

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

### **ADDITIONAL INFORMATION FOR RELIGIOUS OR SPIRITUAL ORGANISATIONS**

*This information 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 religious and spiritual organisations?**

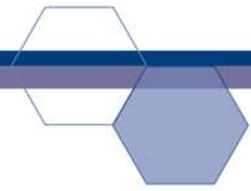
Previously, religious and spiritual organisations were required to develop and implement child safe environment policies and procedures for their organisation. As part of these policies and procedures, organisations were required to conduct a screening process for staff and volunteers working with children. Religious and spiritual 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 religious and spiritual organisations will be required to conduct 'criminal history assessments' in some situations.

#### **When is a religious or spiritual organisation required to conduct criminal history assessment on employees and volunteers?**

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

Organisations should examine whether the changes apply to any volunteers in their organisation. For example, the changes may apply to:



- Ministers of religion
- Religious leaders
- Chaplains
- Sunday school teachers and assistants
- Children and youth leaders
- Playgroup supervisors
- People providing religious or spiritual education for children (other than at a non-government school)
- People involved in activities and programs for children (such as youth camps or religious holiday programs)

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 need to make an assessment of whether an exemption applies to any volunteers in their organisation.

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;

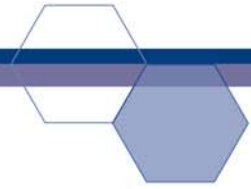
*Example 1: Janet is 16 and leads a youth group comprised of young people 12 – 16 years of age on a voluntary basis. As a volunteer under 18 years of age, Janet is exempt from the requirement to undergo a criminal history assessment.*

- 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;

*Example 2: Daniel sometimes leads the junior choir at his church when the regular choir leader is unavailable. Provided this activity occurs no more than one day in any month, Daniel is exempt from the requirement to undergo a criminal history assessment.*

- 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 community 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; administration of the juvenile justice system; child protection; disability services; or residential care and other overnight accommodation (unless the overnight accommodation is provided by a visiting interstate worker who does not ordinarily live or perform work in South Australia).

*Example 3: Steve volunteers for his daughter's youth camp. Steve must undergo a criminal history assessment because the activity involves overnight accommodation.*

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

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)

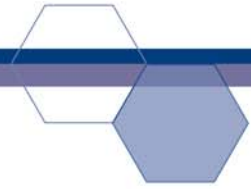
## **Are religious or spiritual organisations required to conduct criminal history assessments for volunteer parents?**

Religious or spiritual 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 4: Ruth teaches her daughter's Sunday School class on a voluntary basis. As a parent volunteering in her own child's activity, Ruth is exempt from the requirement to undergo a criminal history assessment, even if her daughter is not present on a particular day due to illness or some*





*other reason. However, if Ruth's daughter stops attending the class, Ruth will be required to undergo a criminal history assessment.*

**Can a religious or spiritual organisation require employees and volunteers to undergo additional scrutiny before they are permitted to work with children, such as training and referee checks, even if this is not legally required?**

Yes. The Bill establishes a minimum standard that organisations must meet in order to help ensure that their organisations are a safe place for children. Organisations may require personnel to undergo additional scrutiny as a matter of good organisational practice. Organisations are encouraged to implement comprehensive screening and recruitment practices as part of their child safe environment policies and practices.

**Are religious or spiritual organisations required to conduct criminal history assessments on employees and volunteers who work with children but are directly supervised at all times?**

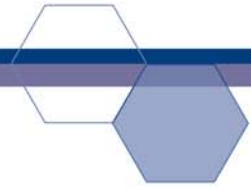
No. An organisation is not required to conduct a criminal history assessment of a person who is *directly supervised at all times* by another person who has undergone a criminal history assessment or who is legally exempt from that requirement.

**Are religious or spiritual organisations required to conduct criminal history assessments on employees and volunteers that have access to children's records but no other contact with children?**

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

Volunteers and employees 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.





## **Are religious or spiritual organisations required to conduct criminal history assessments on employees and volunteers that work with children in school holiday programs and activities?**

Religious or spiritual organisations are required to conduct criminal history assessments on people working with children in school holiday programs and activities unless an exemption applies. The availability of an exemption must be determined on a case-by-case basis.

## **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* organisations providing health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for 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.

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*.

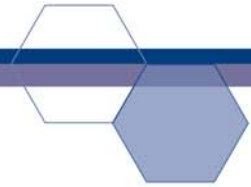
It is expected that this requirement will commence in 2010.

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

Under section 11 of the *Children's Protection Act 1993*, employees and volunteers in religious and spiritual 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 religious or spiritual 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 religious and spiritual organisations will commence during the second year of implementation, in July 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.

## **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) or by emailing [DFCmullighanreforms@dfc.sa.gov.au](mailto:DFCmullighanreforms@dfc.sa.gov.au).

