

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

### **ADDITIONAL INFORMATION FOR THE EDUCATION SECTOR**

*This fact sheet provides information for the education sector on the changes to the Children's Protection Act 1993. Further information is available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry).*

#### **What has changed for the education and children's services sector?**

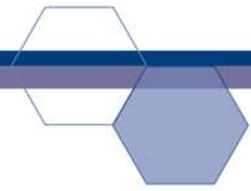
The changes to the *Children's Protection Act 1993* will extend the requirement to conduct criminal history assessments to organisations providing education and children's services wholly or partly for children.

This means that organisations providing education and children's services will be required to conduct criminal history assessments for employees, volunteers and contractors who are working with children.

Under the amendments, a person is working with children if they:

- Have regular contact with children and are not directly supervised at all times; or
- Work in close proximity to children on a regular basis and are not directly supervised at all times; or
- Supervise or manage persons who have regular contact with children or work in close proximity to children on a regular basis; or
- Have access to children's records in connection to child protection, education, health and disability services or court orders and proceedings.

An exemption scheme is also being introduced to exempt organisations, persons and positions from the requirement in some circumstances (see Fact Sheet 1). Organisations should examine the exempting criteria to see if any exemptions apply to their situation.



Government and non-government schools are already required by law to conduct criminal history assessments on staff and volunteers working with children. These amendments will not place any additional obligations on these organisations.

## **What are the changes for?**

The changes establish a minimum standard that must be met by organisations providing services to children. Organisations may still require other employees, contractors, volunteers to undergo criminal checks as part of their child safe environment policies and procedures and as part of good organisational practice, even if an exemption applies or an assessment is not required by law.

These changes will provide much stronger protection for children and young people as they interact in the community. The changes will also bring South Australia further into line with the working with children screening legislation and procedures that exist in other Australian States and Territories.

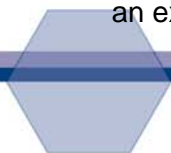
## **For which employees and contractors must organisations conduct a criminal history assessment?**

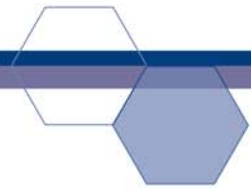
Organisations providing education and children's services must conduct criminal history assessments on any employees or contractors who are working with children, unless an exemption applies. This may include:

- Administrative staff with access to sensitive records
- Ancillary staff
- Child-care staff
- Contractors with access to children or who work in close proximity to children
- Family day care providers
- Health providers (e.g. psychologists and nurses)
- Outside school hours care staff
- Paid bus drivers
- Paid instructors and canteen workers
- Paid Pastoral support workers
- School chaplains

## **Which employees and contractors may be exempt from the criminal history assessment requirement?**

In certain circumstances, employees and contractors may be exempt from the criminal history assessment requirement. Detailed information and a full list of exempting criteria are available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry). Organisations will need to determine on a case-by-case basis if an exemption applies.





The following employees and contractors may not be required to undergo a criminal history assessment or may be exempt from the requirement:

- Registered teachers who are screened by the Teachers Registration Board of SA
- Sworn police officers who are screened by SAPOL
- Administrative staff that only have access to general records about children (such as their name, address and date of birth) and have no other contact with children.
- Instructors who are *directly supervised at all times* by another person who has undergone a criminal history assessment or who are engaged for a period of no more than 10 days, or for no more than one day in any month.

### **For which volunteers must organisations conduct a criminal history assessment?**

Organisations must conduct a criminal history assessment on any volunteers who are working with children, unless an exemption applies. This may include:

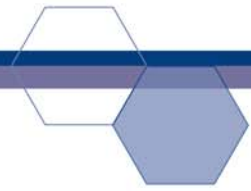
- Adult members of billeting families
- Child care workers
- Family and frequent visitors in FDC
- Host families
- Pastoral support workers
- Parents and other persons attending school camps and sleep overs
- School bus drivers
- Sport coaches and managers
- Volunteers in Outside School Hours Care

### **Which volunteers may be exempt from the criminal history assessment requirement?**

In certain circumstances, volunteers may be exempt from the criminal history assessment requirement. Detailed information and a full list of exempting criteria are available at [www.sa.gov.au/mullighaninquiry](http://www.sa.gov.au/mullighaninquiry). Organisations will need to determine on a case-by-case basis if an exemption applies.

The following volunteers may not be required to undergo a criminal history assessment or may be exempt from the requirement:





- Parents volunteering at a school canteen
- Chaperones of visiting groups of children from interstate and overseas
- Parents assisting in their own child's classroom
- Parents attending one-off presentations
- Guest speakers
- Parents supporting occasional excursions
- People volunteering in their children's activities
- People under the age of 18
- People volunteering for a short-term event or activity of less than 10 days duration or for no more than 1 day in any month
- People working with children in the presence of the child's parents or guardians where the work does not ordinarily involve physical contact with the children

### **How can individuals apply for a criminal history assessment?**

Employees and volunteers should refer to their organisation's human resources policies before applying for a police check because individual organisations have developed their own screening processes. Some organisations may have established their own screening units for the specific purpose of screening employees and volunteers.

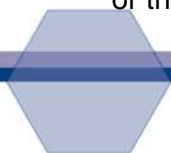
Organisations may apply to the Department for Families and Communities Screening and Licensing branch for a full criminal history assessment. Assessments are conducted by trained and experienced staff in strict confidence and in accordance with legislative requirements and standards. Once the assessment is complete, a letter of clearance is provided to the applicant and a confirmation email is sent to the organisation. Further information about this service is available at:

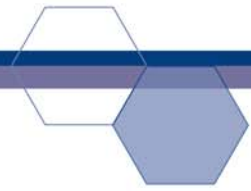
<http://www.dfc.sa.gov.au/pub/tabid/238/itemid/1613/Screening-and-licensing.aspx>.

Organisations may require employees and volunteers to provide a criminal history report from SAPOL. In this situation organisations are required to develop criminal history assessment processes which comply with 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.

### **How much does a criminal history assessment cost?**

The cost of a criminal history assessment varies depending on the organisation's policies, the role of the individual and the source of the criminal history assessment. Some organisations cover the





cost of criminal history assessments for employees and/or volunteers. Costs are larger for employees than volunteers however some organisations charge a lesser fee for concession card holders.

Organisations which elect to use the DFC Screening and Licensing branch should refer to the DFC website for a list of current charges.

Organisations can require employees and volunteers to obtain a criminal history report from SAPOL which can be used to assess a person's suitability to work with children. Details about the SAPOL charges are available at

[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)

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

The Government recognises that organisations 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 criminal history assessment processes for organisations providing educational services for children will commence in January 2011. 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).

