Engaging and working with youth volunteers
Legal information for community organisations in Victoria

This fact sheet covers:

- what’s different about youth volunteers?
- engaging youth volunteers, including inducting and training on workplace safety and behaviour
- managing youth volunteers, including minimum working conditions
- protecting youth volunteers, including mandatory reporting obligations and screening checks, and
- insurance considerations

Your organisation’s obligations to volunteers apply to youth volunteers. However, when your organisation engages youth volunteers, you must also consider issues that are specific to this group.

What’s different about youth volunteers?

Generally speaking, when we refer to ‘youth volunteers’, we mean volunteers under the age of 18.

Youth volunteers have distinguishing characteristics that your organisation must consider when recruiting and engaging them:

- **Skills and experience** – Young people are still developing skills and may have different competencies and physical capabilities from adult volunteers.

- **Knowledge of rights and responsibilities** – Youth volunteers are likely to have little workplace experience or knowledge of their rights (eg. the right to a safe workplace) and responsibilities (eg. appropriate workplace behaviour and safety).

- **Confidence** – Young people may lack confidence, so creating an environment where they are comfortable to speak out is important. Other young people may be overly confident, so adequate supervision is also an important part of your organisation’s engagement of youth volunteers.

- **Vulnerability** Children and young people are considered to be at greater risk than other members of our community in certain areas. Specific laws apply to protect children and young people.
Engaging youth volunteers

Before engaging a youth volunteer you should consider:

- whether they have adequate skills and experience to perform the role – does the role require skills or experience that young people may not have yet?
- is your organisation able to meet its duty of care to provide a safe workplace for the young person in respect of their physical, mental and emotional safety?

If you answer ‘no’ to either question, reflect on whether it would be safe for a youth volunteer to perform the role and whether your organisation can put any safeguards and processes in place to manage the safety of the youth volunteer.

Induction and training

During the induction and training of youth volunteers:

- make sure the volunteer understands the organisation’s policies and why they exist
- highlight policies that are particularly relevant to youth volunteers, such as social media, privacy, IT and appropriate workplace behaviour
- explain the importance of a safe workplace and provide training on how to avoid harmful situations where possible, and point out any special safety requirements that relate to youth volunteers
- set out the reporting lines and process for dealing with the youth volunteer’s complaints and concerns (or their guardian’s complaints and concerns)
- allocate a trusted buddy or mentor to the volunteer
- foster a culture of open communication by encouraging the people in your organisation to express any concerns about child safety
- understand the volunteer’s study requirements and term dates to make sure that volunteering does not interfere with their study, and
- make sure you have emergency contacts for the youth volunteer and important health information, such as allergy information

NOTE – YOUTH VOLUNTEER OR YOUTH MEMBER?

In certain circumstances, a youth board or committee member could be considered to be a youth volunteer. If an organisation asks a person to do something that goes beyond their role as a member, that person may be considered to be a volunteer as well. There may be legal implications of this – for example, insurance may apply to volunteers and members in different ways.

For more information about the differences between volunteers and members go to our guides at nfplaw.org.au/people.
Managing youth volunteers

Workplace safety and behaviour

Your organisation owes a duty of care to all volunteers. This duty of care requires the organisation to take all reasonable steps to protect volunteers from reasonably foreseeable harm in the workplace. The standard of care expected in relation to youth volunteers may be higher than that owed to other volunteers.

In addition to its duty of care for youth volunteers, your organisation may also have obligations under the Occupational Health and Safety Act 2004 (Vic).

Under this law, you are required (so far as reasonably possible) to:

- provide and maintain a working environment that is safe and without risks to health, and
- make sure others are not exposed to risks to their health or safety because of the organisation’s conduct

If you are dealing with youth volunteers, you should take any special measures that may be necessary to meet these obligations.

NOTE – CHILD SAFE STANDARDS

Victoria has introduced compulsory minimum Child Safe Standards (Standards) that form part of the Victorian Government’s response to the Betrayal of Trust Inquiry (the 2013 Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations). These standards (listed below) assist organisations to:

- create and ensure child safe environments
- reduce and remove risks of child abuse
- encourage reporting of suspected child abuse, and
- improve responses to allegations of child abuse

To create and maintain a child safe organisation, an organisation to which the Standards apply must have:

- strategies to embed an organisational culture of child safety, including through effective leadership arrangements (Standard 1)
- a child safe policy or statement of commitment to child safety (Standard 2)
- a code of conduct that establishes clear expectations for appropriate behaviour with children (Standard 3)
- screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel (Standard 4)
- processes for responding to and reporting suspected child abuse (Standard 5)
- strategies to identify and reduce or remove risks of child abuse (Standard 6), and
- strategies to promote the participation and empowerment of children (Standard 7)

In complying with the Standards, an organisation must promote the following in its response to each Standard:

- the cultural safety of Aboriginal children
- the cultural safety of children from culturally or linguistically diverse backgrounds, and
- the safety of children with a disability
NOTE – NATIONAL PRINCIPLES

In February 2019, the Federal Government endorsed the National Principles for Child Safe Organisations (National Principles). The National Principles draw on recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) and provide a nationally consistent approach to embedding a child safe culture across all organisations and sectors in Australia.

The National Principles are broader in operation than the Victorian Standards. Although Australian organisations are not legally required to adopt them, the National Principles are considered best practice for fostering child safety and wellbeing in culture and practice.

The National Principles, along with helpful supporting resources, can be accessed on the Child Safe Organisations website. The National Office for Child Safety has also published a Complaint Handling Guide.

FURTHER READING

For more about the Standards and other information to help you strengthen your organisation’s child safety practices, see our Child Safety (Vic) fact sheet on our website at nfplaw.org.au/ohs.

FURTHER READING

For more information about the Standards and guidance on applying them in your organisation, go to the Department of Human Services website.

Law firm Moores, together with Our Community, has also created a Child Protection Toolkit to help not-for-profit organisations comply with these standards and other legal requirements. The Toolkit includes information on child safe recruitment processes, creating a child safe culture and reporting obligations. It also includes a sample Child Protection Policy and Child Safety Code of Conduct that can be tailored to your organisation.

Work conditions for youth volunteers

Special legal obligations apply to the working conditions of youth volunteers under the Child Employment Act 2003 (Vic) (Child Employment Act), including:

- a not-for-profit organisation must not allow a child (under 15 years) to engage in any activity for the organisation in a public place or engage in door-to-door fundraising earlier than 6am or sunrise (whichever is later) or later than 6pm or sunset (whichever is earlier), unless the child is accompanied by an adult, and
- a person must not cause or allow a child to engage in any activity that is not ‘light work’, meaning:
  - work must be unlikely to be harmful to a child's health, safety or moral or material welfare or development (for example: no repetitive bending, twisting, lifting or manually lifting heavy items; no working at heights, with uncontrolled animals, with dangerous equipment or in extreme weather conditions; no working near moving vehicles), and
  - work must not be prejudicial to a child's attendance at school or the child's capacity to benefit from instruction
While other sections of the Child Employment Act only apply to children in employment under a contract or in a for-profit business, as a matter of best practice, your organisation should apply them to youth volunteers. To this end, your organisation should:

- only ask a youth to volunteer for a maximum of:
  - 3 hours per day, 12 hours per week during school term
  - 6 hours per day and 30 hours per week outside school term
- not ask a youth to volunteer:
  - earlier than 6am (or sunrise)
  - later than 6pm (or sunset) if involved in street trading (ie. door knocking)
  - later than 9pm in all cases
- provide a rest break of 30 minutes after every 3 hours of work, and
- provide a rest break of at least 12 hours between finishing one shift and starting another

Protecting youth volunteers

Mandatory reporting

Mandatory reporting obligations apply – some apply to all adults and others only apply to certain people. If your organisation engages or works with children, it’s crucial that your workers (employees, contractors and volunteers) are aware of their reporting obligations and the potential consequences if they fail to meet these obligations.

Reporting obligations that apply to all adults

An adult (a person 18 years or older) who has a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years has an obligation to report that information to police.

If an adult fails to report this information to police, this is a criminal offence (a ‘failure to disclose’ offence) punishable by up to three years in prison under section 327 of the Crimes Act 1958 (Vic) (Crimes Act). A ‘reasonable belief’ does not require proof. Rather, it is formed if a reasonable person in the same position would have formed the belief on the same grounds.

A person will not be guilty of the failure to disclose offence if they have a reasonable excuse for not reporting the suspected abuse. There are also some exceptions to the failure to disclose offence.

This reporting obligation applies to all adults in your organisation in relation to a belief they hold about any child, including youth volunteers.

Reporting obligations that apply to certain people

There is also an obligation to report concerns about a child’s welfare in certain circumstances. The Children, Youth and Families Act 2005 (Vic) (Children’s Act) provides that certain people (including a registered medical practitioner) must report if they believe that a child is ‘in need of protection’. The
circumstances in which a child is ‘in need of protection’ are defined in the Children’s Act and includes when a child has suffered significant harm from physical injury.

Reducing or removing risk of child sex abuse

Under the Crimes Act, people associated with certain kinds of organisations (including employees, owners, volunteers, contractors and office holders) may be charged with a criminal ‘failure to protect’ offence in certain circumstances.

The list of ‘relevant organisations’ (kinds of organisations covered by the Crimes Act) includes youth organisations, sporting groups, charities and benevolent organisations (see section 49C of the Crimes Act for the full list).

**TIP**

If your organisation engages or works with children, it’s important that everyone who works in your organisation (including volunteers) is aware of their reporting obligations and any potential consequences of failing to meet them. Reporting obligations should form part of your organisation’s standard induction, training and ongoing professional development processes, and you should have written policies and procedures in place. For more information on mandatory reporting requirements, see our Child Safety (Vic) fact sheet on our website at [nfplaw.org.au/ohs](http://nfplaw.org.au/ohs).

**FURTHER READING**


For a list of regional and metropolitan phone numbers, see the Department’s [Child Protection Contacts](http://www.health.vic.gov.au/contacts).

To report concerns that are life threatening, call Victoria Police on 000.

For urgent child protection concerns, call the After Hours Child Protection Emergency Services on 13 12 78.

Screening checks

Organisations that engage youth volunteers should conduct screening checks, including Working with Children Checks, police checks, reference and other background checks. Because youth volunteers are considered to be more vulnerable than others working in your organisation, you owe them a higher duty of care.

**Who needs to be screened when we engage youth volunteers?**

An organisation that involves youths in their services or activities is likely to require Working with Children Checks (WWC Checks) from people who work with the youths. Your organisation will need to think carefully about who will need WWC Checks. Not-for-profit Law’s WWC Check Guide at [www.nfplaw.org.au/recruitment](http://www.nfplaw.org.au/recruitment) provides guidance on this.

In Victoria, generally, your organisation’s workers, (including volunteers) who perform ‘child-related work’ in one of the specific activities defined in the *Working with Children Act 2005* (Vic) (WWC Act)
must have a WWC Check. It may be an offence for both the organisation and the worker, and penalties may follow, if the worker doesn’t get a WWC Check.

‘Child-related work’ includes working in an occupational field or at a place defined in the WWC Act where contact with a child is direct and part of a person’s usual duties. So, a WWC Check is not required if you are exempt (exemptions are set out in the WWC Act) and it may not be required if your work involves only occasional contact with a child that is incidental to your duties.

**Example of when a WWC Check is required**

✔️ An adult volunteer will require a WWC Check if they are in any kind of senior or supervisory position to the youth volunteer.

**Examples of when a WWC Check is not required**

❌ An adult volunteer will not require a WWC Check if an adult and a youth are participating in a volunteering activity on exactly the same basis for example, both playing in a sporting team, or both helping in a kitchen.

So, your organisation will need to consider its various volunteer positions to work out whether an adult volunteer is participating in a volunteering activity on the same basis as a youth volunteer.

❌ A child’s parent will not require a WWC Check if they are volunteering in an activity in which their child participates, or normally participates.

❌ An adult ‘closely related’ to a youth in the volunteering activity will not require a WWC Check.

A person is closely related to a child if they are the child’s spouse, domestic partner, parent, step-parent, mother-in-law, father-in-law, grandparent, uncle, aunt, sibling, half-sibling, step-sibling, brother-in-law or sister-in-law. This includes, in the case of domestic partners, a person who would be closely related to the child if the domestic partners were married to each other.

Other exemptions to the requirement to get a WWC Check when engaging in ‘child-related work’ are listed under Part 3 of the WWC Act. Section 2 of our Screening Check Guide sets out the requirements in more detail at nfplaw.org.au/recruitment.

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**FURTHER READING**

For more information about when an adult volunteer is volunteering on the same basis as a youth volunteer, go to:


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**MORE EXAMPLES**

- A youth and adult volunteer are cleaning out kennels at a lost dogs’ home. Because they are participating in a volunteering activity on the same basis, the adult does not require a WWC Check.
- An adult volunteer has been asked to look over and assist a youth volunteer where needed. In this case, because the adult appears to be in a supervisory position, they will require a WWC Check (unless there is another adult volunteer with a WWC Check that is directly supervising both volunteers).
Even if a WWC Check is not required under the WWC Act, you should consider whether other screening checks might still be appropriate (for example, police or reference checks).

**Do youth volunteers need to be screened?**

Generally, a youth volunteer engaged in ‘child-related’ work will not require a WWC Check until they turn 18. When the youth volunteer turns 18 they will require a WWC Check.

There are some exceptions. Under the WWC Act:

- a worker (including volunteers) under the age of 18 who is supervising children under the age of 15 will require a WWC Check, and
- student volunteers, 18 or 19 years old, who engage in volunteer work organised by their educational institution, do not require a WWC Check

Depending on a youth volunteer’s role and responsibilities, your organisation may choose to do other appropriate screening, such as police and reference checks.

**Insurance considerations**

Even if your community organisation puts measures in place to avoid or minimise risk to the safety and well-being of youth volunteers, there may be potential risks that can’t be avoided. Your community organisation should consider insurance options available to protect against those risks.

Your organisation should also be aware of what is and isn’t covered in insurance policies, such as whether they apply to youth volunteers.

Review your current policies and, if in doubt, ask your insurer the following questions:

- does the policy have any age limits that may affect a claim?
- are youth volunteers’ actions covered?
- are injuries sustained by youth volunteers covered?

For more information about WWC Checks and police checks, go to our Screening Checks guide at nfplaw.org.au/recruitment and Part 3 of our National Volunteer Guide at nfplaw.org.au/volunteers.

For further information about duties of care, negligence and occupational health and safety, go to our Insurance and risk page at nfplaw.org.au/riskinsurance.
Make sure your youth volunteers are aware of the protections that apply (and don’t apply) to them under your insurance policies. For example, if they are injured while volunteering, will any financial assistance be available?

**TIP**

Ask your insurer to confirm the above in writing so that the position is clear to everyone. And if there is any dispute about the policy’s coverage, you can refer to this correspondence.
Resources

Related Not-for-profit Law Resources


Our Volunteers page includes further information on laws that relate to volunteers. This page includes our National Volunteer App, Recruiting Volunteers e-Learning Module and National Volunteer Guide. The Guide is in six parts and includes a number of templates and sample policy documents, which should be read together.

  - **Part 1:** Key legal issues for volunteer involving organisations
  - **Part 2:** Volunteer or employee or independent contractor
  - **Part 3:** Volunteer safety
  - **Part 4:** Volunteers and unlawful workplace behaviour
  - **Part 5:** Recruiting, inducting and managing volunteers
  - **Part 6:** Organisational issues and volunteers

Our Volunteers page also features a number of relevant free webinars:

  - **What is a volunteer?** Distinguishing between volunteers and other workers in community organisations
  - **Volunteer or unpaid worker?** Court ordered volunteering, mutual obligation activities and other forms of unpaid work
  - **Youth volunteers:** Key legal issues to be aware of when engaging youth volunteers


Our Work health and safety page includes our Child safety fact sheet for Victorian organisations. This fact sheet covers Victoria’s compulsory Child Safe Standards and aims to help community organisations strengthen their child safety practices.


For more detailed information about Working with Children Checks and Police Checks, see our Working with Children’s Checks Guide (Vic) on the Not-for-profit Law website.


For more detailed information, read our guide on Insurance & Risk Management.


This section of our website includes more resources on employees, members and volunteers.

Legislation

- **Occupational Health and Safety Act 2004 (Vic)**
- **Working with Children Act 2005 (Vic)**
- **Child Employment Act 2003 (Vic)**
- **Children, Youth and Families Act 2005 (Vic)**
Other Resources

  The Fair Work Ombudsman has published a [Best Practice Guide](http://www.fairwork.gov.au) for employing young workers. This has useful information that could also be applied to youth volunteers.

  The Commission has published [resources](http://www.ccyp.vic.gov.au) for organisations in relation creating safe environments for children.

  Moores and Our Community have created a [Child Protection Toolkit](http://www.communitydirectors.com.au) for not-for-profit organisations to help them ensure compliance with the complex legislation in this area.

  Business Victoria has information about the requirements that apply when employing children on their page [Child employment – an overview](http://www.business.vic.gov.au).