

Working with Children Checks for kinship carers

Information Bulletin # 2 for divisional child protection practitioners
April 2017

This bulletin has been prepared by Statutory and Forensic Services and the Office of Professional Practice. It provides child protection managers and practitioners with additional information in response to frequently asked questions regarding Working with Children Checks for kinship carers.

Do current kinship carers have to apply for a Working with Children Check?

Yes, from 1 May 2017 the *Working with Children Act 2005* requires ALL Victorian kinship carers to hold a Working with Children Check. Current carers must apply for a WWCC before 22 August 2017.

New carers must apply within 21 days of the placement commencing. The Working with Children Check Unit has created a code specifically for kinship carers – code 80 on the application form.

How is a Working With Children Check different from a Police Check?

A WWCC is just one more way to ensure the safety of children placed in statutory kinship care.

A WWCC must be applied for within 21 days from the commencement of the placement. Unlike the criminal history check, the WWCC is an active and ongoing screening process that assists in protecting children from harm by monitoring a person's suitability to work with, or care for children. All WWCC card holders are regularly screened by Victoria Police to review their criminal record to ensure those charged with or convicted of certain serious crimes are unable to work with children.

<http://www.workingwithchildren.vic.gov.au/home/about+the+check/how+is+a+police+check+different/>

Will there be an alert on CRIS to prompt practitioners regarding the end of the 21 day period for new carers to apply for a Check?

At this stage there are no prompts in CRIS to remind practitioners to follow up on new carer's WWCC application. It is recommended that practitioners follow up with new carers around day 15 from the date the placement commenced. Practitioners may wish to support new carers to apply for a WWCC or update their WWCC when completing the Kinship Part A assessment.

A request has been made to the CRIS support team for amendments, however a timeframe to when these will be implemented is not known.

How will I know if a kinship carer has applied for their WWCC?

During the implementation phase (April – September 2017) the Department of Justice and Regulation (DJR) will confirm every application for kinship care Working with Children Check with the Office of Professional Practice (OPP).

The OPP will then enter the lodgement, issue and expiry date of the carer's WWCC into CRIS.

It is the responsibility of the allocated practitioner to check their cases to ensure all new carers have applied for their WWCC within the 21 days. It is recommended to follow up with new carers around day 15.

The DJR will send a list weekly to the OPP of all applications under the WWCC 'Code 80'. If a carer applies for their WWCC on day 18-21, this may not be added to CRIS until after the 21 day period. The OPP will send regular lists to the key contact in each division of kinship carers whose WWCC details have been added to CRIS.

What happens if a carer fails to apply for a WWCC within 21 days of placement?

The Working with Children Act requires a kinship carer where the child is or has been placed in the care by child protection to hold a WWCC.

If a kinship carer has not applied for a WWCC within 21 days of the placement commencing, the kinship carer will be in breach of the Act.

If a kinship carer does not hold a WWCC because they failed to apply for a check or due to a negative outcome of a check – child protection will be required to intervene.

Do kinship carers receiving a care allowance post case closure require a WWCC?

Yes. In April 2017, central office wrote to all carers of closed cases who receive a care allowance (approximately 550 carers) to advise of the change in legislation and new requirement for them to obtain a WWCC. This group is required to apply by 22 August 2017.

The OPP will monitor compliance for this group and enter WWCC details into CRIS.

A reminder that permanent carers **where a permanent care order is granted in the Children's Court** are not required to hold a WWCC. Please ensure all placement details in CRIS are updated when a permanent care order is made.

What offences are classed as Category A, B and C?

Please refer to the Working with Children Check website for a full list of offences under each Category.

<http://www.workingwithchildren.vic.gov.au/home/resources/publications/list-of-offences>

What is the process when a kinship carer has a Category A offence?

Category A offences are immediate negative notices. **A child cannot be placed in a kinship placement if the practitioner has information that the person has been convicted of a Category A offence.**

If a child is currently in a kinship placement with a carer who has been convicted of a Category A offence, and the department has endorsed the placement, you must send an email to wwcckinship@dhhs.vic.gov.au with the carers name and the disclosable Category A offence. The OPP will, in the first instance, discuss the issue with DJR to confirm that the carer will not receive a Working with Children Check. A case plan review must be conducted to consider placement options.

Can a kinship carer with a Category A offence appeal the decision?

When an applicant or a WWCC cardholder is issued a negative notice (Category A, B or C), section 26(1) of the WWC Act provides that a person can appeal this decision by making an application to VCAT.

Under section 26(4), an application to VCAT must be made within 28 days of the decision to issue a negative notice. In the case of a Category A applicant who has been issued a negative notice because they are a registered sex offender or subject to certain supervision orders, they may only apply to VCAT to review the decision on the grounds of mistaken identity.

Can a kinship carer with a Category B or C offence be granted a WWCC?

The offences that are relevant to the WWCC are:

- sexual, violent or drug offences
- any offence that presents an unjustifiable risk to the safety of children
- offences against the *Working with Children Act 2005*.

The DJR conducts a dynamic assessment of applicants with Category B or C offences, this may include speaking to the applicant about the offence, when the offence occurred, reference checks and gathering further information from other agencies such as state, territory and federal police forces; courts, tribunals and prosecuting authorities; health treating professionals; the Director of Public Prosecutions; Corrections Victoria and employers and other organisations.

During the information gathering stage a carer may be issued with a prohibition or suspension notice.

<http://www.workingwithchildren.vic.gov.au/home/applications/the+application+process/what+is+checked/>

What happens when a carer is issued a prohibition or suspension notice?

Kinship carers may be issued with a prohibition or suspension notice while the DJR completes their assessment of the carers' WWCC application. A prohibition notice is issued when a carer has a 'Schedule 3' offence and their application requires further assessment. A suspension notice is issued when a carer already has a WWCC card and this is suspended due to a 'Schedule 3' offence.

Kinship carers are not permitted to continue caring for children if they have been issued a prohibition or suspension notice.

The OPP will be advised of any prohibition or suspension notice and will contact the division. In these circumstances, the practice is the same as if the carer is issued with an Interim Negative Notice (INN). **The carer or the child must be removed from the placement within 24 hours. (Refer to the child protection manual for more information)**

Will the Children's Court be able to make an order for a child to reside with a particular carer when the carer has had a negative Working with Children Check outcome?

From 1 May 2017, the law requires a kinship carer to hold a Working with Children Check. If a person has a negative check they do not meet that requirement. The changes in legislation will be communicated to the President of the Children's Court in May 2017.

What if a carer fails to apply for their WWCC within the 21 days and the matter returns to Court and the placement is required to continue?

If a child is placed with a kinship carer and child protection believes the placement is an emergency or short-term placement – less than 21 days – then the carer will not be required to apply for a WWCC.

If child protection believe they will be required to apply for a new interim accommodation order (IAO) then they should **assist the carer to apply for a WWCC within the first 21 day period** to avoid having the carer in breach of the Working with Children Act.

A child cannot remain in the care of a kinship carer beyond 21 days if the carer has not applied for a WWCC.

Will the Children's Court be able to extend the IAO to a kinship carer if child protection opposes on the basis that a WWCC has not been applied for?

The Court will not be able to extend the IAO if the carer has not applied for their WWCC within 21 days of the commencement of placement. However child protection has a role in supporting carers to apply for a WWCC to avoid this situation.

What about carers that are teachers or police members? Are they exempt from applying for a WWCC?

ALL kinship carers regardless of their occupation must obtain a WWCC. Carers that are teachers or police members or professions that are otherwise exempt from holding a WWCC in their employment must still apply for a WWCC under '**Code 80**'. They do not need disclose their employment when applying for a WWCC as a kinship carer however they do need to list the Department of Health and Human Services, PCB – Safety Screening – Kinship Carer as their employer.

Child protection kinship carers policy and practice advice

All kinship care related policies, procedures and advice will be updated in April 2017. This includes:

- Kinship assessment forms - Part A
- Undertaking national police history check policy and advice

The Child Protection Manual will be updated by 1 May 2017.

Remember

...applicants must fill in their application form or update their details with the specific information on the WWCC Unit form

4. Enter the Department of Health and Human Services contact details as follows:

Organisation 1	
Organisation name*	Department of Health and Human Services
What is the postal address of the organisation?*	
Use autocomplete or manually enter	
Postal number and street*	PCB - Safety Screening - Kinship Carer
Postal address line 2	GPO Box 4057
Postal suburb*	Melbourne
Postal state*	VIC
Postcode*	3000
Phone*	0390965715
<small>Mobile Ok. For landline, include the area code without spaces or symbols.</small>	

Add occupational field '80 Kinship Care'

You must select field '80 Kinship Care- caring for a child placed by Child Protection under the Children, Youth and Families Act 2005'

1. Under the 'Occupational fields' section of the page, select '80 Kinship care - caring for a child placed by Child Protection under the Children, Youth and Families Act 2005' from the drop-down box.
2. Select 'Volunteer' under occupational type.

Roles and responsibilities

Kinship carers	Central office	Divisional child protection programs
<p>People without a Check Apply for a Working with Children Check</p> <p>Existing card holders Update their existing Working with Children Check</p>	<p>CRIS data entry</p> <p>Between March and September 2017 the Office of Professional Practice (OPP) will centrally manage the CRIS data entry for each child's carer including existing and new kinship carers.</p> <p>OPP will receive regular communication from the Department of Justice and Regulation with the list of kinship carers and take the following action:</p> <ul style="list-style-type: none"> • Match the kinship carer with children on CRIS • Enter the lodgement date into every related child's CRIS file • Enter the date and application number for all successful applications into the relevant CRIS files 	<p>Kinship carers</p> <ul style="list-style-type: none"> • Identify placements which may be at risk due to a potential interim negative or adverse notice • Manage a list of all divisional kinship care placements. Include case contracted cases and unallocated cases on the list • Working from the divisional list of kinship placements, monitor CRIS to ensure lodgement of Check has occurred and Check has been issued • Assist kinship carers to apply and lodge an application as required • Manage non-compliance by proactively following up with carers who have not lodged an application and support them to apply
	<p>Interim negative and adverse notices</p> <ul style="list-style-type: none"> • Receive communication from Department of Justice and Regulation in relation to negative and adverse notices • Contact the relevant Divisional Assistant Director, Child Protection in relation to interim negative notices and adverse notices in regard to their kinship carers 	<p>Interim negative and adverse notices</p> <ul style="list-style-type: none"> • Assistant Director, Child Protection will be the key contact for interim and adverse negative notices communication from central office • Commence immediate case planning review of cases where an INN has been issued
	<p>Practice Advice</p> <p>Child protection will review and update all related procedures, policies, advice and forms for kinship care and communicate these changes</p>	<p>Practice Advice</p> <p>Operationalise new procedures, policies, advice and forms and implement policy</p>

Inquiries regarding WWCC for kinship carers can be directed to wwcckinship@dhhs.vic.gov.au