



# Child Safe Standards, Reportable Conduct Scheme and the Working with Children Check

Private Hospitals and Day Procedure Centres - October 2017



## Child Safe Standards

### What are the Child Safe Standards?

In January 2016, Child Safe Standards (Standards) were introduced by the Victorian Government in response to the Victorian Parliament's Betrayal of Trust Inquiry.

The Standards aim to drive cultural change so that protecting children from abuse is embedded in the everyday thinking and practice of our leaders, staff and volunteers. This will assist organisations to:

- build a culture of child safety and make child safety everyone's business
- apply a child safety lens to existing and new policies and practice
- set clear expectations for staff and volunteers in relation to child safety
- recruit, screen and supervise child-safe staff and volunteers
- enable staff and volunteers to feel empowered to act in the best interests of children when they have safety concerns
- prevent child abuse, encourage reporting and improve responses to any suspected or alleged child abuse
- identify and mitigate risks to child safety
- gain valuable information about how children experience the services provided by the organisation.

### How are the Standards relevant to private hospitals and day procedure centres?

Under the *Child Wellbeing and Safety Act 2005* (the Act), the Standards are compulsory for all Victorian organisations that provide services or facilities for children. This includes organisations that provide services to both adults and children. For example, a hospital that provides services to children, as well as adults, will need to comply with the Standards.

### How do we comply with the Child Safe Standards?

Under the Standards, organisations are required to place a child safety lens to their existing policies, procedures and practice to strengthen their approach to child safety.

The Standards include:

1. Embedding a culture of child safety through effective leadership.
2. Making a commitment to child safety with a policy or statement.
3. Having a clear code of conduct that establishes appropriate behaviour with children.
4. Screening, supervision and training for staff, to reduce the risk of child abuse.
5. Clear processes for responding to and reporting suspected child abuse.
6. Identifying child abuse risks and ways to reduce them.
7. Empowering children to share their feedback and experiences about feeling safe.

In applying each Standard, organisations must reflect and embed the following three key principles in their approach:

- promoting the cultural safety of Aboriginal children
- promoting the cultural safety of children from culturally and linguistically diverse backgrounds
- promoting the safety of children with a disability.

The principles recognise the challenges children from these cohorts may encounter in reporting incidents of abuse, and the importance of culturally safe and inclusive environments.

More information on complying with the Standards can be found on the website of the [Department of Health and Human Services](#).

## Do we need to comply with Child Safe Standards and Working with Children's Check?

Yes. The Standards do not alter any obligation to hold a Working with Children Check. Rather, the Standards require organisations to have in place appropriate recruitment, screening and supervision policy and procedures to reduce the risk of child abuse by new and existing personnel, both employees and volunteers (Standard 4). This may include the Working with Children Check in accordance with legislative and organisational policy requirements.

## Where can we find more information about the Standards?

Further information about the Standards can be found at:

<http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards-resources>

You can also contact the Department of Health and Human Services enquiry line on [childsafeargs@dhhs.vic.gov.au](mailto:childsafeargs@dhhs.vic.gov.au) or 9096 6160.

**Call the police on 000 if you have immediate concerns for a child's safety.** [Information about child protection services](#) can be found on the department's website.

## Reportable Conduct

### What is the Reportable Conduct Scheme?

The Reportable Conduct Scheme (the Scheme) requires centralised reporting to the Commission for Children and Young People by relevant organisations of allegations of child abuse and misconduct towards children made against their workers or volunteers.

Under the Reportable Conduct Scheme, reportable conduct includes allegations against workers or volunteers of child abuse and misconduct involving children. For example, reportable conduct includes sexual misconduct or offences, grooming, 'sexting', inappropriate physical contact with a child or other conduct that crosses professional boundaries concerning children.

Any allegations of [criminal conduct](#) must be reported to Victoria Police as the first priority.

'Reportable conduct' is defined in the *Child Wellbeing and Safety Act 2005* to include:

- (a) a sexual offence committed against, with or in the presence of, a child;
- (b) sexual misconduct, committed against, with or in the presence of, a child; or
- (c) physical violence committed against, with or in the presence of, a child; or
- (d) any behaviour that causes significant emotional or psychological harm to a child; or,
- (e) significant neglect of a child.

## Does the Scheme apply to us and when will it come into effect?

Mental health facilities with overnight beds were required to comply with the Reportable Conduct Scheme as of 1 July 2017. All other private hospitals will be required to comply by 1 January 2018.

Day procedure centres are not subject to the requirements of the Reportable Conduct Scheme at this time.

## What does an organisation need to do?

The Reportable Conduct Scheme requires allegations of suspected criminal conduct to be reported to Victoria Police as the first priority and maintains the primacy of an investigation by Victoria Police of any allegations of criminal misconduct. In all circumstances, allegations of [criminal conduct](#) must be reported to Victoria Police as the first priority.

The Scheme requires in scope organisations to have in place processes for reporting allegations against workers, contractors and volunteers of child abuse and misconduct towards children. These processes must ensure that the head of the entity, such as the Chief Executive Officer, in the organisation is made aware of the allegation and that there are procedures for appropriately responding to the allegation.

Notifications of reportable conduct must be made to the Commission for Children and Young People. This does not replace any existing requirement for organisations to report client incidents or professional misconduct to a relevant government department or statutory body.

The head of an organisation needs to ensure either appropriate investigation of the allegation by the organisation, in accordance with existing employee misconduct processes or permit an investigation by an existing regulator, for example the Australian Health Practitioner Regulation Agency.

Many organisations may already have arrangements in place to ensure that incidents are reported to the appropriate authorities. An organisation may be able to meet the requirements of the scheme by updating existing reporting arrangements to ensure that allegations of reportable conduct are appropriately reported and responded to. To the extent possible, the scheme leverages existing reporting, investigation and response processes in an organisation.

Any employment action taken by an organisation against a worker or volunteer will need to be in accordance with existing employment laws, relevant legislation, industrial agreements and employment contracts.

## Where can we find more information about the Reportable Conduct Scheme?

Information is currently available on the websites of the Department of Health and Human Services and the Commission for Children and Young People:

- <http://www.cryp.vic.gov.au/reportableconduct/index.htm>
- <http://providers.dhhs.vic.gov.au/reportable-conduct-scheme>

You can also contact the department's inquiry line on [childsafegorgs@dhhs.vic.gov.au](mailto:childsafegorgs@dhhs.vic.gov.au) or 9096 6160. Allegations of reportable conduct cannot be notified via this email and should be notified directly to the Commission, using their [online form](#).

## Working with Children Check

### Why is a Working with Children Check needed?

The Working with Children Check (Check) helps protect children from physical and sexual harm. It does this by screening people's criminal records and professional conduct, and by preventing those who pose an unjustifiable risk to children from working with or caring for them.

Passing a Check is a legal requirement for everyone in Victoria doing paid or voluntary **child-related work** who doesn't qualify for an exemption.

Under the *Working with Children Act 2005* (the Act), people need a Check if they meet ALL of the following five conditions for 'child-related work':

- they are an adult who 'works' with children aged under 18 years of age. The term 'work' includes engaging in voluntary work and providing practical training as well as paid employment;
- they are working with children at or for one of the services, places or bodies, or in one of the activities listed in the Act;
- their work usually involves direct contact with children;
- the contact they have with children is not occasional direct contact that is incidental to their work; and
- they are not exempt from having a Check.

Once a Check is obtained, the Department of Justice and Regulation (DJR) monitor the holder's criminal record for the duration of the check, being five years. Victoria Police automatically notifies DJR of relevant charges, offences and findings of guilt, which may result in a reassessment of a person's eligibility to continue to hold a Check. The Check is just a starting point. The Check does not assess a person's suitability to work with or care for children in a particular role.

It is the responsibility of organisations to assess paid and voluntary workers' suitability to work with children and to establish sound, ongoing supervision practices so that children are safe from harm. For more information on being a child-safe organisation go to [www.ccyp.vic.gov.au](http://www.ccyp.vic.gov.au)

## **We aren't a paediatric ward. Why do we need Checks?**

The places and occupations that require a Check are those that involve regular and direct contact with children. Though the facility may not be a paediatric specific ward, if the ward has regular or planned admissions of patients below the age of 18 years, this is considered non incidental contact and all staff including the admissions, theatre, recovery, ward staff cleaning staff and food services would require a Check.

## **The website says only 'unsupervised' care requires a Check - we are never alone with children - why do we require a Check?**

Previously, the element of supervision was used to determine whether a person required a Check. If a person's contact with children was directly supervised by another person, then they were not required to hold a Check.

Amendments have been made to the Act and came into effect on 1 August 2017. These include the removal of references to 'supervision' from the Act to establish that, when determining whether a person requires a Check, the supervision of a person's contact with a child is irrelevant.

From 1 August 2017, a Check is required whether contact with children is supervised or not. This amendment responds to a recommendation made by the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) and recognises that perpetrators of child abuse can often groom children in the presence of other people.

## **Not all staff have direct contact, do we still need them to have a Check?**

Previously under the Act, the term 'direct contact' only referred to physical contact or face-to-face oral communication with a child. In order to reflect the growing use of technology, which is presenting more opportunities for grooming children, the Act has been amended to expand the definition of 'direct contact' to include the following types of contact:

- face-to-face contact
- contact by post or other written communication
- contact by telephone or other oral communication
- contact by email or other electronic communication.

This amendment also responds to a recommendation of the Royal Commission and came into effect on 1 August 2017.

## **We only have one paediatric list a month, so we don't have children most of the time. Do we still need a Check?**

Yes – a Check is still required. This is because having a regular list, even if it is only once a month, is not defined as 'incidental' work with children because it involves regular planned admissions of persons under the age of 18 years.

The Act defines children as anyone under the age of 18 years.

## **What is 'regular' contact with children?**

Regular contact with children can be defined as contact with children that is part of your usual duties i.e. not only occasional direct contact that is incidental to your work. It relates to the care of a child where contact is expected. Theatre lists, admissions and transport of persons under the age of 18 is not considered only occasional direct contact that is incidental to their work and would require any staff in contact with these patients to have a Check.

An example of occasional direct contact that is incidental to the work could be a nurse coming into contact with children who may be visiting an adult patient who has been admitted for care at the facility.

## **What happens if our staff don't have a Check?**

It is an offence to undertake 'child-related work' if you do not hold a valid Check.

Each Check is valid for five years, unless a relevant change in circumstances results in a negative notice being issued before the expiry date. You may apply for a new Check six months before or up to three months after the expiry date printed on your Working with Children Check card.

## **Where can we find more information about the Check?**

Further information about the Check can be found at <http://www.workingwithchildren.vic.gov.au/>.

Please note that the information in this fact sheet has been prepared in the context of the work of private hospitals and day procedure centres and in consultation with the Working with Children Check Unit at the Department of Justice and Regulation.