

# Screening checks (Tas)

## A guide for community organisations in Tasmania

Aug 2023

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# Introduction

# Introduction

## This part:

- ▶ introduces the reasons for conducting some level of screening for volunteers and employees

**It's important that your organisation undertakes screening and induction of employees and volunteers in a thorough and systematic way.**

**Certain background screening checks are required by law (under legislation or contract) and others are optional.**



## Disclaimer

This guide provides general information about background checks in Tasmania. This information is a guide only and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Please refer to [the full disclaimer](#) that applies to this guide.

Even where there is no legislative or contractual requirement that checks be performed, organisations should conduct some level of screening for volunteers and employees. This is because all organisations have a responsibility to maintain a safe environment for their employees, volunteers and clients. Due to this overarching duty of care, organisations should always try to be informed about the individuals they select as their representatives.

Organisations should consider whether the volunteer or employee will:

- have unsupervised access to money or property
- have contact with vulnerable clients or children
- have access to sensitive information, or
- be driving

This may influence the types of checks your organisation requires to minimise risks associated with your volunteers and employees.





### Example

A volunteer is sent to an elderly client's home to assist with general household duties and provide companionship. The volunteer seems trustworthy and the organisation decides not to go ahead with any screening checks, including a Police Check. The volunteer steals from the client. It turns out that she has a string of theft and burglary offences.

To avoid the risk posed to its clients, the organisation should have carried out relevant background checks, including a police check.



### Tip

It may be challenging for some organisations to appropriately screen spontaneous volunteers, especially where organisations are already managing significant workloads due to an emergency or other incident. Your organisation may consider having a database of registered volunteers to call on that have been appropriately screened, inducted and trained.



# Part 1

## Working with Vulnerable People Registration

# Working with Vulnerable People Registration

## This part covers:

- ▶ when Working with Vulnerable People Registration is required by law
- ▶ exemptions from the requirement to register
- ▶ an organisation's Vulnerable People Registration obligations
- ▶ applying for a Vulnerable People Registration

**Whenever your not-for-profit organisation is recruiting new team members or assigning new responsibilities, it's important to conduct appropriate screening procedures.**

Under the Registration to Work with Vulnerable People Act 2013 (Tas) (**RWVP Act**) a Working with Vulnerable People (**WWVP**) registration must be undertaken by a person working with vulnerable people.

Failure to comply with these requirements can result in serious penalties for both the organisation and the employee or volunteer who has failed to undertake the registration.

The WWVP registration is a unique type of check, distinguished from Police Checks by the different registers it checks, and its ongoing nature.



### Note

Your organisation may be required by law to ensure employees and volunteers are registered.

Your organisation may consider conducting other checks – such as police checks and reference checks. However, ensure that only tests or checks relevant to the position on offer are required. Decisions based on the results of checks that aren't relevant to a role could be challenged by an applicant.

## When are Working with Vulnerable People registrations required by law?

In Tasmania, the RWVP Act requires most people who perform a 'regulated activity' (see below) involving contact with a vulnerable person, including a child, to obtain WWVP registration.

If your organisation delivers a 'regulated activity', consider whether employees and volunteers must apply for (or already have) WWVP registration before starting to work with your organisation.

Tasmania's [Consumer, Building and Occupational Services \(CBOS\)](#) (a business unit of the Department of Justice) administers the WWVP registration system.

### What activities are 'regulated activities'?

Activities are 'regulated activities' for the purposes of WWVP registration if they fall into one of the broad classes of 'regulated activities' identified in the [Registration to Work with Vulnerable People Regulations 2014 \(Tas\) \(Regulations\)](#).

The Regulations specify 'child-related regulated activities', 'activities and services in respect of children' and 'child and vulnerable adult-related (NDIS endorsed) activities'.

'Child-related regulated activities', 'activities and services in respect of children' and 'child and vulnerable adult-related (NDIS endorsed) activities' include:

- child care services
- youth justice services
- child disability services
- adoption services
- guardianship services
- child protection services
- child education services
- state library services
- child accommodation services
- child transport services
- child-related religious activities
- coaching or tuition services
- child-related commercial services
- a club or association activity
- child legal services
- child health programs and services
- child mentoring services, and
- specified NDIS endorsed activities.

Under the RWVP Act, registration is required for anyone 'engaged in' a regulated activity, which means that they have contact with a vulnerable person as part of taking part in the regulated activity in any capacity (for example, as a paid employee or an unpaid volunteer).

'Contact' is defined as contact that would reasonably be expected as a normal part of the activity and is not incidental to taking part in the activity. It may be physical contact (including being in the same place as the other person) or oral or written communication.

The law defines a 'vulnerable person' as a child under 18 years old or an adult who is accessing a regulated activity.





### More information

For more detail about these activities, including a more detailed definition of 'child-related regulated activities', refer to the [Registration to Work with Vulnerable People Regulations 2014 \(Tas\)](#).



### Tip

Even if your organisation does not currently conduct child-related work, if you want to do this work in future, you can consider requiring volunteers and employees to undertake a WWVP registration when they join your organisation. The RWVP Act gives employers (which includes organisations engaging volunteers) a broad power to require its workers to be registered.

## Exemptions from requiring a Working with Vulnerable People registration

If a volunteer or employee falls into one of the exempt categories, they will not be required to seek WWVP registration. This will be the case even where they have direct contact with vulnerable people and the work falls within one of the categories of regulated activities (as outlined above).

### Exemptions generally apply to employees or volunteers who are:

- a school student on a work experience placement or doing practical training
- under the age of 16 years and working with younger children
- working or volunteering with children for seven days or less per calendar year
- not a resident of Tasmania and hold a current interstate registration in a similar regulated activity
- participating in an activity with a child on the same basis as that child (for example, in a sports team)
- parents of a child who is participating or ordinarily participates in the relevant activity
- only working with a record of the child
- a close relative of the child, and
- Police Officers, Correctional Officers or Emergency Management Workers

These are just some of the specific exemptions. The [full list of exemptions](#), including the circumstances in which they apply in Tasmania published on the CBOS website.

If an employee or volunteer falls into one of the exemptions, they are still eligible to apply for and receive registration.

If you are in doubt about whether an exemption applies, you could request that the employee or volunteer applies for WWVP registration to be certain you are complying with the law.



### Caution

A worker may fall within one of the WWVP registration exemptions when starting a role, but if circumstances change, they may not be able to continue to rely on the exemption.

## An organisation's obligations

An organisation that delivers 'regulated activities' must ensure that employees and volunteers comply with the RWVP Act.

This includes ensuring that:

- employees or volunteers who hold a current WWVP registration in relation to other work notify CBOS of the work they will do for your organisation (this links your organisation to the WWVP registration scheme so that you receive updates about its status)
- employees and volunteers do not engage in 'regulated activities' if they are required to apply for RWVP registration and have not done so, unless the person is eligible to engage in a regulated activity in special circumstances (these circumstances are set out in the Regulations and relate to child protection services).

Note that special circumstances will only allow an unregistered person to engage in a regulated activity for a limited period. Check the specific requirements with CBOS if your organisation is considering engaging a person in regulated activities and they are not registered

- any applicant that receives a Proposed Negative Notice or a Negative Notice (discussed further below) does not, under any circumstances, engage in 'regulated activities'
- employees or volunteers have the correct type of WWVP registration (ie. volunteer vs employee)
- employees or volunteers renew their WWVP registration before the three-year validity period expires (discussed further below), and
- employees and volunteers don't continue to work in regulated activities if their registration has expired



### Tip

- Organisations can use WWVP registrations as one of several screening and monitoring tools. Reference checks, national police checks and organisational supervision and training are all ways to ensure the safety of staff and clients, as well as assisting in finding the most suitable applicant when recruiting.

## Applying for Working with Vulnerable People registration

Applications for WWVP registration are made online through the [CBOS website](#).



### How much does WWVP registration cost?

The application fee is \$20.40 for volunteers and \$119.00 for employees (at April 2023).



### Tip

In most circumstances, if the WWVP registration relates to employment, this expense may be claimed as a deduction from taxable income.



### Should organisations pay the costs of WWVP registration for volunteers or employees?

There is no legal requirement for an organisation to cover the costs of a volunteer or employee seeking registration. However, some organisations choose to reimburse applicants who will be working with the organisation.

Applicants can check the status of their application online on the CBOS website. An application is processed in around six weeks.



### More information

For more information, see the [CBOS website](#).

## Assessment of the application by CBOS

CBOS carries out a risk assessment which includes checking the applicant's criminal history and past conduct.

### CBOS completes the following checks:

- national police records check, which may reveal criminal history information held by police in both Tasmania and other jurisdictions
- review of court findings, including charges, guilty pleas, acquittals and convictions
- any relevant orders such as restraint orders, family violence orders or child protection orders
- any past reportable behaviour that may indicate a risk of harm to vulnerable persons
- whether the applicant has been refused registration, or had their registration suspended or cancelled, in Tasmania or any other jurisdiction
- the employment history of the applicant (including unemployment history, information about any misconduct or disciplinary actions taken against the person)
- any relevant personal information about the applicant (such as multiple changes of name or address)
- whether the applicant has provided false or misleading information, or failed to provide relevant information, at any stage during the application or risk assessment process, and
- any other matter that the Registrar considers relevant in the circumstances

**Relevant offences** as part of the risk assessment are defined in the RWVP Act as:

- an offence under the *Poisons Act 1971* (Tas) or the *Misuse of Drugs Act 2001* (Tas), or a similar offence committed elsewhere
- any of the following offences, whether committed in Tasmania or elsewhere – a sexual offence, an offence against a person, an offence involving violence, an offence involving dishonesty or fraud, an offence relating to property, an offence against an animal, or a driving offence, and
- an offence committed in Tasmania or elsewhere relating to another offence that comprises of any of the following behaviours – attempting to commit the offence, inciting, instigating, aiding or abetting the commission of the other offence, or being an accessory after the fact to the other offence



## More information

For more information on the risk assessment process, see the [CBOS website](#).

The offences which will be considered relevant by CBOS are prescribed in the *Registration to Work with Vulnerable People (Risk Assessment for Child-related Activities) Order 2014* (the **Order**), at Schedule 1. More than 140 offences listed are listed.

These can be found in [the CBOS fact sheet on the risk assessment process](#). Both the CBOS fact sheet and the [Order](#) explain how risk is assessed.

**When assessing a person's suitability for registration the following factors may be considered in relation to the information assessed as part of the risk assessment process:**

### Factors relating to the conduct:

- nature, gravity or seriousness of the matter (as demonstrated by details of the conduct, court outcome and penalty)
- length of time since the conduct occurred
- age and vulnerability of the victims
- relationship between the offender and victims
- age difference between the offender and victims, and
- impact on the victims

### Factors relating to the applicant or registered person:

- conduct since the offence or alleged offence
- likelihood of the offences being repeated, and
- whether there is a pattern of concerning conduct.

## Results of a Working with Vulnerable People assessment

There are three possible outcomes of the assessment:

### Successful registration (without conditions)

Applicants who are registered will receive a WWVP card in the mail. Employers and volunteer organisations must check their worker's registration card by going online to verify that the applicant is currently registered (as above).

### Successful registration (with conditions)

An applicant may be subject to a registration with conditions. CBOS will give the applicant notice of the reasons for proposing to register the person with conditions and setting out the proposed conditions. Conditions CBOS may impose include that the registered person:

- must not drive a vehicle if a vulnerable person is a passenger
- must not have unsupervised contact with a vulnerable person
- must not supervise another registered person
- must be engaged by any employer but only in the regulated activity specified, and

	<ul style="list-style-type: none"> <li>must only engage in the specified regulated activity for the specified employer</li> </ul> <p>The applicant has 20 working days to request that CBOS reconsider the determination. If the applicant makes a request for reconsideration, CBOS must reconsider the decision, considering any new or corrected information provided by the applicant.</p> <p>An employer must not be given notice of CBOS's intention to make the registration conditional. However, if CBOS does make a final decision to register a person with conditional registration (ie. after the applicant has had a chance to ask CBOS to reconsider), the employer is notified of the registration and the conditions.</p>
<b>Refusal of registration</b>	<p>If an applicant is refused registration, they can't work or volunteer in a regulated activity.</p> <p>The applicant will receive notice of the negative assessment before the decision is final and can ask CBOS to reconsider.</p>

### What happens if an applicant receives a negative risk assessment?

Applicants who CBOS deems pose an unacceptable risk of harm to vulnerable persons will be issued a Proposed Negative Notice.

The organisation proposing to employ the person will be aware (from the online verification process) of the Proposed Negative Notice, but not the circumstances. If a Proposed Negative Notice is issued, your organisation must ensure that the person does not conduct any regulated activities.

Once a Proposed Negative Notice is provided, applicants can apply to CBOS (within 20 days of the notice) for reconsideration of the negative risk assessment and for further information about the circumstances that led to the negative assessment. If CBOS still refuses to register the applicant, the applicant can appeal to the Magistrates' Court (Administrative Appeals Division) within 28 days of the negative review decision.



#### More information

For more information on the risk assessment process, see the [CBOS website](#).



#### Note

A Proposed Negative Notice may also be issued in circumstances where there is an intention to suspend or cancel registration of a person who is already registered.

When appeals are exhausted, an applicant will be provided with a final Negative Notice. The applicant will then be prohibited from reapplying for a five-year period (or if there has been a change of relevant information about the person since the day of the Negative Notice), and therefore prohibited from undertaking work with vulnerable people, including children.



### Caution

Penalties apply to employers who engage a person for a regulated activity and that person does not register with CBOS. In certain circumstances the employer may also be subject to a criminal offence.



### When can a person begin work once they have applied for registration?

If your organisation delivers regulated activities, your workers (paid and unpaid) must hold a current registration card, or have lodged an application, before they begin their role.

In Tasmania, there are specific requirements when an organisation wants to deploy a staff member or volunteer in the period between applying for registration and CBOS completing the risk assessment.

Under the RWVP Act, a person waiting their risk assessment to be completed can only work if:

- they are under the supervision of a registered person at all times
- the organisation has agreed to this and has been named as the employer on the application
- the organisation is satisfied that the person has applied for registration and the application has not been determined
- the organisation has an approved risk management plan in place in relation to the work the person is undertaking, and
- the person has not previously been refused registration or had a conditional, suspended or cancelled registration (see below for more information on different types of registration)



### What if a new employee or volunteer is already registered?

Employees or volunteers with an existing WWVP card from previous work or volunteering must notify CBOS within 10 days of the work they are doing for you. This is completed [online through the CBOS website](#).

Employers are obliged to add their details to an employee or volunteer's registration within this timeframe if the employee or volunteer has not done so.

It's essential that CBOS knows the employee or volunteer is working with you, so they can notify you of changes to the registration status. Employers also need to remove an employee or volunteer's details within 10 days of them ending working or volunteering with them.

The new employee or volunteer must present their WWVP registration check card to your organisation. It is a requirement for the employer (or volunteer organisation) to go online and verify the applicant's current registration status before they start their role. You must not accept the card as evidence of current registration.

## Ongoing monitoring of a Working with Vulnerable People registration

A WWVP card operates for a period of three years unless cancelled earlier.

During the three-year validity period, WWVP card holders must advise CBOS within 10 working days about any relevant change in circumstances, including:

- change of name
- change of address, or
- change or addition of employer or volunteer organisation including changes to the organisation's contact details

A change of name requires a personal visit to a Service Tasmania outlet. Change of criminal history must be notified to CBOS in writing within 10 working days. Other changes should be made using the [My Registration](#) online portal.

Throughout the three-year lifespan of a WWVP card, there is a 'rolling check' system.

A WWVP card holder's profile will be updated if there are any incidents that affect the person's ability to conduct relevant duties and your organisation will be notified. **This is why your organisation must be nominated as a place of work for employees and volunteers with an existing WWVP card.**

Organisations should ensure that WWVP registration is renewed by employees and volunteers every three years before the card expires.



### Tips to help your organisation keep tabs on team members and their WWVP status

- physically sight and record the WWVP card (or their application receipt) when the team member joins your organisation and record associated information, including numbers and expiry dates
- keep WWVP cards, information and notices on file and keep a record of the employee and volunteer WWV status, including:
  - for new WWVP applicants, the unique Application Receipt Number that is provided when an application for WWVP registration is lodged, or
  - for current holders of WWVP cards, the WWVP card number and the expiry date of the card,
- ensure information is filed in a safe, secure place and in accordance with the following principles (and any other obligations that apply under any applicable legislation):
  - ensure stored information is accurate, complete and up to date
  - protect the information from misuse, loss, unauthorised access, modification or disclosure (including by allocating file identification systems to prevent files being misplaced)
  - have a clearly expressed policy available upon request detailing the management of personal information by your organisation, and
  - allow people to access their own information and to correct inaccuracies
- assign responsibility for monitoring your WWVP register to ensure that it is up-to-date, and
- set up systems to ensure your organisation keeps track of when current WWVP registrations will expire

Your organisation is also able to check the status of a person's card or application using the [online 'Check registration status' function](#).

**Tip**

A number of volunteer management software systems can help your organisation manage the WWVP registration process(see [Volgistics](#), [Samaritan](#) and [Better Impact](#)).

## Limits to a Working with Vulnerable People registration

The WWVP process is only one way of reducing the risk of recruiting or associating with people who may be unsuitable for child-related work.

A background check alone can't guarantee an individual's suitability, and organisations should have internal policies and procedures in place to ensure the safety of everyone who interacts with the organisation – particularly those in a position of vulnerability such as children.





# Part 2

## Police Checks

# Police Checks



## This part covers:

- ▶ an overview of Police Checks, and
- ▶ the differences between WWVP registration and Police Checks

**A WWVP registration is an important check, but it's not the only check your organisation can undertake.**



### Tip

As part of your organisation's risk management strategy, even if you must undertake WWVP registration, consider whether any further checks would also be appropriate.

## Is the Working with Vulnerable People registration different from a Police Check?

Yes. If a volunteer or employee is required to undertake WWVP registration, it will not matter whether they have recently had a Police Check as these two screening procedures are established for different purposes.

The WWVP registration focuses on specific offences (those that may impact on the safety of children and other vulnerable people). Unlike Police Checks, the WWVP registration is 'ongoing', which means that the applicant's criminal record is monitored throughout the life of the WWVP registration. By contrast, a Police Check is a 'point in time' check – it is a criminal history check up to the point of application and is not monitored or reviewed until a new application for a Police Check is submitted.

Depending on the nature of the work being conducted by your staff or volunteers, your organisation may wish to conduct both the WWVP registration process and Police Checks.

A Police Check allows an organisation to be aware of all previous convictions – child-related or not. This may be appropriate if you are seeking an employee or volunteer who, for example, may be handling money or driving clients between locations, and you wish to screen for relevant convictions.



### Caution

If you decide that applicants are required to undergo a police check before recruitment, you should not refuse an applicant simply because they have a prior conviction for an offence that has no relevance to the available position. There are legal protections against discrimination on the basis of a criminal record.

However, your organisation has obligations to create a safe and effective environment, and you can refuse an applicant on the basis of a criminal past when you believe that the prior offence prevents the applicant from performing the 'inherent requirements' of the position. See the [Australian Human Rights Commission website](#) for more information

## Differences between Working with Vulnerable People registration and Police Checks

### Who conducts the check?

<b>WWVP registration (Tasmania)</b>	The check is submitted to CBOS by the person.
<b>Police Checks</b>	<p>The check is submitted to Tasmania Police by the person or by an organisation on their behalf (with consent).</p> <p>Organisations may also engage a third party agency to manage the process.</p>

### What is checked?

<b>WWVP registration (Tasmania)</b>	<ul style="list-style-type: none"> <li>National criminal records (across all states and territories) including convictions (spent or unspent)</li> <li>professional conduct reports</li> </ul>
<b>Police Checks</b>	National criminal records

### What is revealed by the checks?

<b>WWVP registration (Tasmania)</b>	Serious criminal charges, offences, findings of guilt and professional conduct reports that may be relevant to the safety of children, such as serious sexual, violent or drug crimes (it will not reveal offences such as theft or property fraud).
<b>Police Checks</b>	<p>The Police make an assessment that considers the category and purpose of the check and any relevant legislation and information release policies. Police then determine the details they will release to the individual or organisation requesting the check.</p> <p>The details released may include court outcomes with a finding of guilt, including those 'without conviction', good behaviour bonds and other court orders, outstanding charges, matters awaiting hearing and certain criminal traffic matters, whether child-related or not.</p>

Spent convictions (convictions that are no longer considered part of a person's criminal history) do not show on a Police Check.

Under the *Annulled Convictions Act 2003* (Tas), convictions for certain minor offences can become 'spent', in which case they are not required to be disclosed as part of a Police Check, unless an exemption applies. An offence is a minor offence if it is not a sexual offence (or other prescribed offence) and no more than six months imprisonment was imposed for the offence.

### What is the outcome?

#### WWVP registration (Tasmania)

The person will either 'pass' or 'fail' depending on what the check reveals. CBOS will make the final assessment if relevant offences show up, after providing the applicant with an opportunity to make submissions.

#### Police Checks

There is no 'pass' or 'fail' – a list of court outcomes with a finding of guilt is produced from the national criminal record and a certificate is issued.

It is up to the organisation to assess whether any of the listed outcomes may impact on the work of the employee or volunteer, and whether that relates to the inherent requirements of the person's role.

### How long is the check valid for?

#### WWVP registration (Tasmania)

Three years.

#### Police Checks

It is current only at the time of the check

### Is it an ongoing check?

#### WWVP registration (Tasmania)

Yes – over the three years there is a 'rolling check' system and the organisation is notified if it reveals anything related to the person's suitability to work with vulnerable people.

#### Police Checks

No – it is a 'point in time' check and will only list the offences at the time of the check (ie. it's not monitored or reviewed until a new application for a Police Check is submitted).

### Is the check transferable?

#### WWVP registration (Tasmania)

Yes – but the employee or volunteer must provide notice to CBOS of any new role.

#### Police Checks

No – organisations should require a new check, even if someone had a check completed recently – as an organisation needs to be sure that all relevant matters have been disclosed by the police.



# Part 3

## NDIS Worker Screening Checks

# NDIS Worker Screening Checks

## This part covers:

- ▶ Worker Screening Checks for NDIS providers
- ▶ what does the NDIS Worker Screening Check cover?
- ▶ exemptions from NDIS Worker Screening Checks
- ▶ record keeping requirements for NDIS providers

Since 1 February 2021, the NDIS Worker Screening Check has replaced the different arrangements operating in each state or territory, setting a minimum national standard that all workers engaged in risk assessed roles must meet.

The NDIS Worker Screening Check is an assessment of whether a person who works, or seeks to work, with people with a disability poses a risk to them. The assessment determines whether a person is cleared or excluded from working in certain roles with people with a disability.

A NDIS Worker Screening Check is separate to other checks such as working with children and vulnerable persons checks. Under the Commonwealth's NDIS registration requirements, there is no worker screening exemption if an individual already has another check.

The requirements relating to Worker Screening Checks for registered NDIS providers are set out in the [National Disability Insurance Scheme \(Practice Standards – Worker Screening\) Rules 2018](#) (the **Practice Standards**).

Registered NDIS providers are responsible for ensuring that their workers have the necessary clearances so that the Practice Standards are met.



## Who must undertake a NDIS Worker Screening Check?

Registered NDIS providers supporting NDIS participants with workers in risk assessed roles are required to have worker screening requirements in place.

Unregistered providers are not required to have worker screening requirements in place, but may choose to. An NDIS participant can also request that an unregistered provider screen its workers.

As part of the uniform NDIS Worker Screening Check approach, a [NDIS Worker Screening Database](#) has been rolled out nationally, which includes a register of cleared and excluded workers from all states and territories.

## Applying for a NDIS Worker Screening Check

In Tasmania, the transitional period for worker screening requirements has ended and registered NDIS providers must ensure that key personnel and other workers in certain types of roles have an acceptable worker screening clearance. **In Tasmania, NDIS Worker Screening is called the NDIS Endorsement.**

Workers engaged to provide NDIS supports and services to registered NDIS providers, unregistered NDIS providers and self-managed participants can apply for an NDIS Endorsement through CBOS.

In Tasmania, a registered NDIS employer may allow a worker to begin working before their NDIS Worker Screening Check application is decided, provided that:

- the worker is in the process of obtaining a clearance (they must have submitted a complete application)
- the worker is supervised by a person with an NDIS Worker Screening Clearance who is always present while the person engages in regulated activity, and
- the registered NDIS provider has a risk management plan in place as outlined in Section 18 of the *Registration to Work with Vulnerable People Act 2013 (Tas)*.



### More information

For more information, see the [CBOS webpage 'National Disability Insurance Scheme \(NDIS\) Worker Screening'](#).

## Risk assessed roles

Registered NDIS providers are responsible for identifying which roles are risk assessed roles, and making sure all workers in these roles have an NDIS Worker Screening Clearance or an acceptable check under transitional and special arrangements (if these apply).

Under the Practice Standards, workers may only be engaged in a 'risk assessed role' if the worker has a clearance, subject to the exceptions discussed below.

A risk assessed role includes:

- a 'key personnel role of a person or an entity' as defined in s 11A of the *National Disability Insurance Scheme Act 2013* (for example, a CEO, board member or other key personnel)
- a role for which the normal duties include the direct delivery of [specified supports or services](#) to a person with a disability, and
- a role for which the normal duties are likely to require 'more than incidental contact' with people with disability, which includes:
  - physically touching a person with disability
  - building rapport with a person with disability as an integral and ordinary part of the performance of normal duties, or
  - having contact with multiple people with disability as part of the direct delivery of a specialist disability support or service, or in a specialist disability accommodation setting



### Example

Lee works for a mobility equipment company that is a registered NDIS provider and delivers mobility equipment to the homes of people with a disability.

Lee provides training, support and instructions to the customers as a standard part of his role. Lee's registered NDIS provider will need to ensure Lee has a Worker Screening clearance (or an acceptable check under transitional and special arrangements, if applicable) as the nature of Lee's contact with the customer is likely to lead to Lee building rapport with the customer.

## What does the NDIS Worker Screening Check include?

In Tasmania, the NDIS Worker Screening Check is conducted by CBOS.

CBOS decides whether a person is cleared, excluded or an interim bar applies (in this case further information is required to determine whether the person will be cleared or excluded).

**Registered NDIS providers must ensure they only engage workers who have a cleared status.** The NDIS Worker Screening Check will enable registered NDIS providers to engage a worker with a valid clearance from any state or territory to deliver NDIS support and services in a risk assessed role.

The NDIS Worker Screening Check involves obtaining and reviewing any relevant records, including:

- any police or government information (including convictions, current and pending charges)
- apprehended violence orders
- child protection information (included child protection orders)
- workplace misconduct (complaints or incident reporting)
- international police check (for persons who have worked overseas)

The check is recorded in the [NDIS Worker Screening Database](#) run by the NDIS Commission.

NDIS providers are required to access these checks through the NDIS Worker Screening Database portal.

## Exemptions from NDIS Worker Screening Checks

A registered NDIS provider may engage a person in a risk assessed role who does not have an NDIS Worker Screening Clearance if:

- the registered NDIS provider is subject to the transitional and special arrangements and is complying with those arrangements
- the person is a school student on a formal work experience placement, provided the student is directly supervised by another worker who has an NDIS Worker Screening clearance or acceptable check under the transitional and special arrangements
- in some circumstances, the person has submitted an application for an NDIS Worker Screening Check, provided the worker is 'in the process of obtaining a clearance' as defined by the Practice Standards. In these circumstances, the registered NDIS provider must ensure that the worker is:
  - appropriately supervised by a person with an NDIS worker screening clearance, and
  - the NDIS provider implements a risk management plan in line with the requirements in the Practice Standards

## Record keeping requirements

For each **risk assessed role**, registered NDIS providers are required to document:

- the title or other organisational identifier for the role
- the paragraph or paragraphs of the definition of risk assessed role (as contained in the Practice Standards) that applies to the role
- a description of the role, and
- the date the role was assessed and the name and title of the person who made the assessment

When a new risk assessed role is identified, the written list of roles must be updated within 20 business days of the identification or review of the risk assessed role.

For each **risk assessed worker**, registered NDIS providers are required to document:

- the full name, date of birth and address of the person
- the risk assessed role or roles in which the person engages
- if the worker may engage in a risk assessed role without an NDIS Worker Screening Clearance:
  - the basis on which they may do so



- the start and end date of the period in which the exemption that allows them to work in a risk engaged role applies, and
- the name of the person who supervises the worker during this period
- the worker's NDIS Worker Screening Check application reference number
- the worker's NDIS Worker Screening Check outcome expiry date
- whether the worker's NDIS Worker Screening Clearance is subject to any decision which has the effect that the registered NDIS provider may not allow the worker to engage in a risk assessed role, and the nature of any such decision (for example, interim bar, suspension, exclusion)
- records relating to an interim bar, a suspension, an exclusion, or any action taken by the provider in relation to these kinds of decisions in relation to any worker, and
- allegations of misconduct against a worker with a check and the action taken by the registered NDIS provider in response to that allegation

A record must be kept for seven years from the date the record was made.



### More information

For more information, see:

- the [NDIS Commission webpage on worker screening](#), and
- [CBOS's webpage on National Disability Insurance Scheme \(NDIS\) Worker Screening](#)



# Part 4

## Other checks

# Other checks

## This part covers:

- ▶ other discretionary background checks
- ▶ managing volunteers and employees in or from other states and territories, and
- ▶ child safety law reform relating to background checks

## Discretionary background checks

Even where there is no legal requirement that background checks be performed, organisations may choose to conduct some level of screening for volunteers and employees.

This is because all organisations have a responsibility to ensure they maintain a safe environment for their employees, volunteers and clients. Due to this overarching duty of care, organisations should always try to be informed about the people they select as their representatives.



### Caution

While finding the right person to fill a vacant role is important, an organisation has an overarching duty to provide a safe environment for staff, volunteers and clients.

Good screening procedures when recruiting are a key way for organisations to try and address problems before they arise.

From a practical perspective, conducting informal background checks, such as asking for referee details, is a good way for an organisation to ensure it is making the right choice when recruiting a new employee or volunteer.

## Screening for interstate and overseas employees and volunteers

### WWVP registration

Currently, Working with Children Checks (WWVP registration in Tasmania) are only valid for work in the state or territory in which they are issued.

If an employee or volunteer has a WWC Check from another state or territory and wants to work in Tasmania, they may also need to obtain a Tasmanian WWVP registration, depending on the circumstances. Interstate visitors can engage in child-related work in

Tasmania, without a Tasmanian WWVP registration, for a period of up to 28 days in a 12-month period.

If members of your organisation are travelling to another state or territory outside Tasmania and will engage in child-related work, ensure you comply with the laws of the particular state they visit – which may mean them applying for a valid WWC Check for that state.

Generally, most states will recognise the WWC Check of a worker from another state, if they are visiting and working on a short-term basis. However, if your organisation's employees or volunteers work in multiple jurisdictions on a regular basis, it's likely that they will need a WWC Check for each state.

**Note** - the offences considered relevant for the purposes of a WWC Check differ across states and territories.

Again, even if not required under legislation or a contract, if employees or volunteers are likely to have contact with children, your organisation should conduct thorough screening checks.



### More information

For more information, see [CBOS's webpage 'Interstate and overseas applicants'](#)



### Note

It is important to check the applicable scheme in each state and territory and whether any exemptions for interstate visitors apply.

Relevantly, [The Royal Commission into Institutional Responses to Child Sexual Abuse's 2015 report on Working with Children Checks](#) (WWCC Report) contains recommendations around the implementation of a nationally-consistent scheme.

### Police Checks

The Police Check will display all (releasable) court outcomes from all states and territories of Australia at the time the check was conducted.

If your organisation engages an employee or volunteer that has been living overseas, you may decide to ask for an international police check, which can be obtained from the law enforcement body for each relevant country.

You can find information on obtaining a police check from an overseas government or law enforcement authority on the [Australian Government Department of Home Affairs website](#).

## Child safety

The [National Principles for Child Safe Organisations \(National Principles\)](#), endorsed by the Federal Government in 2019, aim to provide a nationally consistent approach to creating organisational cultures that foster child safety and wellbeing.

Although Australian organisations are not legally required to adopt them, the National Principles are considered best practice for fostering child safety and wellbeing culture and practice.

If your organisation interacts with children or youth volunteers, we recommend you use the National Principles as a guide to create a child safe environment. You can then be satisfied that your organisation is taking reasonable steps to protect children from risks to their health and safety.

