

Children's Act guide

This guidance explains how the Children's Act 2014 (previously called the Vulnerable Children Act 2014) applies to community pharmacy and helps you to meet the requirements of the Act.

Background

The Act is part of government measures to protect and improve the wellbeing of children and strengthen New Zealand's child protection system. It aims to reduce the number of physical assaults on children and to protect children against abuse and neglect.

The Act applies to community pharmacy because community pharmacy receives funding from Te Whatu Ora under the ICPSA, and pharmacists are health practitioners under the Act.

The requirements to comply with the Act are reflected in the ICPSA under clause B.9, with contract holders required to have a child protection policy and undertake children's worker safety checking.

What is a child protection policy?

Your pharmacy is contractually obligated to have a child protection policy that complies with part 2 of the Children's Act.

As a regulated service you must have a policy that covers how people working in your pharmacy will stay alert to the signs and symptoms of neglect and abuse, and if any are identified this must be reported to a social worker or police officer. A template child protection policy for members is available [here](#).

An template abuse and neglect SOP, which includes the process for identifying and reporting child abuse and neglect, is available [here](#).

The Act and community pharmacy

The Act applies to health practitioners who are registered with a responsible authority such as the Pharmacy Council.

This means it applies to pharmacists in all scopes of practice – intern pharmacist, pharmacist, and pharmacist prescriber. It also applies to pharmacists you employ or engage as a locum.

It would apply to any other health practitioners that you may employ who are required to be registered with a responsible authority, such as nurses or podiatrists.

Children's worker safety checking

The Act imposes a children's worker safety check on people who meet certain criteria. The definition of a children's worker includes people:

- whose work may or does involve regular or overnight contact with a child or children; and
- this takes place without a parent or guardian of the child, or of each child, being present.

A child is someone under the age of 17, and not a person who is or has been married or in a civil union. The definition of regular contact means contact (other than merely incidental contact) at least once per week, or on at least four days each month. The effect of the definition is that all practicing pharmacists are children's workers, as the Act covers any person whose work in providing a regulated service has the potential to include contact with children.

Here are some examples of when pharmacists may come into contact with children:

- dispensing prescriptions to an unaccompanied person under the age of 17 years
- selling pharmacist only medicines to an unaccompanied person under the age of 17 years
- administering vaccines to an unaccompanied person under the age of 17 years
- selling the emergency contraceptive pill to an unaccompanied person under the age of 17, providing pharmacists are satisfied that the young person is competent to give informed consent
- selling the oral contraceptive pill to an unaccompanied person under the age of 17 years, providing pharmacists are satisfied that the young person is competent to give informed consent
- providing an emergency supply of medicine to an unaccompanied person under the age of 17 years, providing pharmacists are satisfied that the young person is competent to give informed consent.

What does a children's worker safety check involve?

You will likely already have some checking process in place as part of your recruitment policies, however the checking process required under the Act includes additional checks, such as a risk assessment.

You may find that some of the checking has been done by another person or body, but it is up to employers to determine if the people working for them fall under the Act. Despite that, you can leverage any checking that has been done by another person or body.

Child Matters, a New Zealand national charitable trust that is dedicated to the prevention of child abuse, has produced excellent guidance on tools and techniques for collecting and assessing information about people, which is available [here](#).

A children's worker safety checks SOP for members is available [here](#).

How do I decide which staff are children's workers?

Only pharmacists and intern pharmacists are considered children's workers. To be classified as a children's worker you must belong to a regulated profession (i.e., pharmacists are a regulated profession under the HPCAA). Therefore, pharmacy technicians, pharmacy assistants/retail staff and other pharmacy staff do not meet the children's worker threshold and you are not required to conduct the checks these staff.

Classification of children's workers

There are two categories of children's worker – core and non-core. **DHBs (now Te Whatu Ora) regard all practising pharmacists as core workers.**

Core worker means a children's worker whose work providing a regulated service requires or allows that, when the person is present with a child or children in the course of that work, the person:

- a. is the only children's worker present; or
- b. is the children's worker who has primary responsibility for, or authority over, the child or children present.

Non-core worker means a children's worker who is not a core worker. Non-core workers are those who have regular but limited child contact and do not have the same level of responsibility over the child.

Workers with certain convictions cannot be employed as a core worker unless an exemption is sought.

Safety checking under the Children's Regulations 2015

The procedures for safety checks on children's workers are set out in the Act and the Children's Regulations 2015. There are differences between the safety check for a new employee, for any subsequent check, and the safety check on an existing employee.

For detailed information please see:

- Appendix A – Safety check for new employee
- Appendix B – Safety check on an existing employee
- Appendix C – Subsequent safety checks on employees
- Appendix D – Frequently asked questions

For sole pharmacist owners

As there is no ability for a sole pharmacist owner to safety check themselves, an independent safety checking service is required to ensure that sole pharmacist owners can be safety checked in accordance with the requirements under the Act.

CV Check (NZ) Ltd can carry out safety checks for sole pharmacist owners. Owners you are required to complete an Accredited Existing Children's Workers Check. Click [here](#) to access the safety checking service, once you are logged in, follow the prompts and enter all the information required.

For pharmacist co-owners/business partners

For pharmacies or groups of pharmacies that are owned by multiple owners/business partners, safety checks can be conducted internally (i.e., pharmacy co-owners can check each other). However, extra care must be taken to ensure any conflicts of interest are appropriately identified and managed.

Please note, the Ministry of Health have recommended that if partners/co-owners are intending to use this approach that they take extra care to ensure the process they follow is in line with legislative requirements and is robust, including appropriate identification and management of any conflicts of interest (e.g., from shared business interest, or other relationships). It is important to ensure the checks are completed correctly, both to make sure that the legislation is complied with, and that any risk to children is identified.

For locum pharmacists

All locum pharmacists must carry documentation to show they are suitably qualified to provide pharmacy services. As part of this requirement, they will need to show evidence that they are safe to work with children. Locum pharmacists, as individuals, cannot safety check themselves and will need to obtain a safety check through an approved third-party agency, i.e., CV Check (NZ) Ltd.

Relying on a previously completed safety check

Any time you are presented with a previously completed safety check you must still review the information gathered as part of your normal recruitment process to assess whether the person poses any risk to the safety of children. At a minimum this includes:

- Verification that the safety check is true and accurate. Anyone who has a safety check completed by CV Check will be provided with a secure digital certificate that can be shared with employers for verification purposes.
- Verification of identity. Employers must satisfy themselves that the person named in the completed safety check is the same person being employed or engaged.

The portability of these checks is intended to reduce compliance costs and processes for employers, particularly when employing children's workers who regularly change roles, such as locums. However, employers are not obliged to rely on previously completed safety checks and are advised to treat every appointment on a case-by-case basis.

What to do if you find a core worker has been convicted of an offence or may not be safe to work with children

We recommend that you contact the Guild's HR Advice Line on 0800 484 347 or hradvice@pgnz.org.nz for personalised advice.

Appendix A: Safety check for new employee

A safety check for a new employee entails:

- identity verification
- information about previous criminal convictions (if any)
- employment verification check, including a reference check
- information from relevant professional organisations
- a face-to-face interview, by telephone or by other communication technologies
- a risk assessment that considers the specific child safety related risk

Remember you may find that some of the checking has been done by another person or body, and it does not necessarily need to be repeated.

1. Identity verification

Identity verification requires you to check the pharmacist's or intern's identity together with a primary and a secondary identity document.

The primary identity document will usually be a passport or birth certificate, and the secondary document a New Zealand driver licence or New Zealand student ID card. If neither of these contains a photo, then the applicant must provide a photo, authenticated by an identity referee (see regulation 5 in the Children's Regulations 2015).

An alternative to this procedure is to use an approved electronic identity credential, such as RealMe, www.realme.govt.nz.

If the person's name is different to their identity documents, they must provide supporting name change documents.

Once the identity documents have been obtained, you must check your records to ensure that this identity has not been claimed by anyone else within your pharmacy.

2. Information about previous criminal convictions

The requirement is a New Zealand Police Vetting Service Police vet. The vetting does not need to be repeated if you have previously obtained a check within the last three years, or if as part of membership of a professional organisation a Police vet is required.

There is no cost to setup a pharmacy as an approved agency to access the Police Vetting Service. However, approval is at the discretion of the Police. A Police Vetting request costs \$8.50 plus GST per request and takes about 20 working days to process. All details on how to register for the vetting service are available [here](#). The vetting service request/consent form is available [here](#).

Since 1 April 2014, the Pharmacy Council has routinely requested that new pharmacists and pharmacists applying to be reinstated to the pharmacist scope of practice must supply a copy of their record of criminal convictions from the Ministry of Justice. Ministry of Justice checks are different from a Police vet, so you are required to obtain a separate Police vet.

The Criminal Records (Clean Slate) Act 2004 does not apply to specified offences for core children's workers.

3. Employment verification check

This is to include:

- A chronological summary of the pharmacist or interns work history over the previous five years should be documented.
- The name of at least one referee who is named by the pharmacist or intern (and not related to them).
- At least one referee who is named by the pharmacist or intern (and not related to them) must be contacted and asked whether the person poses a risk to the safety of children. This could be done electronically and could use questions such as:

In what capacity do you know (person)?

How long have you known (person)?

Do you have any concerns about (person's) suitability to work with children?

Would you be happy for (person) to provide pharmacy services to your children?

Are there any other comments you would like to make?

Are there any matters you would like to discuss by phone?

If the first referee raises concerns, then obtaining further references would be appropriate.

4. Information from relevant professional bodies

It is sufficient to confirm that the employee is currently a registered practising pharmacist. You can do this by obtaining a current copy of their annual practising certificate or by accessing the Pharmacy Council online public register [here](#).

You can search by first name, last name, registration number or region. Once you find the pharmacist you are searching for, click on their name to view their:

- Registration number
- Qualifications
- Date of registration
- Status (current or inactive)
- Scopes of practice
- Any conditions on scope of practice

It is not necessary to contact the Pharmacy Council to verify that the information on the online public register is up to date. The register is in real time. This means any changes to a pharmacist's status (e.g., conditions) are effective immediately.

5. Interview, in person or otherwise, to inform the assessment of risk

Questions need to be appropriate for the work history of each applicant.

Appropriate questions might be:

- Is there any reason, including past events, you might be perceived to pose a risk to children?
- Can you tell us about your experience working with children? Throughout this experience have you encountered any challenges or difficulties? What were they and how did you respond to them?

- Do you have any convictions that would preclude you from being engaged as a children's worker?
- Are there any investigations or other matters that may be disclosed in the safety checking process?

6. A risk assessment of the applicant with respect to the safety of children must be undertaken, based on the material from the bullet points above

It is an offence to employ a core worker convicted of offences specified in Schedule 2 of the Act. Otherwise, the Act does not require specific actions in response to information gathered.

The final decision about whether a person is safe to work with children remains the sole responsibility of the employer, who should always act in the best interests of children accessing the service. The risk assessment needs to consider whether the person poses, or would pose any risk to children, and the extent of any risk.

See the Ministry of Health website for full details of the Act, including children's worker safety checking regulations and a useful Question and Answer resource. Click [here](#) to access this information.

Don't want to conduct the safety check yourself?

CV Check (NZ) Ltd is approved by the Ministry of Health to conduct children's worker safety checks. Please click [here](#) to access 'Information for Pharmacy Guild of NZ Members' for further details on the services provided and the costs associated with the services.

Appendix B: Safety check on an existing employee

1. Identity verification

For a safety check the identity check needs to verify any change in name and requires a supporting name change document to be produced.

2. Information about previous criminal convictions

The requirement is a New Zealand Police Vetting Service Police vet. The vetting does not need to be repeated if you have previously obtained a check within the last three years, or if as part of membership of a professional organisation a Police vet is required.

There is no cost to setup a pharmacy as an approved agency to access the Police Vetting Service. However, approval is at the discretion of the Police. A Police Vetting request costs \$8.50 plus GST per request and takes about 20 working days to process. All details on how to register for the vetting service are available [here](#). The vetting service request/consent form is available [here](#).

Since 1 April 2014, the Pharmacy Council has routinely requested that new pharmacists and pharmacists applying to be reinstated to the pharmacist scope of practice must supply a copy of their record of criminal convictions from the Ministry of Justice. Ministry of Justice checks are different from a Police vet, so you are required to obtain a separate Police vet.

The Criminal Records (Clean Slate) Act 2004 does not apply to specified offences for core children's workers.

3. Information from relevant professional bodies

It is sufficient to confirm that the employee is currently a registered practising pharmacist. You can do this by obtaining a current copy of their annual practising certificate or by accessing the Pharmacy Council online public register [here](#).

You can search by first name, last name, registration number or region. Once you find the pharmacist you are searching for, click on their name to view their:

- Registration number
- Qualifications
- Date of registration
- Status (current or inactive)
- Scopes of practice
- Any conditions on scope of practice

It is not necessary to contact the Pharmacy Council to verify that the information on the online public register is up to date. The register is in real time. This means any changes to a pharmacist's status (e.g., conditions) are effective immediately.

4. A risk assessment of the applicant with respect to the safety of children must be undertaken

It is an offence to employ a core worker convicted of offences specified in Schedule 2 of the Act. Otherwise, the Act does not require specific actions in response to information gathered.

The final decision about whether a person is safe to work with children remains the sole responsibility of the employer, who should always act in the best interests of children accessing the service. The risk

assessment needs to consider whether the person poses, or would pose any risk to children, and the extent of any risk.

See the Ministry of Health website for full details of the Act, including children's worker safety checking regulations and a useful Question and Answer resource. Click [here](#) to access this information.

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Appendix C: Subsequent safety checks on employees

1. Identity verification

For a subsequent safety check the identity check needs to verify any change in name and requires a supporting name change document to be produced.

2. Information about previous criminal convictions

The requirement is a New Zealand Police Vetting Service Police vet, unless a Police vet is part of membership of a professional organisation.

There is no cost to setup a pharmacy as an approved agency to access the Police Vetting Service. However, approval is at the discretion of the Police. A Police Vetting request costs \$8.50 plus GST per request and takes about 20 working days to process. All details on how to register for the vetting service are available [here](#). The vetting service request/consent form is available [here](#).

The Criminal Records (Clean Slate) Act 2004 does not apply to specified offences for core children's workers.

3. Information from relevant professional bodies

It is sufficient to confirm that the employee is currently a registered practising pharmacist. You can do this by obtaining a current copy of their annual practising certificate or by accessing the Pharmacy Council online public register [here](#).

You can search by first name, last name, registration number or region. Once you find the pharmacist you are searching for, click on their name to view their:

- Registration number
- Qualifications
- Date of registration
- Status (current or inactive)
- Scopes of practice
- Any conditions on scope of practice

It is not necessary to contact the Pharmacy Council to verify that the information on the online public register is up to date. The register is in real time. This means any changes to a pharmacist's status (e.g., conditions) are effective immediately.

4. A risk assessment of the applicant with respect to the safety of children must be undertaken

It is an offence to employ a core worker convicted of offences specified in Schedule 2 of the Act. Otherwise, the Act does not require specific actions in response to information gathered.

The final decision about whether a person is safe to work with children remains the sole responsibility of the employer, who should always act in the best interests of children accessing the service. The risk assessment needs to consider whether the person poses, or would pose any risk to children, and the extent of any risk.

See the Ministry of Health website for full details of the Act, including children's worker safety checking regulations and a useful Question and Answer resource. Click [here](#) to access this information.

Appendix D: Frequently asked questions

Question How often am I required to undertake a safety check?

Answer Every three years.

Question What is the difference between a Police check and a Ministry of Justice check?

Answer A Ministry of Justice check is a criminal record check, also called a criminal conviction history or Police check. This check covers criminal and traffic convictions, but it excludes infringements such as parking tickets, charges that haven't gone to court yet, any charges where you weren't convicted, times you've gone to court and were found not guilty, demerit points and driver licence suspensions. As well as your criminal record, police vetting can also include information on any contact you've had with the police.

Question What is the relationship between the Police vet as required for a safety check and the Criminal Records (Clean Slate) Act 2004?

Answer Some criminal records will not be available because of the Criminal Records (Clean Slate) Act 2004. Under this Act, eligible offenders will be able to have their criminal record or information concealed (including Police Vetting Service and criminal records checks). The Children's Act enables certain offences that would otherwise not be disclosed under the Criminal Records (Clean Slate) Act 2004 to be disclosed in the vetting result.

Question Who retains the safety check?

Answer Employers undertaking safety checks of children's workers must retain the information pertaining to the employee. An employee should retain a copy of their safety check, so they can provide it to any future employer.

Question How do I check a potential employee who has lived overseas?

Answer It is recommended that you ask children's workers who have lived overseas to provide copies of police certificates from their countries of citizenship and from any country in which they have lived for one or more years within the last ten years. If a potential employee cannot provide a police certificate (some overseas jurisdictions do not provide these), ask them to give you proof of their attempts to obtain a certificate. They should also make a statutory declaration that states whether they have any overseas criminal convictions or not.

Question Do I need to change my human resources policies concerning employment to consider the Children's Act?

Answer We recommend you include reference to the Children's Act 2014 and the requirements for safety check, and rechecks every three years, in the job description.

Question Where do I find all the legislation on the Children's Act?

Answer Go to www.legislation.govt.nz and look for Children's Act 2014 and Children's (Requirements for Children's Safety Workers) Regulations 2015.