Legislation to protect children & young people
(including mandatory working with children checks)

New working with children checks (WWCC) commenced in 1 July 2019.
Further information about WWCC is available on the Human Resources website
How is the protection of children and young people regulated in South Australia?

Child protection and safety is a state responsibility. Until recently, it was regulated by the *Children’s Protection Act 1993* (SA).

Two *Royal Commissions* - conducted between 2013 and 2017 - recommended significant improvements to the systems and processes intended to protect Australian children from harm, abuse and neglect:

- [Royal Commission into Institutional Responses to Child Sexual Abuse](https://www.royalcommission.gov.au) (Cth)
- [Child Protection Systems Royal Commission](https://www.royalcommission.sa.gov.au) (SA)

The result has been better oversight and regulatory consistency across all Australian jurisdictions, particularly in the methods used to manage potential risks to children’s safety and wellbeing.

New SA legislation supports implementation of these improvements:

Legislation to protect children and young people (SA)

What does the *Child Safety (Prohibited Persons) Act* do?

- Aims to minimise the potential risks posed by persons who work or volunteer with children
- Establishes the *Central Assessment Unit* (CAU) - based in the SA Department of Human Services
- Defines what constitutes *working with children* and what is considered a *prescribed position*
- Requires those working with children/in prescribed positions to undergo a working with children check – *WWCC*
  - A *WWCC* is mandated for people working with children
  - *WWCCs* are issued by the CAU
- Prohibits employers from allowing anyone who does not have a valid *WWCC* to commence in a role involving contact with children
- Establishes significant penalties for non-compliance
### Legislation to protect children and young people (SA)

#### WWCCs in more detail

- A working with children check (**WWCC**) is a mandatory aspect of any recruitment process involving any work with children (paid or unpaid)
- **A WWCC** is valid for a 5 year period
- **A WWCC** assesses whether a person poses an unacceptable risk to children based on recorded past behaviour — it is not an assessment of character or aptitude for the role
- Roles where there is regular contact with children are called **prescribed positions**
- **A person must not** begin working in a **prescribed position** without a valid **WWCC**
- An employer **must not** allow a person to begin working in a **prescribed position** until a valid **WWCC** has been verified
- The **CAU** must be notified of verification on commencement via the online portal

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<tr>
<th>The <strong>Central Assessment Unit</strong> (CAU) is authorised to:</th>
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<td>- Receive applications from individuals and organisations on a fee for service basis</td>
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<td>- Issue each new person screened with a <em>unique identifier</em></td>
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<td>- Assess risks to children using set criteria</td>
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<td>- Access information held on national databases</td>
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<td>- Continuously monitor the status of individuals on those databases</td>
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<td>- Determine that a <em>prohibition notice</em> be applied to a person assessed as proving an unacceptable risk</td>
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<td>- Advise employers of the outcome of assessments</td>
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<td>- Receive certain information from employers about employee conduct</td>
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A fee waiver applies to genuine volunteers

**A WWCC** is the most comprehensive screening process available for identifying individuals who pose an unacceptable risk to vulnerable people based on recorded past behaviour.
What does this mean for the University?

The Child Safety (Prohibited Persons) Act:

• Regulates all operational areas and people delivering services to children & young people under 18 years – e.g. Children’s University, Counselling Services
• Applies whether the person working with children is an employee, volunteer, agent, contractor or subcontractor
• Requires a person working in a prescribed position to have a current WWCC prior to commencement.
• Places an onus on the University to confirm that the person is not a prohibited person prior to commencement – penalties apply
• A WWCC is not required in cases where
  – There are reasonable grounds to expect that a person will not work with children for more than 7 days in a calendar year
  – The work relates to the delivery of approved undergraduate programs - tertiary education services are excluded from the definition of “child-related work”
• The University may require a WWCC for any person working at the University, if it supports the effective management of risk and creates a safer environment.

Refer to the University’s Employment Screening Procedure (in development) for further details
What does the *Children and Young People (Safety) Act* do?

- Sets basic outcomes for all children and young people that they be:
  - Safe from harm
  - Able to learn and develop skills for life
  - Supported to have a healthy lifestyle
  - Active citizens

- Declares that all adults have a duty to safeguard and promote these outcomes

- Requires organisations to develop and adopt policies and procedures to create safe environments for children and young people

- Imposes on some groups of people, including those who work closely with children, a mandatory obligation to report *any reasonable suspicion* that a child or young person is at risk of harm via the following SA Government notification services:
  - **Child Abuse Report Line (CARL) on 13 14 78**
  - Online child protection reporting system
What does this mean for the University?

The *Children and Young People (Safety) Act* requires:

- The University to provide a Statement to the South Australian Government certifying that appropriate policies and procedures have been put in place to support safe environments for children and young people - including processes for managing WWCC
- That Personnel working with children will be provided with access to information and training resources to ensure they understand their personal and organisational obligations for child safety and protection, including mandatory reporting of suspected abuse or neglect
- Personnel working with children (i.e. prescribed positions) or those in a prescribed professional class (e.g. doctors) to report any reasonable suspicion that a child or young person is at risk of harm via:
  
  **Child Abuse Report Line (CARL) on 13 14 78**
  
  Online child protection reporting system
What does the *Children and Young People (Oversight and Advocacy Bodies) Act 2016 (SA)* do?

The Act establishes a number of oversight and advocacy bodies

- **The Office of the Children & Young People Commissioner** - with authority to
  - Undertake research and publish reports
  - Advocate for the rights and interests of children & young people
  - Make recommendations to government
  - Promote participation by children and young people
  - Conduct inquiries into systemic matters
  - Require organisations to provide information

- **The Office of the Guardian for Children and Young People** - with authority to
  - Promote the rights and interests of children under guardianship
  - Investigate matters referred to the Guardian
  - Advocate for any child under guardianship
  - Require organisations to provide information

- **Child Death and Serious Injury Review Committee**
- **Child Development Council**

There will be little direct impact on the University other than the potential that it may be asked to support the objectives of these bodies or contribute information.
Additional Resources

- Jane Welch, Director HR Advisory and Workplace Relations
  - 8313 0257
- Richard Duddy, Legal Counsel
  - 8313 0085
- Sandra Lilburn, Manager Compliance
  - 8313 0482
- Child Safety (Prohibited Persons) Act 2016 (SA)
- Children and Young People (Safety) Act 2017 (SA)
- Children and Young People (Oversight and Advocacy Bodies) Act 2016 (SA)
- Department for Child Protection
- Department of Human Services (for child related employment screening)
- Guidelines for Reporting Child Abuse and Neglect, Department for Child Protection
- Online child protection reporting system
- Child Abuse Report Line: 13 14 78 (24 hours)
- Child-Safe Environment Policy (new policy in progress - Safe Environments for Children and Other Vulnerable People)
- Human Resources WWCC website
- Risk Assessment Tool and template for assessing child-related activities
Disclaimer

The content of this material is intended only to provide a summary & general overview of South Australian legislation to protect children & young people as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact Jane Welch, Director HR Advisory and Workplace Relations, or legalcompliance@adelaide.edu.au if you are unsure of your compliance obligations under the Act.

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