

### ***Children's Protection (Implementation of Report Recommendations) Amendment Bill 2009***

#### **ADDITIONAL INFORMATION FOR THE SPORT AND RECREATION SECTOR**

*This Fact Sheet should be read in conjunction with Fact Sheet 1: "Frequently Asked Questions", which is available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry).*

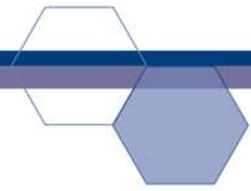
#### **What has changed for recreation and sport organisations?**

Previously, non-government organisations providing sport and recreation services wholly or partly for children were required to develop and implement a child safe strategy for their organisation. As part of their strategy, organisations were required to conduct a screening process for staff and volunteers working with children. Non-government sport and recreation organisations were not required as a part of that screening process to conduct a criminal history assessment, but did have the option to do so.

Under these amendments this will change and sport and recreation organisations will be required to conduct 'criminal history assessments' on staff and volunteers in some situations.

#### **When is a sporting or recreational organisation required to conduct criminal history assessments on employees, contractors and volunteers?**

Organisations that provide sport and recreation services wholly or partly for children will need to conduct criminal history assessments for employees, volunteers and contractors who are working with children, unless an exemption applies.



Sport and recreational organisations should examine whether the changes apply to any staff or volunteers in their organisation. For example, the changes may apply to:

- paid employees coaching children's sporting or recreational groups
- support staff of children's sporting or recreational groups (e.g. managers, supervisors and first aid staff)
- some people officiating for junior activities or events on a regular basis
- people providing billeted accommodation for children.

For detailed information about who must undergo an assessment, refer to Fact Sheet 1: "Frequently Asked Questions" (available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry).)

## Who is exempt?

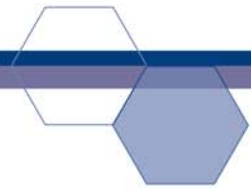
In some cases, the law will exempt a person from the requirement to undergo a criminal history assessment. Organisations will need to examine the exemptions to see if any exemptions apply to people working or volunteering in their organisation.

However, organisations may still require people to undergo a criminal history assessment as a matter of good organisational practice, even if an assessment is not required by law.

The following organisations, persons and positions are exempt from the requirement to conduct a criminal history assessment:

- A person volunteering for a service or activity in which their child ordinarily participates;
- A person who volunteers who is less than 18 years of age;
- A person working or volunteering for a short-term event or activity of less than 10 days duration or for no more than 1 day in any month;
- A person occupying a position in which all work involving children is undertaken in the physical presence of the child's parents or guardians and in which there is ordinarily no physical contact with the children;
- A person who undertakes, or a position that only involves, work that is primarily provided to adults or is provided to the public generally and is not provided to any child on an individual basis;





- An organisation that provides equipment, food or venues for children's parties or events but does not provide any other services;
- A person who has regular contact with a child as part of an employment relationship with the child (for example, a person working alongside a child or supervising an employee who is a child);
- A person who is appointed as a police officer or is a registered teacher.

No exemption is available to people who work in positions involving commercial child care; family day care; juvenile justice; child protection; disability services; or residential care and other overnight accommodation specifically for children (unless the overnight accommodation is provided by a visiting interstate worker who does not ordinarily live or perform work in South Australia).

Further information about the proposed exemptions is available in the discussion paper available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry).

### **Do spectators at children's sporting events need to undergo a criminal history assessment?**

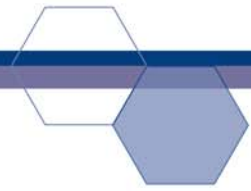
No. Criminal history assessments help organisations to make decisions about who is suitable to work with children. Spectators at sporting events (such as family and friends) are not considered to be working with children and are not required to undergo an assessment.

*Example 1: Paul plays for a junior soccer team and his aunt and uncle often watch his matches on the weekend. His aunt and uncle are not required to undergo criminal history assessments.*

### **Do people who provide assistance or support to a sporting team under another person's direct supervision need to undergo an assessment?**

No. An organisation is not required to conduct a criminal history assessment of a person who is *directly supervised at all times* by another person who has undergone a criminal history assessment or who is legally exempt from that requirement.





*Example 2: Paul's aunt volunteers to provide refreshments for Paul's soccer team during half-time. As this activity is under the direct supervision of the coach (who has undergone a criminal history assessment), Paul's aunt is not required to undergo a criminal history assessment.*

## **Do organisations need to conduct criminal history assessments for parents who are volunteering in connection with their children's activities?**

Organisations are not required to conduct criminal history assessments for volunteer parents where:

- The parent is volunteering for a service in which their child usually participates; and
- The service is not in connection with commercial child care, residential care and other overnight accommodation, family day care, juvenile justice, child protection or disability services.

*Example 3: Jennifer coaches her son's cricket team. As a parent volunteering in her own child's activity, Jennifer is exempt from the requirement to undergo a criminal history assessment, even if her son is not present on a particular day due to illness or some other reason.*

*Example 4: Tom is volunteering for a camp organised by his daughter's Girl Guides group. Tom must undergo a criminal history assessment because the activity involves overnight accommodation.*

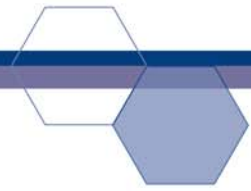
## **Is an organisation required to conduct criminal history assessments on administrative staff that have access to children's records but no other contact with children?**

Organisations are not required to conduct criminal history assessments on employees or volunteers that have access to general records about children (such as their name, address and date of birth) and have no other contact with children.

Employees or volunteers that have access to "sensitive" records about children must be checked unless an exemption applies. Sensitive records include any records in connection with child protection services, education services, health services, disability services and court orders and proceedings.

*Example 5: Andrew volunteers as the financial officer for his daughter's sporting team. This role involves access to general records about children (such as their names, addresses and phone numbers), but involves no contact with children. Andrew is exempt from the requirement to undergo a criminal history assessment.*





**Do organisations need to conduct criminal history assessments on personnel who provide services or activities primarily to adults, if the service or activity may also be accessed by children or occasionally include children?**

Services and activities that are provided primarily for adults, but may also be accessed by children or occasionally include children, are generally exempt.

*Example 6: A coach of a senior sporting team that has a team member who has not yet attained 18 years of age would not be required to undergo a criminal history assessment.*

Organisations that also provide services specifically for children must ensure that the employees or volunteers involved in these services undergo a criminal history assessment.

**How do these changes effect families billeting children on a short-term basis?**

Where a club arranges for families to billet children attending an activity or event, the club will also need to ensure that criminal history assessments are obtained for all adult members of the billeting family.

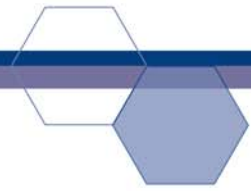
The Government recognises the generosity of parents involved in these programs. The requirement will ensure that children are better protected in situations where children are most vulnerable.

**How do these changes effect coaches or chaperones of children visiting South Australia from interstate, who do not usually work or reside in South Australia?**

Organisations are not required to conduct criminal history assessments on persons accompanying children who are visiting South Australia for short-term sporting or recreational events of less than 10 days, provided those persons do not usually reside or work in South Australia.

*Example 7: Lisa lives in Western Australia and coaches a swimming team that is competing in a weekend event in Adelaide. Lisa is exempt from the requirement to undergo a criminal history*





*assessment to attend this event because she is participating in a short-term activity of less than 10 days duration.*

However, it should be noted that those persons may still have obligations under the *Children's Protection Act 1993* as mandatory notifiers. The host organisation should ensure that interstate workers are aware of and briefed on this obligation.

## **How much will this cost?**

The cost of obtaining a criminal history report (or a "police check") from South Australia Police varies depending on whether the report is for a paid employee, a concession holder, or a volunteer.

The Government is meeting the cost of obtaining criminal history reports for some volunteers who work with children in volunteer organisations through the Volunteer Organisation Authorisation Number (VOAN) system.

Organisations may also apply to the Department for Families and Communities' Screening and Licensing Unit for a full criminal history assessment.

This service includes an independent assessment of a person's suitability to work with children, conducted by trained and experienced staff in strict confidence and in accordance with legislative requirements and standards. Once the assessment is complete, a letter of clearance is provided to the applicant.

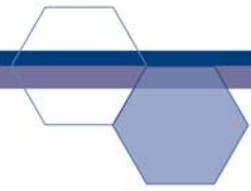
The fees and charges for obtaining a report are as follows:

<b>Applicant</b>	<b>SAPOL</b>	<b>DFC</b>
Individual	\$50.00	\$50 (plus GST if applicable)
Concession	\$36.00	N/A
Volunteer	\$32.25	\$33 (plus GST if applicable)
VOAN volunteer	Free	N/A

Information about the fees and charges that apply and the VOAN scheme is available from the South Australia Police website and from the Office for Volunteers:

- [http://www.sapolice.sa.gov.au/sapol/services/information\\_requests/national\\_police\\_certificate.jsp](http://www.sapolice.sa.gov.au/sapol/services/information_requests/national_police_certificate.jsp)
- [http://www.ofv.sa.gov.au/pdfs/Fact\\_sheet\\_PoliceChecks\\_FINAL%20\(2\).pdf](http://www.ofv.sa.gov.au/pdfs/Fact_sheet_PoliceChecks_FINAL%20(2).pdf)





Further information about the DFC Screening and Licensing Unit is available at:

- <http://www.dfc.sa.gov.au/pub/tabid/238/itemid/1613/Screening-and-licensing.aspx>.

### **Can an organisation accept a criminal history report from an employee or volunteer who has obtained it for another purpose, such as for paid employment or as a volunteer for another organisation?**

The *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children* issued by the Department for Families and Communities establish a maximum validity period for criminal history reports of three years.

It is up to the individual organisation to decide if they will accept a criminal history report that has been obtained during this time period or if they will require a volunteer to obtain a new report prior to commencing work in their organisation.

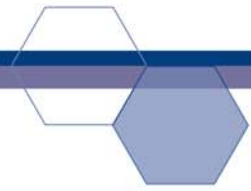
### **How does South Australia compare to other Australian States and Territories?**

These changes will bring South Australia further in line with working with children schemes established in other Australian States and Territories.

Most Australian jurisdictions outside South Australia have introduced 'working with children' checks in recent years or are moving to introduce such checks. For example, Queensland, Victoria, New South Wales and Western Australia have well-established schemes for checking persons working in child-related employment. Other jurisdictions, such as the Australian Capital Territory and the Northern Territory, have announced their intention to introduce similar schemes.

The safety and protection of children is a vital consideration for any organisation engaging people to work with children. The Government recognises the important steps that have already been taken by many South Australian clubs and associations to help ensure that their organisation is a safe place for children. Many clubs have well-established strategies and initiatives in place to help ensure child safety and wellbeing. In addition, a number of clubs already conduct criminal history checks on personnel working with children as part of their commitment to establishing child safe environments.





These changes provide an additional tool to assist clubs and associations to make informed decisions about who is safe to work with children in their organisation.

## **Why do organisations have to lodge a statement of their child safe environment policies and procedures with the Department for Families and Communities?**

Under the *Children's Protection Act 1993* sport and recreation organisations that provide services to children are required to establish child safe environment policies and practices.

The Bill includes a once-off requirement for these organisations to lodge a statement outlining their child safe environment policies and procedures with the Department for Families and Communities. Where an organisation has in place a 'Harassment Free Sport' policy that includes child protection/child safe policies that are consistent with the requirements of the *Children's Protection Act 1993* they can lodge a statement to that effect.

This requirement will assist the Department for Families and Communities to monitor progress towards child safe environments, as required under section 8A (i) of the *Children's Protection Act 1993*.

It is expected that this requirement will commence in 2010.

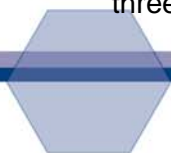
## **How will the Bill affect mandatory notifiers?**

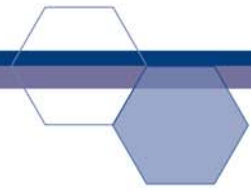
Under section 11 of the *Children's Protection Act 1993*, employees and volunteers in sporting and recreational organisations are required to report to Families SA if they suspect on reasonable grounds that a child is being abused or neglected and this suspicion is formed in the course of their work. This is a legal obligation that carries a penalty if the individual fails to comply.

The Bill will create a new offence of preventing a person from discharging the obligation of mandatory reporting through threat, intimidation or unfavourable treatment.

## **How will organisations be supported to comply with these changes?**

The Government recognises that organisations will require time and assistance in order to implement these changes. Therefore, implementation of the new obligations relating to criminal history assessments will be delayed for one year. The obligation will then be phased-in over a three year period.





The phasing-in of sport and recreational clubs and associations will commence during the second year of implementation, in January 2012. A complete phasing-in schedule is available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry).

The Department for Families and Communities will review the *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children* to ensure that the standards are a useful and relevant resource for a wide range of non-government organisations.

Information relating to the changes and how organisations may comply will also be available from the Department for Families and Communities. Specific information for sport and recreation organisations will also be provided by the Office for Recreation and Sport.

### **Where to from here?**

The Bill is now available for comment as part of the public consultation process. Further information, including a copy of the Bill, second reading report and summary of key features can be found on the Service SA website at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry).

