

Frequently Asked Questions

What is the Working with Children Check?

The Working with Children Check is a detailed national check of a person's criminal history, including any charges or convictions. Also considered is disciplinary information held by certain professional organisations (teachers, child care licensees, foster carers, nurses, midwives and certain health practitioners), and police investigative information about allegations of serious child related sexual offending.

The Working with Children Check is conducted by the Commission for Children and Young People and Child Guardian to determine whether a person is eligible for a blue card. If a person is considered eligible, they are issued with a positive notice letter and a blue card.

What is a prescribed notice?

If an application for a blue card is approved, a person is issued with a positive notice letter and blue card.

If an application for a blue card is rejected, a person is issued with a negative notice letter which prohibits them from working in employment or carrying on a business regulated by the *Commission for Children and Young People and Child Guardian Act 2000* (Qld) (the Act).

Who does the Working with Children Check apply to?

Only persons falling within certain categories of employment or business regulated by the *Commission for Children and Young People and Child Guardian Act 2000* (Qld) (the Act) require a blue card.

The categories of **business** regulated by the Act are:

- Counselling and support services
- Private teaching, coaching or tutoring
- Child care
- Education programs conducted outside of school
- Religious representatives
- Child accommodation services including home stays
- Sport and active recreation
- Hostel for Children other than residential facility
- Businesses relating to licensed care services under the *Child Protection Act 1999*

The categories of **employment** regulated by the Act are:

- Residential facilities
- Schools – boarding facilities
- Schools – employees other than teachers and parents*
- Child care*
- Churches, clubs and associations involving children
- Counselling and support services
- Private teaching, coaching or tutoring
- Education programs conducted outside of school*
- Child accommodation services including home stays
- Religious representatives*
- Sport and active recreation
- Emergency services cadet program*
- School crossing supervisors*
- care of children under the *Child Protection Act 1999**

Paid employees commencing employment after 1 May 2001 in one of these categories need a blue card.

However, the categories marked with * are retrospectively screened. This means that people working in these categories of employment must hold a blue card regardless of when they started work (ie before or after 1 May 2001).

The Act does not apply to children under 18 who are volunteers, unless the child is a **"trainee student"** in regulated employment as part of a course of study with an **"education provider"** as defined in the Act.

A person who works with children in one of the above categories must obtain a blue card unless specifically exempt.

What is "employment"?

Employment is defined as an agreement to work, regardless of whether the agreement is written or unwritten, whether the work is regular or irregular, the duration of the work, the motivation for the work, or whether the work is carried out voluntarily or for financial reward.

My business is a corporation. Who needs a blue card?

Each executive officer of the corporation whose principal place of residence is in Australia must hold a blue card. An executive officer is any person who is concerned with or takes part in the management of the corporation

I am exempt under one category but fall under another category. Do I need a blue card?

Yes. Each category of employment and business regulated by the Act has its own exemptions. Therefore exemption under one category does not mean you are exempt under another category.

Example A

A psychologist is employed at a school as a student counsellor and the psychologist is not a registered teacher or a volunteer who is a parent of a child attending the school. The psychologist requires a blue card as they fall under the 'schools – other than teachers and parents' category of regulated employment even though they are exempt under the 'counselling and support services' category because the psychologist is a registered health practitioner.

Example B

If a registered teacher carries on a business that includes private tutoring of children, the teacher requires a blue card as they are carrying on a regulated business under the 'private, teaching, coaching or tutoring' category of regulated business in the Act; even though the teacher is exempt under the "private, teaching, coaching or tutoring' category of regulated employment because the person is a registered teacher.

How often do I need to work with children in order to require a blue card?

As a paid employee you require a blue card if you carry out work or are likely to carry out work, in a category of regulated employment, over a period of 12 months for:

- eight consecutive days; or
- once a week for each week during a period of four weeks; or
- once a fortnight for each fortnight during a period of eight weeks; or
- once a month for each month during a period of six months.

Volunteers and people carrying on a regulated business need a blue card before they commence regulated activities, regardless of how often they come into contact with children and young people.

Do I need a blue card to volunteer at a one off event?

No. You do not need a blue card if you are:

- a volunteer guest of a school or registered charity, incorporated association or corporation for 10 days or less on no more than two occasions per year for the purpose of observing or supplying information or entertainment to 10 or more people, who is unlikely to be physically present with a child while no other adult is present; or
- a volunteer performing the function of employment for 10 days or less on no more than two occasions per year, at a national or state event, attended by more than 100 people which is organised by a school or recognised body (operating at a state or national level) for a sporting, cultural or skill based activity, who is unlikely to be physically present with a child while no other adult is present.

If you do not meet **all** of the above requirements you **do** need a blue card if you fall under one of the categories of employment regulated by the Act, and no exemption applies. You should check whether an exemption applies to the particular category of regulated employment relevant to your volunteer work.

If you are not exempt, you can apply for a blue card by submitting a *Volunteer Employment (V) Application Form*. There is no application fee.

Note: You must hold a blue card **before** you begin voluntary work, regardless of how often you come into contact with children and young people.

How long will my application take?

As a guide, you should allow approximately 28 working days to process your application where applications lodged with the Commission are completed in full and where further information from you is not requested.

What information is considered when deciding who is issued with a blue card?

The Commissioner considers a person's criminal history, including both charges or convictions, as well as disciplinary information held by certain professional organisations (teachers, child care service providers, foster carers, nurses, midwives and certain health practitioners) and police investigation information about allegations of serious child related offending.

If a person has a criminal history, the Commissioner considers:

- whether there are charges or convictions
- whether any offence is a *serious offence*
- when the offence was committed or alleged to have been committed
- the nature of the offence and its relevance to working with children or young people
- in the case of a conviction, the penalty imposed by the court and any reasons given if the court made no imprisonment order or no order disqualifying the person from holding or applying for a blue card, and
- any other relevant information relating to the offence or alleged offence.

A negative notice will be issued if a person has been convicted of a *serious offence* (other than an *excluding offence* in which imprisonment or a disqualification order was made) unless they can satisfy the Commissioner that their case is an exceptional one, in which it would **not** harm the best interests of children to issue a blue card.

Where a person has been convicted of an *excluding offence* where imprisonment or a disqualification order was made, the Commissioner must issue a negative notice.

What is an excluding offence?

An excluding offence is a serious child-related sexual offence or a child pornography offence.

If I have a criminal history will I be refused a blue card?

A person with a criminal history will not necessarily be refused a blue card.

If a person's criminal history suggests they should not hold a blue card, the Commissioner will ask them to provide a submission on any police or disciplinary information held about them, explaining why they should not be refused a blue card.

The Commissioner assesses the submission, and the applicant's references or other relevant material provided the nature of the offence/s and circumstances surrounding the case before making a final decision.

What if a person is charged with or convicted of an excluding offence?

Where a person has been charged with or convicted of an excluding offence, in certain circumstances the Commissioner can:

- withdraw the application; or
- suspend the blue card; or
- cancel the blue card.

Withdrawal of application

If a person is charged with an excluding offence after they have lodged an application but before it has been decided, the Commissioner withdraws their application. The Commission will issue a withdrawal notice to the applicant and their employer or organisation if applicable.

Suspension of blue card

If a person is charged with an excluding offence after they have been issued with a positive notice blue card, the blue card is automatically suspended and they cannot begin or continue to work in regulated employment until their '*Change of Criminal History Application Form*' has been processed and a new card issued. The card holder must return their positive notice and blue card to the Commission within 7 days after being advised by the Commission that their blue card has been suspended. The employer is also notified of the suspension of the blue card.

Note: **Suspension** of a person's blue card does not stop them from working in non-regulated employment.

Cancellation of blue card

If an applicant has been convicted of an excluding offence they are excluded from holding a blue card if:

- they were sentenced to imprisonment (actual or suspended) for the offence; or
- the judge made a disqualification order banning them from holding a blue card.

In this situation the Commissioner is required to issue a negative notice. The employer is notified of the issue of a negative notice to this person

Note: **Cancellation** of a person's blue card does not stop them from working in non-regulated employment.

What happens if I have a change in my criminal history?

If you have a criminal history, any charge or conviction of a criminal offence since your card was issued is considered to be a change in your criminal history.

If you do not have a criminal history, there is taken to be a change in your criminal history if you acquire a criminal history.

If there is a change in your criminal history you must immediately notify your existing or prospective employer, volunteer organisation or education provider of the change. You are not required to disclose any specific details about the nature of the change.

Note: You must submit a '*Change of Criminal History Application Form*' before you can continue to work in regulated employment.

What if the change in criminal history is a conviction of a serious offence?

Where the change is a conviction of a *serious offence*, a cardholder cannot start or continue in regulated employment or start or continue a regulated business until a new card is issued. Failure to comply with this obligation is an offence and may result in penalties.

Will the Commissioner notify my employer that there has been a change in my criminal history?

The Commissioner **may** notify an employer that an employee is being reassessed if the information is considered relevant to their work with children.

Where new information emerges about a person's criminal history (other than investigative information) the Commissioner **must** notify the employer whether the person has been charged or convicted with an offence, and whether it is a serious offence, a serious child-related sexual offence or a non-serious offence. No further details are provided to the employer.

The employer may not dismiss the employee solely or mainly because of the employee's change in criminal history.

What happens if my employee has a change in their criminal history?

The employer, volunteer organisation or education provider **must not** continue to employ the person without applying for a new Working with Children Check. Failure to do so is an offence.

Where new information emerges about a person's criminal history (other than investigative information) the Commissioner will notify you whether the person has been charged or convicted with an offence, and whether it is a serious offence, a serious child-related sexual offence or a non-serious offence.

When the change in criminal history is a charge for an excluding offence, you are not entitled to dismiss the employee because of this change. Instead, you should ensure your risk management strategy caters for this situation.

If a person is charged with an excluding offence after they have received a blue card, the blue card is automatically suspended. They cannot begin or continue to work in regulated employment or carry on a regulated business until their 'Change in Criminal History Application Form' has been processed and a new card issued.

What information is given to my employer / volunteer organisation / education provider?

The employer, volunteer coordinator or education provider is notified of the outcome of the person's blue card application. An employer is also notified whether the application has been withdrawn, or a card suspended. However, no personal, police or disciplinary information is disclosed to the employer, volunteer coordinator or education provider.

How long is a blue card valid?

A blue card is valid for two years from the date it is issued, unless it is cancelled or suspended earlier by the Commissioner.

The Commissioner must suspend a blue card if the person is charged with an excluding offence, pending the charge being dealt with. If the person is convicted of an excluding offence, their blue card must be cancelled by the Commissioner if they were sentenced to imprisonment for the offence, or the judge made a disqualification order preventing them from holding a blue card. If the charge did not result in imprisonment or a disqualification order, then the application is assessed normally, and a negative notice will be issued unless the cardholder can satisfy the Commissioner that it would not harm the best interests of children to issue a blue card.

Cancellation may also occur where there has been a change in criminal history, or where the Commissioner considers the decision to issue the blue card was based on wrong or incomplete information. If this occurs you cannot re-apply for a card for at least 2 years.

What is a volunteer?

A "volunteer" includes a person who is not paid for carrying out their work, or who is only reimbursed for out-of-pocket

When do volunteers need a blue card?

Volunteers (unless exempt) need a blue card **before** they start volunteering in any area of employment regulated by the Act, regardless of how often they come into contact with children and young people.

Note: the minimum threshold test does not apply to volunteers

Why is a volunteer parent exempt from certain categories of regulated activities?

The parental exemption was initially included in response to the outcomes of a public consultation process to inform the development of the legislation.

The recent review of the legislation considered the removal of this exemption; however, after careful consideration the Government did not support the screening of parents. The main reason was that it would discourage parental involvement in a child's life and activities, which is central to the functioning of the family unit and the relationship between parent and the child.

It is important to recognise the Working with Children Check is only one component in a suite of strategies supported by the government to promote safe environments for children and young people. For example, the Commission conducts criminal history screening for people seeking to work in certain child related areas, it educates the community about child protection risk management, and highlights the importance of parents being vigilant about considering child safety and not relying solely on the existence of the blue card. It also provides training to employers to assist them to develop strategies to manage risks

Whose responsibility is it to ensure people working with children and young people hold a blue card?

The employer, volunteer organisation or education provider applies for a blue card on behalf of the employee, volunteer or student.

A representative of the "employer" is required to sight the proof of identification documents of an applicant.

However a prescribed person (Commissioner for Declarations, Justice of the Peace, Lawyer, or Police Officer) may sight the documents where:

- the applicant's usual residence is more than 50km from their employer's business address or a place used by the education provider for conducting courses; or
- the applicant has a disability that affects his or her mobility.

A *person* carrying on a regulated business must apply for their own blue card. Their identification must be verified by a prescribed person.

How much does a blue card cost?

A Working with Children Check is **free** for volunteers.

Paid employees and persons carrying on a regulated business are required must submit their blue card application accompanied by the *prescribed fee*.

Who pays the fee?

The Act is silent as to who is responsible for the payment of the fee. This is a policy matter at the discretion of your employer.

I work with children in several different areas – do I need more than one blue card?

No. The blue card is transferable across the areas of employment and businesses regulated by the Act. This means that if you engage in more than one regulated activity, the one blue card can be used for each activity. You do not need to submit more than one application.

I already have a blue card but I am about to undertake child related work with a different employer. Do I need to complete another application?

No. A blue card is transferable across all areas of employment regulated by the Act.

However, where the blue card is used in a different category of business or employment regulated by the Act, you should complete and submit to the Commission an *authorisation to confirm a valid blue card form*. This form allows the Commission to advise the authorised person of your current blue card status and entitles this person to any relevant notifications concerning the status of your blue card under the Act.

What if my blue card is lost or stolen?

If your positive notice letter or blue card is lost or stolen you must notify the Commissioner within 14 days, to avoid penalty under the Act.

How do I notify the Commission that my blue card has been lost or stolen?

Under the Act you are required to notify the Commission if your blue card has been lost or stolen.

You can notify the Commission by completing a '*Positive notice letter / blue card lost or stolen form*'.

The Commission charges a \$10 fee for the replacement of a blue card.

Can a blue card holder who has lost their blue card continue to work in regulated employment until a replacement card is issued?

Yes. Because blue card holders have already received a positive notice from the Commission they may continue working in regulated employment or operating a regulated business until they receive a replacement blue card.

Blue card holders are required to advise the Commission within 14 days if their card is lost or stolen. Penalties apply if a card holder fails to notify the Commission.

What if my contact or employment details change?

If your name changes, your contact details change or your employment ends before you are issued with a blue card, you must advise the Commissioner within 14 days to avoid *penalty* under the Act.

For information on how to notify the Commission of a change to your name, address or phone number, refer to the '*Change in personal details*' page on the website.

If your name changes you should complete a "*Change of name*" form advising of the change and forward it to the Commission together with a copy of the relevant documents evidencing the change.

If your address or phone number change, you should complete a "*Change to contact details*" form and forward it to the Commission.

If you stop working in child-related employment, or you commence child-related employment with a new employer, you should read the information on ceasing or changing employment / business.

How will I know when to renew my card?

The Commissioner notifies cardholders 16 weeks before their card is due to expire so they can apply for a renewal of the card.

To ensure you receive your renewal letter, it is important that you notify the Commission of any change in your residential address.

How do I renew my blue card?

The Commission writes to card holders around 16 weeks before their blue card expires to advise them how to renew their card. This letter contains the username and password needed to download the correct renewal form from the Commission's website.

Further information on how to renew your blue card can be found under the '*Blue Card Renewals*' on the website.

Since my first blue card application, I have changed the type of employment. Can I submit a renewal application that is different from my own original application?

Yes. When renewing your blue card, you need to complete the appropriate renewal form that relates to the type of child related employment or business which you are now involved with.

A blue card is transferrable across the categories of employment and business regulated by the Act. This means that if you engage in more than one regulated activity, the one blue card can be used for each activity.

My blue card has expired. Can I continue my child related activities while my application for a new card is processed?

Yes. Volunteers and people carrying on regulated businesses can continue to work after the expiry of their blue card, provided:

- their blue card has not been suspended or cancelled; and
- a renewal application was submitted at least 30 days prior to the expiry of the card.

If you do not satisfy both of these conditions, you will not be able to continue to provide child-related services and will have to wait for your renewal application to be processed.

Note: To ensure you receive the invitation to renew your blue card, you must advise the Commission within 14 days of any change to your personal information, such as postal address or a name change.

Penalties apply if a blue card holder fails to notify the Commission of these changes.

Is my blue card valid in other states / countries?

No. While the Working with Children Check is a detailed national check of a person's criminal history, including charges or convictions, it is a card issued in Queensland by the Queensland Government and is not nationally or internationally transferable.

What is a risk management strategy?

Under the Act, employers in regulated employment and regulated businesses must develop and implement annually, strategies to identify and manage the risks to children in that particular service environment.

To assist employers develop a strategy appropriate to the particular service environment the Commission conducts a 3 hour *Risk Management Workshop* free of charge. Alternatively please contact the Commission on **3239 3754**.

While the employment screening conducted by the Commission is a significant step in the protection of children and young people, it is important to appreciate that the legislation is not designed to replace appropriate risk management strategies. The possession of a blue card issued by the Commission is not an absolute safeguard, and should not encourage complacency on the part of the employer.

Where can I get further information?

If you have any other questions on blue cards or the Working with Children Check, you can contact the Commission on **1800 113 611** or **07 3247 5145**.