

## Education Personnel (EP) Policy

### Vulnerable Children Act 2014

#### EP Child Protection Policy

**APPLIES TO:** All EP staff engaged in recruiting teachers or support staff for our school and ECE clients.

**DATE:** October 2015.

#### PURPOSE

This policy is to clarify EP's obligations and commitments with respect to the Vulnerable Children Act 2014 (the Act), and to stipulate the procedures and practices the company applies to ensure compliance with the requirements and spirit of the Act.

Where any EP employee is uncertain as to the requirement or application of any part of this policy, they should consult immediately with their manager or another senior staff member.

#### BACKGROUND

The VCA encompasses a commitment to implement legislation for the vetting and screening of the children's workforce – these "children's worker safety checks" became law in the Vulnerable Children Act 2014, and came into force for new workers in core children's workforce roles on 1 July 2015.

The children's worker safety checking requirements come into force at different times for new core and non-core workers, while existing workers need to have their checks updated over three years.

The key dates<sup>1</sup> are:

- **1 July 2015 – all new core workers must be safety checked before commencing employment or engagement as a children's worker from this date.**
- 1 July 2016 – all new non-core workers must be safety checked before commencing employment or engagement as a children's worker from this date.
- **1 July 2018 – all existing core workers must have been safety checked by this date.**
- 1 July 2019 – all existing non-core workers must have been safety checked by this date.

#### REQUIREMENTS OF THE ACT

The VCA requires safety checking of all paid employees and contractors, employed or engaged by government-funded organisations, who work with children. The requirements for safety checking also apply to people undertaking unpaid children's work as part of an educational or vocational training course.

Businesses, unfunded non-government organisations, and voluntary organisations are not covered by the requirements, but are encouraged to also adopt the new standards voluntarily.

The VCA also contains a restriction on the employment of people with convictions for certain offences in some children's worker roles, subject to a government-run exemptions process.

The Act is legally binding on all specified organisations.

The Act's scope is broad in terms of the responsibilities and obligations extending to the organisations specified under the Act. The material responsibilities imposed upon EP are considerably narrower than, for example, those of an early childcare centre (which must have policies and mechanisms to recognise and act on signs of child abuse or neglect). In contrast, EP's obligations are confined to the vetting and selection of core workers provided by our firm to our clients in New Zealand.

#### WHY IS EDUCATION PERSONNEL AFFECTED

The Act requires specified organisations to ensure new safety checks of children's workers they employ or engage are completed. The Act defines who or which is an individual or organisation that is defined as a specified organisation.

Specified organisation means:

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<sup>1</sup> Effectively, all EP candidates are "core workers" and as such, the key dates for these are in bold.

1. Any of the State services (as defined in section 2 of the State Sector Act 1988) – this includes Crown departments, corporations, agencies and a range of other organisations.
2. An individual or organisation that is funded (whether wholly or partly, and whether directly or indirectly) by a State service to provide regulated service(s). The regulated services are identified in schedule 1 of the VCA, and include a range of health, welfare, justice and education services.

The above includes:

- Employers of paid workers, contractors or volunteers who work with children;
- Agencies that provide temporary workers to organisations that work with children; and,
- Anyone else who wishes to ensure that the people they will trust with children have been adequately checked.

Local government is **not** subject to the requirements until a later date (up to 1 July 2017). More information will be made available once decisions about the timing have been made.

## WHAT ARE EP'S OBLIGATIONS UNDER THE ACT?

### Part A: Scope

- EP must have a policy: *organisations covered by the Act must develop and implement a child protection policy (it must be written);*
- To make the policy available: *these policies must be available on EP's web site;*
- To ensure that every contract, or funding arrangement, that we enter into requires the adoption of child protection policies if:
  - *The person or organisation being contracted or funded is a provider of children's services; or,*
  - *The contract or arrangement is about providing children's service*
- Review the policy and report: *policies must be reviewed every three years, and annual reports must report on progress of implementation and compliance with the funding/contracting requirement.*

### Part B: Explicitly Required Practice

#### Checks required for new children's workers

The following checks must have been completed for all people a specified organisation is seeking to employ or engage as a children's worker (including as a contractor) from 1 July 2015 for core children's workforce roles, and from 1 July 2016 for non-core children's workforce roles.

1. Identity confirmation, either by:
  - a. Use of an electronic identity credential (e.g., the RealMe identity verification service), and a search of personnel records to check that the identity has not been claimed by someone else; or,
  - b. Following the regulatory process to provide confidence that:
    - i. The identity exists (i.e. that it is not fictitious) by checking an original primary identity document.
    - ii. The identity is a 'living' identity and the potential children's worker uses that identity in the community by checking an original secondary identity document.
    - iii. The potential children's worker links to the identity either by checking an identity document that contains a photo, or by using an identity referee.
    - iv. Searching personnel records to check that the identity has not been claimed by someone else.
2. An interview of the potential children's worker.
3. The interview may be conducted via telephone or other communications technology.
4. Obtaining and considering a work history, covering the preceding five years, provided by the potential children's worker.
5. Obtaining and considering information from at least one referee, not related to the potential children's worker or part of their extended family.
6. Seeking information from any relevant professional organisation, licensing authority, or registration authority, including (but not limited to) confirmation that the potential children's worker is currently a member of the organisation, or currently licensed or registered by the authority.
7. Obtaining and considering information from a New Zealand Police vet, unless at least three-yearly New Zealand Police vetting is already a condition of the potential children's worker holding professional registration or a practicing certificate (and the specified organisation has confirmed that that registration or certificate is current).

8. Evaluation of the above information to assess the risk the potential 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 role.

#### **Checks required for an existing children's worker**

The following checks must have been completed by the date specified in the legislation for all people who are already employed or engaged by a specified organisation. For existing core children's workers this is by 1 July 2018 and for non-core children's workers, 1 July 2019.

1. Identity confirmation, either by:
  - a. Use of an electronic identity credential (e.g., the RealMe identity verification service), and a search of personnel records to check that the identity has not been claimed by someone else; or,
  - b. Following the regulatory process to provide confidence that:
    - i. The identity exists (i.e. that it is not fictitious) by checking an original primary identity document.
    - ii. The identity is a 'living' identity and the potential children's worker uses that identity in the community by checking an original secondary identity document.
    - iii. The potential children's worker links to the identity either by checking an identity document that contains a photo, or by using an identity referee.
    - iv. Searching personnel records to check that the identity has not been claimed by someone else.
2. Seeking information from any relevant professional organisation, licensing authority, or registration authority, including (but not limited to) confirmation that the person is currently a member of the organisation, or currently licensed or registered by the authority.
3. Obtaining and considering information from a New Zealand Police vet, unless at least three-yearly New Zealand Police vetting is already a condition of the children's worker holding professional registration or a practicing certificate (and the specified organisation has confirmed that that registration or certificate is current).
4. Evaluation of the above information 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 role.

#### **Checks required for periodic rechecking**

Every three years following their checks at the required standard, the following checks must be completed for each person an organisation continues to employ or engage as either a core or non-core children's worker.

1. Confirmation that the children's worker has not changed their name from the name on the documents produced during the initial identity confirmation (i.e., the presented primary or secondary document).
  - a. If there has been a change to the person's 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.
2. Seeking information from any relevant professional organisation, licensing authority, or registration authority, including (but not limited to) confirmation that the person is currently a member of the organisation, or currently licensed or registered by the authority.
3. Obtaining and considering information from a New Zealand Police vet, unless at least three-yearly New Zealand Police vetting is already a condition of the children's worker holding professional registration or a practicing certificate (and the specified organisation has confirmed that that registration or certificate is current).
4. Evaluation of the above information 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 workforce or non-core children's workforce role.

#### **EDUCATION PERSONNEL'S APPROACH**

Documentation supporting the Act, including extensive guidance publications issued in respect of the Act, are materially prescriptive and provide clear and explicit guidelines (for the most part) for organisations covered by the Act.

Where conflict may exist between any issued guidance, EP will opt for the most stringent checking or assessment option to ensure our clients can be assured that EP is enforcing the highest level of protection for vulnerable children and related stakeholders.

In doing so, EP will ensure it treats all applicants fairly, with respect, and with due consideration to diverse cultural backgrounds.

## EP PROCEDURES FOR RECRUITING AND SUPPLYING CORE WORKERS

### Overview

The following practice applies to all candidates recruited and/or supplied by EP for primary, secondary and early childhood clients in New Zealand. They are to be applied regardless of point of origin of the candidate (i.e. New Zealand or overseas).

The procedures stipulated as standard practice for EP's recruitment business apply to both permanent and temporary recruitment services. There is no option for variation or omission to stipulated procedures. Failure to follow the prescribed EP practice and procedure will be regarded as serious misconduct. Should any employee be unsure as to the application of the prescribed EP practice and procedure, they should consult immediately with their manager or an appropriate senior staff member for guidance.

It is critical all staff understand that our clients rely absolutely on EP having completed the following procedures accurately and effectively. It is recommended that staff directly involved in recruitment at EP check the bibliography at the conclusion of this document in order to familiarise themselves with the full scope of the Act.

### Procedures – New Applicants<sup>2</sup>

This prescription applies from July 1 2015.

**Advertising and/or attracting candidates:** all processes of attracting candidates (whether by print media, online advertising forums or social media) for specified organisations will provide advice that applicants will be subject to the requirements of the Vulnerable Children Act 2015.

**Initial information:** All applications made to EP require a complete Curriculum Vitae with the applicant's employment and/or vocational history listed in chronological order (including start & end dates), reasons for leaving each role, relevant qualifications (if required), and will include at least two independent and relevant referees, including contact details. Applicants will also need to explain any material gaps in their CV.

**Relevance of references:** References must be relevant and recent. At a minimum, EP will complete at least 2 reference checks that are recent and relevant. Referees should be in a supervisory or managerial role relevant to the applicant. Other than in exceptional circumstances, where the applicant is applying for a permanent or fixed term contract position, a reference from the applicant's current or most recent employer must be obtained. In many cases this will mean that any employment offer must be predicated as "*provisional subject to a satisfactory verbal reference from your current employer*".

**Veracity of referees:** References can be relatively easy to fabricate and thus a referee's status must be verified. Referee's contact details should be verified. For e-mail contact, the referee must have a non-generic domain (i.e. linked to an organisation rather than a Gmail or Yahoo domain), or be contactable via the **main** phone number to an organisation (rather than a DDI). The permissible exception to this is when the referee is known to Education Personnel (for instance, is a client). Written references supplied by an applicant (that can't be verified by an EP employee) are irrelevant.

**Application form:** Applicants must fully complete and sign an EP Candidate Application & Information form. Information in this form includes:

- Personal details, including their name, any previous names and their current address. This information will be important for verifying a candidate's identity;
- Details of any relevant academic or vocational qualifications, including the date received and the awarding body or institution;
- A chronological list of previous employment (both voluntary and paid) with commencement and end dates. The candidate should give details of the last five positions they have held. There should be space for the candidate to explain any periods when they were not in employment, education or training;
- Their reason for leaving these previous jobs;
- Contact details for any referees and the relationship between the candidate and each referee;

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<sup>2</sup> The procedures apply to all applicants for positions in specified organisations in New Zealand.

- Health – determining whether the applicant has any medical condition, injury or impairment which would affect the applicant’s ability to perform the required work, or would pose a material health and safety hazard to themselves or to others;
- A general consent to contact the referees provided or any other person or organisation necessary to gather information to assess the candidate’s suitability for the position;
- Consent or non-consent for the current employer to be contacted (some candidates may only consent to their current employer being contacted if the candidate is the preferred candidate);
- A declaration of whether or not they have been convicted of a criminal offence, which is not eligible to be concealed under the Criminal Records (Clean Slate) Act 2004 and space to provide an explanation;
- Consent to undertake a Criminal Conviction History Check or Police Vet, using the required forms; and,
- Any other necessary disclosures. For example, details of their professional registration status and any previous employment or professional disciplinary history that could be relevant to child safety.

EP staff must ensure they are using the most current iteration of the EP Application & Information form.

**Confirming identity:** It is critical that every applicant’s identity details are confirmed as part of EP’s vetting process. There are reported cases of people gaining employment in the children’s workforce using another’s identity and credentials. Confirming a person’s identity is a very important part of safety checking. The following standard must be used to confirm identity. It is informed by the Department of Internal Affairs’, Evidence of Identity Standard v2.0. Specified organisations must use one of the two methods (a) and (b) prescribed in Appendix 1. On some occasions, an applicant may only have one recognised form of ID. Under such circumstances, an identity referee may be used. EP will only accept the use of an identity if the applicant can supply one original primary form of ID. The process for using an identity referee is described in Appendix 1.

EP consultants must sight 2 separate items of ID confirmation as described in Appendix 1. **These must be originals – no exceptions.** In the case of the applicant coming from overseas, any employment offer must be predicated as “provisional subject to sighting two accepted forms of personal identification”.

**Confirming identity to clients:** On any EP relief candidate’s first day at a school or ECE Centre (i.e. a school or Centre that the reliever has not been to previously), the reliever **must** take an officially recognised form of identification and present it to confirm identity.

**Police vetting:** All applicants, regardless of teacher registration status, must agree to a “clean slate” police vetting process. Should an applicant be a registered teacher, and registration (either first registration or renewal) has been within the previous 12 months, the applicant can be activated. Outside this specific parameter, all other applicants must wait for police clearance prior to activation. Overseas applicants must produce an original current copy of a police vet in their country of domicile.

**Confirming qualifications:** Applicants must provide evidence of their qualifications. These must be officially sighted during EP’s recruitment process (i.e. by an EP recruitment consultant), or verified by a Justice of the Peace or a person of equivalent standing, e.g. a school principal, a registered professional or a religious or community leader.

**Confirming history:** EP will confirm the applicant’s most recent history (as laid out in the applicant’s CV) 5 years back. Occasionally, there will be gaps in an applicant’s history. The EP consultant will need to exercise an element of judgement in these circumstances, and use a combination of assessment tools including information from referees, police vetting, identity verification, and the applicant’s interview performance. If any doubt exists as to the veracity of an applicant’s history, they cannot be activated. This circumstance should be discussed openly and honestly with the applicant, and the applicant must be given the opportunity to respond and have their response reasonably and fairly evaluated. However, the governing principle for a final decision on activation will be the safety of children and the obligations and spirit of the Act.

**Interviewing applicants:** Where possible, EP interviews with applicants should be in person. There are two objectives at an EP interview: 1] verification of qualifications and identity (as prescribed above), and 2] assessing the suitability of the applicant for a job (whether that be relief teaching, fixed term contract, or permanent placement). With respect to the latter, the EP consultant is required to form an assessment and recommendation on the candidate’s suitability for activation based on considering and assessing the information gleaned from the screening and interview process.

At times, in respect of permanent or fixed term recruitment, initial interviews may be via digital mechanisms (e.g. Skype). In the absence of a practical opportunity for a physical one-on-one initial interview, such digital mechanisms are acceptable, however final interviews should be physical and conducted with the client.

With respect to overseas applicants, the Act is less helpful. It prescribes at least one, and preferably two physical interviews. Clearly, in most circumstances with international candidates, physical interviews are not practical. In such circumstances, the client must be involved in any decision as to how to progress – EP cannot make a binding decision in such circumstances.

**Procedures – EP’s EXISTING CORE WORKERS**

All existing EP core workers will have been safety checked according to the above prescription (Part B: Explicitly Required Practice, Checks required for periodic rechecking) will be completed by 1 July 2018.

**GOVERNING ACTS**

EP’s Child Protection Policy (Vulnerable Children Act 2014) is also governed by, and subject to:

- The Human Rights Act 1993;
- The Employment Relations Act 2000; and,
- The Privacy Act 1993.



## Appendix 1: Confirming Identity

### Method (a) – Use of electronic identity credential

A specified organisation may confirm the identity of the applicant by:

- Verification of the applicant by electronic means through use of an electronic identity credential as defined in the Electronic Identity Verification Act 2012, such as the RealMe identity verification service; and
- Establishing the uniqueness of the claimed identity of the applicant by conducting a search of its personnel records to ascertain whether the claimed identity is being used by another person employed or engaged (either currently or in the past) by the specified organisation.

RealMe enables people to access multiple online services with the same username and password. A verified RealMe account goes further by enabling people to prove their identity online. Upgrading to a verified account involves an application process, including having a photograph taken at a participating New Zealand Post retail outlet. For more information see: [www.realme.govt.nz](http://www.realme.govt.nz).

### Method (b) – Use of appropriate regulatory process

Establishing that the identity exists. A specified organisation must establish that the claimed identity of the applicant exists by checking (see page 19 for more information on document verification) an **original primary identification document**. This is a closed list of documents and one of the below **must** be used:

| Document/record                                                                                                                                                 | Issuing agency                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| New Zealand Passport                                                                                                                                            | Department of Internal Affairs                                           |
| Overseas passport (may include New Zealand immigration visa or permit issued by the Ministry of Business, Innovation or Employment (Immigration New Zealand))   | Overseas authority                                                       |
| New Zealand emergency travel document                                                                                                                           | Department of Internal Affairs                                           |
| New Zealand refugee travel document                                                                                                                             | Department of Internal Affairs                                           |
| New Zealand certificate of identity (issued under the Passports Act 1992 to non-New Zealand citizens who cannot obtain a passport from their country of origin) | Department of Internal Affairs                                           |
| New Zealand certificate of identity (issued under Immigration Act 1987 to people who have refugee status)                                                       | Ministry of Business, Innovation or Employment (Immigration New Zealand) |
| New Zealand Firearms license                                                                                                                                    | New Zealand Police                                                       |
| New Zealand full birth certificate issued on or after 1 January 1998 carrying a unique identification number                                                    | Department of Internal Affairs                                           |
| New Zealand citizenship certificate                                                                                                                             | Department of Internal Affairs                                           |

In the absence of one of the above, the applicant may rely on an identity referee. If relying on the use of an identity referee, the applicant must produce with their identity documents:

- The name and contact details of an identity referee.

#### AND EITHER:

- A photograph of the applicant authenticated by the identity referee. The identity referee needs to write on the back of the photograph “Certified true likeness of [full name of person]” (or words to that effect), and sign and date the certification.

#### OR

- A verification statement signed and dated by the identity referee verifying that the primary identity document produced by the applicant relates to that applicant.
- The specified organisation must determine who qualifies as an identity referee for their organisation, and the criteria must include requirements that the identity referee:
  1. Has known the children's worker for at least 12 months;
  2. Is at least 16 years of age;
  3. Is not related to the children's worker and not part of the applicant's extended family;
  4. Is not a spouse or partner of the applicant; and,
  5. Does not live at the same address as the applicant.



**Appendix 1: Bibliography**

The full legislative Act:

<http://www.legislation.govt.nz/act/public/2014/0040/latest/DLM5501618.html>

About the Vulnerable Children Act 2014

<http://www.childrensactionplan.govt.nz/assets/Uploads/Vulnerable-Children-Act-2014-fact-sheet.pdf>

Children's Action Plan – Identifying, supporting and protecting vulnerable children:

<http://childrensactionplan.govt.nz/>

Legislation Q & A's:

<http://childrensactionplan.govt.nz/legislation-/faqs/>

Vulnerable Children Act 2014 – ECE sector requirements:

<http://www.education.govt.nz/early-childhood/ministry-priorities/vulnerable-children/>

Safety checking children's workers in force:

<http://www.education.govt.nz/news/safety-checking-childrens-workers-in-force/>

PPTA – teachers and the Vulnerable Children Act

<http://www.ppta.org.nz/resources/publication-list/3365-vulnerable-children-action-plan>

NZEI – important changes under the Vulnerable Children Act

[http://nzei.org.nz/NZEI/Media/News\\_public/2015/7/Important\\_changes\\_under\\_Vulnerable\\_Children\\_Act\\_2014.aspx#.VghetPmqgko](http://nzei.org.nz/NZEI/Media/News_public/2015/7/Important_changes_under_Vulnerable_Children_Act_2014.aspx#.VghetPmqgko)

ERO – useful resources for safety and employment:

<http://www.ero.govt.nz/National-Reports/Student-Safety-in-Schools-Recruiting-and-Managing-Staff-January-2014/Appendix-1-Useful-resources-for-safety-and-employment>