



THE UNIVERSITY
of ADELAIDE

Legal Compliance Education and Awareness



CRICOS PROVIDER 00123M

Child Safety laws in South Australia

Children & Young People (Safety) Act 2017

Child Safety (Prohibited Persons) Act 2016

(South Australia)

Children & Young People Safety Act

- Provides for the care & protection of children and young people*.
- Requires appropriate policies and procedures to be in place to ensure that child-safe environments are established and maintained
- Recognises that it is everyone's duty to safeguard and promote the welfare of children and young people
- Makes it mandatory for people in some occupations to make a report if they suspect a child or young person may be at risk (penalty \$10k)
- Gives authority to the [Department of Human Services](#) to intervene when a child is at risk

*Under the *Children and Young People Safety Act*, a **child** is a person under 18 years of age, and **young people** refers to a cohort of this group aged 12 to 17.

Child Safety (Prohibited Person) Act

- Provides for a scheme to screen people working or volunteering with children and preclude those who present an unacceptable risk
- Establishes a [Central Assessment Unit](#) (CAU) authorised to conduct screening assessments of individuals and to establish a validation system for employers
- Establishes a legal obligation on organisations to confirm employees and volunteers have a valid working with children check prior to commencing work in a position which involves working closely with children (i.e. a **prescribed position**)
 - A **working with children check** is one aspect of the recruitment process to determine if a person is suitable to work with children
 - The decision is made by the CAU following an assessment to determine any risk the person may pose to children

How do these laws apply to the University?

- The *Children and Young People (Safety) Act 2017* requires appropriate policies and procedures be in place to ensure that child-safe environments are established and maintained
- Obligations apply whether the person working with children is an employee, volunteer, agent, contractor or subcontractor
- In addition to a general responsibility to report abuse, people who work closely with children are legally obliged to make a report if they suspect that a child or young person is at risk
- The *Child Safety (Prohibited Person) Act* requires the University to confirm employees and volunteers have a valid working with children check before engaging a person to work in a **prescribed position**
- Tertiary education services are excluded from the definition of child-related work: While there is no legal obligation for personnel delivering an approved undergraduate program to young people under 18 to be screened, local areas may require personnel to be screened as a [risk management strategy](#)

Prescribed positions

- A Prescribed Position is defined in the [Child Safety \(Prohibited Persons\) Act 2016](#) as a position in which a person works, or is likely to work, with children.
- The University's [Employment Screening Procedure](#) provides guidance on Prescribed Positions at the University of Adelaide
- Further information is available on Human Resources [Working with Children webpage](#)

When is a Working with Children Check (WWCC) required?

A Working with Children Check is required by law if:

- A person is in a **prescribed position**. This may be the case where contact with children or young people is **probable** or **frequent**.
- Personnel will have contact with children or young people for **7 or more days per annum**

Details of these obligations, responsibilities and processes are set out in the University's [Employment Screening Procedure](#) and on the [Working with Children webpage](#) (Human Resources).

Penalties apply for failing to meet WWCC legislative requirements including personal fines of up to \$50k and institutional fines of up to \$120k

Other considerations, including the expectations of participants and stakeholders, may indicate that a working with children check for all personnel is an appropriate risk control measure.

***Note:** *Tertiary education services are not classified as child-related work so there is no legal obligation for personnel delivering an approved undergraduate program to young people under 18 to be screened. Local areas may introduce a screening requirement as an appropriate risk management strategy.*

Who does NOT need a WWCC?

- Personnel delivering tertiary education services (i.e. an approved undergraduate program) to young people under 18 are not required by law to be screened. Local areas may introduce a screening requirement as an appropriate risk management strategy.
- Any service or activity in the course of which contact with children occurs incidentally or would not reasonably be expected to occur is not considered to be child-related work. So personnel who mostly work on campus and mostly engage with students over 18 but may occasionally encounter young people under 18 do not need a WWCC.
- A clearance is not required if there are reasonable grounds to believe that that a person will not work with children on more than 7 days in a calendar year. The onus in on the person who is working with children (and their supervisor) to monitor the frequency of engagement with children and young people under 18 and to keep records of any University authorised or programed engagement with under 18s.

Obligations of Personnel in Prescribed Positions

Under the [Employment Screening Procedure](#), those in Prescribed Positions and their supervisors are obligated to:

- Undertake any training as prescribed by the University
- Provide evidence of successful completion of the training to the University
- Report children at risk of harm via the
 - **Child Abuse Report Line (CARL): 13 14 78**

Staff who are concerned for the welfare of students, should report the matter to the University via the [Safer Campus Community website](#) or call 8313 1200.

Mandatory reporting requirements

- It is mandatory for people in some [occupations](#) to make a report if they suspect a child or young person may be at risk, including health practitioners and social workers, teachers and University personnel who are involved in child-related work or manage the provision of services to children.
- Mandated notifiers must notify the Department for Child Protection if they suspect on reasonable grounds that a child or young person is, or may be, at risk of harm.
- Reports should be made as soon as is reasonably practicable after forming the suspicion to the Child Abuse Report Line (13 14 78)
- Penalties of up to \$10k apply for failure to make a report
- Further information for mandated notifiers is available on the [Department for Child Protection website](#)

Other obligations

- [National Code of Practice for Providers of Education and Training to Overseas Students 2018](#) issued under the *Educational Services for Overseas Students Act 2000*
 - obligates the University and approved agents to protect the interest and ensure the welfare of international students.
- Australian Department of Foreign Affairs and Trade (DFAT) [Preventing Sexual Exploitation, Abuse and Harassment Policy](#) (2019)
 - sets out expectations for University personnel and students involved in funded programs and while travelling overseas.
- [National Principles for Child Safe Organisations 2019](#)
 - an initiative of the Council of Australian Governments
- [Indigenous Student Assistance Grants Guidelines 2017](#) issued under the *Higher Education Support Act 2003*
 - as a part of Indigenous Student Success Program funding, the University must apply measures to protect “vulnerable people”

Establishing a safe environment for children and vulnerable people

- The University is obliged to create & maintain a **child safe environment** which helps protect children from abuse & harm
- The University is required to establish & maintain **policies & procedures** to help promote the safety & well-being of children.
- As part of this requirement, the University must;
 - confirm employees and volunteers have a valid working with children check prior to commencing work in a prescribed position
 - lodge a Child Safe Environment Compliance Statement with the Department for Education & Child Development (previously Department for Families & Communities)
- For more information, see the University's [Safe Environments for Children and Vulnerable People Policy](#)

Additional Resources

- [Kim Dobinson](#), Director, HR Advisory and Workplace Relations
 - **8313 3078**
- [Sandra Lilburn](#), Manager Compliance
 - **8313 0482**
- [Children and Young People Safety Act 2017](#) (SA)
- [Child Safety \(Prohibited Persons\) Act 2016](#) (SA)
- [Working with Children](#) (Human Resources)
- [Screening Unit](#) (Department of Human Services)
- [Reporting child abuse or neglect](#) (Department for Child Protection)
- Child Abuse Report line: 13 14 78 (24 hours)
- [Safe Environments for Children and Vulnerable People Policy](#)
 - [Risk Assessment Tool - Safe Environments for Children and other Vulnerable People](#)
- [Safer Campus Community](#)



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Disclaimer

The content of this material is intended only to provide a summary & general overview of Child Protection Laws as applicable to the University of Adelaide.

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

Please contact Kim Dobinson, Director, HR Advisory and Workplace Relations if you are unsure of your compliance obligations under the Act.

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