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ANGLICAN ACTION

# Mandatory Safety Checks Policy

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# MANDATORY SAFETY CHECKS POLICY

## PURPOSE

The purpose of this policy is to protect children and their families from any staff member (employed or voluntary) who has a police record of violence or sexual abuse.

With the passing of the Vulnerable Children Act 2014, and the Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015, staff members who work with children are now required to submit to a much more intensive background check process, than has been the case in the past. In the legislation and in this part of the Manual, these checks will be referred to as 'safety checks.'

## CHILDREN'S WORKERS

The Vulnerable Children Act draws a distinction between two types of children's worker – a core worker and a non-core worker. A children's worker is someone whose work may or does involve regular or overnight contact with a child or children, and that work occurs in the absence of the parent or guardian of a child being present.

A person's work involves regular or overnight contact with children if

- A person has contact (other than merely incidental contact) with a child or children –
  - Overnight: or
  - At least once each week; or
  - On at least 4 days each month; andthat contact is any of the following kinds –
  - Physical contact
  - Oral communication whether in person or by telephone
  - Communication through any electronic medium, including by way of writing or visual images.
- A core worker is a children's worker whose work means that he or she may be the only children's worker present, or who has primary responsibility for, or authority over, a child or children.
- A non-core worker is a children's worker who is not working alone with a child or children, and who does not have primary responsibility or authority over a child or children.

In Anglican Action, staff employed in working with children in the Kids First Whanau Centre and the Youth Mentoring team will be classified as core workers. Some community support workers and those having a less intensive involvement in work with children will be classified as non-core workers.

## SAFETY CHECKS

(a) New or prospective employees

Under the legislation, the requirement is to carry out full safety checks on new children's workers as from 1<sup>st</sup> July 2015. The requirements for new or prospective employees are as follows:

- The proposed employee or new employee must confirm his or her identity using the process provided by RealMe; or
- Produce any of the documents listed in Schedule B to this policy [Primary identification documents]: or
- Produce any of the documents listed in Schedule B [ Secondary identification documents]

If none of the documents produced contain a photograph of the new or prospective employee, he or she must produce a photograph authenticated by a identity referee, or a verification statement signed and dated by an identity referee which verifies that the primary or secondary identification document produced relates to that person. The person must also provide the name and contact details of the identity referee.

Once the documents have been provided, the agency must search its employment records to ascertain whether the identity confirmed by the new or prospective employee is being used by another other employee, or has been used by any other employee. Proof that this search has been carried out must be documented.

In addition the process involves a police check. That is not required if the person is a member of a professional organisation that routinely arranges a police check of all new members or current members at intervals of not more than three years. Similarly, a police check is not required if the new or prospective employee is, under any enactment, licensed or registered to carry on a particular activity and the licensing or registration authority is required to obtain a police check of any person it licenses or registers, and any person currently licensed or registered, at intervals of not more than three years.

In considering a prospective employee the agency will ask the prospective employee to also provide the following information:

- A chronological summary of his or her work history, if any, for the preceding five years [including a description of previous employment]
- The name of –
  - Any professional organisation of which the person is a current member, if that membership is relevant to the proposed employment: or
  - Any licensing authority which has issued a current licence to the person for the carrying on of any activity relevant to the proposed employment; or any registration authority that has issued a current registration or practising certificate to the person for the carrying on of a particular activity that is relevant to the proposed employment; and

- The name of at least one referee who is not related to the person and not part of that person's extended family
- Any other information the agency considers relevant to a risk assessment of the person

A prospective employee must be the subject of a risk assessment, based on information provided or obtained. This involves a determination whether:

- The person poses or would pose any risk to the safety of children as a children's worker; and
- If the person does or would pose such a risk, the extent of that risk having regard to whether the person is to be employed as a core worker or non-core worker.

The risk assessment will occur as part of the interview process

In selecting a new staff member as a result of an interview and risk assessment, the agency must make sure that any referee or referees provided by the applicant have been contacted and provided information concerning the applicant's suitability for appointment. A copy of the referee check list is included with this part of the Manual.

#### (b) Existing employees

Safety checks of existing employees must be completed by 1<sup>st</sup> July 2018 for core children's workers, and by 1<sup>st</sup> July 2019 for non-core children's workers. The checks will consist of the following:

- An identity check, and a search of personnel records to check that the identity has not been claimed by another person. The identity check will involve a check of primary identity documents, and an original secondary identity document
- Information must be sought from the relevant professional organisation, licensing authority, or registration authority to confirm that the person is currently a member of the organisation, or is currently licensed or registered by the authority
- A New Zealand Police check, unless it can be established that at least three-yearly police checks are already a condition of the children's worker holding professional registration or certification, and the professional organisation has confirmed that the registration or certificate is current
- Evaluation of the information obtained to assess the risk the children's worker would pose to the safety of children if employed or engaged, taking into account whether the role is a core children's worker, or non-core children's worker.

#### Workforce restriction

It is not necessary to describe in detail the workforce restriction that prevents people with serious criminal convictions from working with children. The agency's policy on working with children is such that there is 'zero tolerance' in regard to serious criminal offending against children. However, the Vulnerable Children's Act provides that people with serious criminal

convictions must apply for an exemption from the Workforce Restriction if they wish to work as core children's workers. The restriction applies from 1<sup>st</sup> July 2015 to people applying for new roles as core children's workers

Serious criminal offences include:

- Sexual violation
- Attempted sexual violation and assault with intent to commit sexual violation
- Sexual conduct with child under 12 sexual conduct with young person under 16
- Assault on a child
- Ill treatment or neglect of child or vulnerable adult
- Organising or promoting child sex tours
- Indecent assault

The full list of offences is set out in the second schedule to the Vulnerable Children Act 2014.

If a safety check reveals that an existing staff member employed as a core worker has a serious criminal conviction of the type listed in the second schedule of the Vulnerable Children Act, the agency must take the following steps immediately:

- Suspend the employee from all duties involving his or her work as a core worker. Suspension must occur on full pay pending an investigation.
- The employee must be informed of the period of suspension, which must be no less than five working days.
- The employee must be informed of the reason for the suspension and the ground for the agency's belief [unless the existence of the offence has been disclosed by the employee, the police check will reveal the existence of the conviction]. The employee must be informed that he or she may respond to any reasons provided by the agency for the suspension
- The agency may not terminate the employee's employment until a period of at least five working days from the date of suspension has expired.
- As a result of negotiation with the employer, the employee may seek to extend the period of suspension to enable the employee to seek an extension or established that he or she does not have a conviction for a specified offence. However, the agency is under no obligation to extend the period of suspension as long as it believes on reasonable grounds that the workforce restriction applies.
- Unless steps have been taken by the employee to satisfy the agency that the exemption applies, or that an exemption is being applied for, and that the agency will continue to employ the employee if an exemption is granted [but see the first paragraph under the heading "Workforce Restriction"] the agency must terminate the employee's employment as a core worker
- An employee who is dismissed due to the Workforce Restriction is not entitled to any compensation or other payment, despite anything to the contrary in any contract or agreement, and the dismissal is deemed to be a justifiable dismissal for the purposes of Part 9 of the Employment Relations Act 2000

- Employees should note that the agency will adopt the same approach to all employees who have a serious criminal conviction of the type listed in the second schedule to the Vulnerable Children Act 2014.

#### Periodic rechecking

Safety checks must be completed every three years, and for existing staff, the checks will follow the pattern outlined above.

#### Safety checks for all agency staff

In view of the work undertaken with clients both in supported accommodation and in the community, the agency will move progressively to implement full safety checks for all staff members as and when checking is required

## Appendix A: Documentation

The contracts under which the agency provides services require that only staff with appropriate qualifications and experience are employed to undertake the important role which staff members undertake both in connection with children, young people and vulnerable adults. The agency will be required to demonstrate that safety checks have been undertaken and that the correct procedures were followed. This requirement is set out in section 39 of the Vulnerable Children Act 2014.

The agency's records must show the following:

- The process followed in conducting safety checks including when each aspect of the check was completed
- If reliance is placed on checks conducted by other organisations, the records must provide assurance that the check was adequately conducted {the agency would need to make enquiries of the other organisation as to its process in carrying out checks}. There must also be evidence of the risk assessment as to the risk the person would pose if employed as a children's worker
- The records must contain evidence that the police checks process has been carried out. It would be advisable to retain copies of the completed police checks for that purpose

## Appendix B: Confirmation of Identity

Confirmation of identity is very important, because cases have been reported in which people have gained employment using the identity and credentials of another person. The following standard must be used to confirm identity. It is informed by the Department of Internal Affairs, 'Evidence of Identity Standard v2.0. One the two following methods must be used:

### (a) Use of electronic identity credential

- The agency may confirm the identity of a children's worker by –
  - Verification by electronic means through use of an electronic identity credential as defined in the Electronic Identity Verification Act 2012, such as RealME; and
  - Establishing the uniqueness of the claimed identity by conducting a search of personnel records to ascertain whether the claimed identity is being used by another person employed [either currently or in the past ] by the agency

### (b) Use of appropriate regulatory process

#### A. Establishing that the identity exists.

The agency must establish that the claimed identity of the children's worker exists by checking an original primary identification document. Only any one of these documents may be used, and they are as follows:

- New Zealand passport
- Overseas passport
- New Zealand emergency travel document
- New Zealand refugee travel document
- New Zealand certificate of identity [issued under the Passports Act 1992 to people who are not New Zealand citizens and who cannot obtain a passport from their country of origin]
- New Zealand certificate of identity [issued under the Immigration Act 1987 to people who have refugee status]
- New Zealand Firearms Licence
- New Zealand full birth certificate issued on or after 1<sup>st</sup> January 1998, carrying a unique identification number
- New Zealand citizenship certificate

#### B. Establishing that the identity is a living identity and that the person presenting uses the identity in the community.

This check can be carried out using an original secondary identity document. One of the following must be used:

- New Zealand driver licence
- 18+ card
- Community Services card
- SuperGold card



- Veteran SuperGold card
- New Zealand student photo identification card
- New Zealand employee photo identification card
- New Zealand electoral roll card
- Inland revenue number
- New Zealand issued utility bill, issued not more than six months previously
- Steps to Freedom Form

C. Establishing that the children's worker links to the identity

The agency can verify the identity of the presenter by either:

- (i) Checking one of the two forms of identification used to satisfy requirements A or B above in person against the presenter. This requires that one of the two forms of identification must be photographic; or
- (ii) Using an identity referee as described below

If using an identity referee, the presenter must produce the following information together with his or her identity documents –

- The name and contact details of an identity referee; and either
- A photograph of the presenter authenticated by the identity referee [the identity referee must write on the back of the photograph "Certified true likeness of ( name of presenter), or words to that effect and sign and date the certification]; or
- A verification statement signed and dated by the identity referee which verifies that the primary identity document produced by the presenter relates to that person
- The identity referee must be someone who –
  - Has known the presenter for at least 12 months
  - Is at least 16 years of age
  - Is not related to the presenter and is not part of his or her extended family
  - Is not a partner or spouse of the presenter
  - Does not live at the same address as the presenter

Identity verification for periodic checking

Periodic checks conducted on a three yearly cycle may involve a more limited identity verification –

- The agency must confirm that a person has not changed their officially recorded name from the name on the documents produced during the initial identity verification [i.e the presented primary or secondary document]
- If there has been a change to the person's officially recorded name since he or she was last safety checked, the person must reconfirm his or her identity by producing a supporting name change document relating to his or her name change

Where there has been a name change, the following documents may be used to record evidence of the name change -

- New Zealand birth certificate (issued for the purpose)
- Change of name by statutory declaration
- Change of name by deed poll
- New Zealand name change certificate
- New Zealand marriage certificate
- New Zealand civil union certificate
- New Zealand Family Court order dissolving a marriage or civil union
- New Zealand Family Court order declaring a marriage or civil union void

#### Dealing with discrepancies

If a discrepancy is detected in the identity verification documentation presented by an individual, or trusted referee, the following action should be taken –

- The agency should first seek an explanation from the presenter, unless it is clearly apparent that fraud is involved, in which case the matter should be referred to the police, or the organisation which issued the documentation, or the relevant professional or licensing organisation
- In view of the risks, discrepancies between documents in regard to names or dates/places of birth should be resolved before any decision is made to continue the safety check. A person should not be engaged or employed as a children's worker if satisfactory explanations cannot be obtained.

#### Sources:

In preparing the Mandatory Safety Checks Policy, reference was made to the following sources:

- Vulnerable Children Act 2014
- Vulnerable Children [Requirements for Safety Checks of Children's Workers] Regulations 2015
- Children's worker safety checking under the Vulnerable Children Act 2014 [NZ Government publication under the auspices of the Children's Action Plan][contains general advice and guidance on safety checks processes and procedures]