:

- regular contact with children or working in close proximity to children on a regular basis, unless the contact or work is directly supervised at all times; or
- supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis; or
- access to records of a kind prescribed by regulation relating to children; or
- functions of a type prescribed by [regulation](#) (see Regulation 10).

\*Note the passing of the Child Safety (Prohibited Persons) Act 2016 SA.