

The Vulnerable Children Act 2014: New safety checking requirements

The Vulnerable Children Act 2014 (the Act) introduces new requirements for children's worker safety checking, bringing about a significant change for many GPs and other health service providers. The safety checks aim to reduce the risk of harm to children.

Why is this important?

Most GPs will be affected by the children's worker safety checking regime under the Act, which received the Royal assent on 30 June 2014. The Act was passed on the assumption that consistent vetting and screening helps to assess whether people pose a risk to children, and provide a way to prevent known abusers from working with children. The screening and vetting regime will be phased in – first applying to new staff in the 'core children's workforce' (see below), and then extending to the wider children's workforce. The Act also prevents people with serious convictions from working in relevant roles in the core children's workforce unless they hold an exemption.

Although the provisions regarding the requirements to conduct safety checks on staff are not yet in force, they will come into force on a date(s) to be appointed by the Governor-General by Order in Council. This will help to ensure that organisations have an opportunity to implement the new safety checking processes.

Will I be subject to vetting and screening?

The short answer is probably 'yes'. Any individual or organisation that is funded (including partial or indirect funding) by a State service to

provide regulated health services will be required to carry out safety checks for certain workers it employs or engages who are in regular contact with children.

Regulated health services are listed in the Act and include services provided at a public hospital or at a publicly funded medical practice or facility; through medical practices belonging to PHOs; or by health practitioners.¹

The Act defines a 'children's worker' as a person who has regular or overnight contact with children, without the parent or guardian of the child present, as part of their role in a regulated service. Children's workers are 'core workers' if they work alone with children or have primary responsibility for children.

Thus, the RNZCGP envisages that most GPs will fall within the ambit of the children's worker safety checking regime.

What will screening and vetting involve?

The most significant changes under the Act are the new requirements to conduct safety checks on staff. All State services and organisations receiving State funding to provide regulated services will have to:

- carry out safety checks on all new 'children's workers' that they employ or otherwise engage;
- ensure they have carried out safety checks on their existing children's workers by certain dates; and
- continue to carry out periodic safety checks every three years.

Key messages

- Most GPs will be affected by The Vulnerable Children Act 2014.
- Requirements to conduct safety checks on staff are not yet in force.
- Once in force (on a date to be determined by the Governor-General by Order in Council), individuals and organisations that receive direct or indirect state funding to provide health services will be required to undertake safety checks on children's workers they employ or otherwise engage.
- Processes for safety checking are currently being developed and are likely to include identity verification, police checking, risk assessment and periodic reassessment.
- It is unclear how or if the Act will apply in the situation where there is no employment or contracting relationship with the health practitioner.

The responsibility for carrying out the safety checks will lie with the individuals or organisations that receive State funding and employ or engage children's workers to carry out regulated services. It is clear that an organisation employing or contracting health practitioners to provide regulated services to children will be responsible for undertaking safety checks on those practitioners. However, it is unclear how or if the Act will be applied in the situation where there is no employment or contracting relationship with the health practitioner (such as a partnership or company directorship business arrangement).

Notably, the Medical Council of New Zealand (MCNZ) is not a 'regulated health service' and is not required to undertake safety checks for the purposes of the Act. However, it might be unnecessary for organisations to repeat the steps taken by the MCNZ if documentation of those particular checks is available and meets the organisation's standards. Organisations would need to be very clear on what information has been verified by the MCNZ as the organisation will be responsible for any checks that are incomplete.

Processes for standard safety checking are currently being developed by a number of agencies. It is expected that screening and vetting will involve the following:^{2,3}

- **Identity verification** – proof that people are who they say they are, including former identities;
- **An information requirement** – thorough police, history and behaviour checks;
- **Risk assessment** – a judgment-based process for interviewing staff; and
- **Periodic reassessment** every three years.

Organisations that do not meet the requirements will have committed an offence and be liable for fines of up to \$10,000 for each offence.

The Act also introduces a requirement for DHBs (including PHOs), school boards and other State services* who provide 'children's services' to adopt and report on child protection policies that guide staff to identify and report suspected abuse and neglect.

In practice

We are not yet sure exactly how the Government expects vetting and screening to be implemented. The children's worker safety checking provisions aim to reduce the risk of harm to children by requiring people employed or engaged in work that involves regular or overnight contact with children to be safety checked. However, opponents have argued that

staff checking for lower-risk professional groups and those working in low-risk environments would be disproportionate to the level of risk presented. Questions have also been raised about how the extra police checking will be funded.⁴

What happens next?

The processes for standard safety checking will be developed over the coming months. Sector representatives are being consulted to ensure that the processes for safety checking are appropriate. Guidelines on safety checking for employers will then be published. Once finalised, agencies intend to work with their sectors to help implement the new process. The RNZCGP awaits upcoming announcements with interest.

References

- 1 Schedule 1 of the Vulnerable Children Act 2014.
- 2 Section 31 of the Vulnerable Children Act 2014.
- 3 Children's Action Plan [Internet]. Screening and vetting; 2014 July 8 [cited 2014 Sept 29]. Available from: <http://www.childrensactionplan.govt.nz/legislation-/screening-and-vetting/>.
- 4 Taylor C. New Zealand Doctor. 'Fears Children Act vetting will be onerous and costly'; 2014 August 27; p. 2.

This document was accurate at the time of publication.

* The State services covered by this requirement are the Ministries of Education; Health; Justice; Social Development; Business, Innovation and Employment; New Zealand Police and Te Puni Kōkiri.



For further information go to:
www.childrensactionplan.govt.nz



If you have any questions about this issue, or would like to express a view on this topic, please contact the College's policy team: policy@rnzcgp.org.nz

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