

PART B: Motorsport Australia CHILD PROTECTION REQUIREMENTS

Definitions

Terms used in this part are defined in the "Definition" section of part A of the Policy.

Background

Child protection is about keeping Children safe from Child Abuse and protecting them from people who are unsuitable to work with Children. Child Abuse is illegal in all States and Territories of Australia, with most having their own Child protection laws that cover the reporting and investigation of cases of Child Abuse and other offences against Children.

In furtherance of part A of this Policy, the aim of this part B is to:

1. State the Motorsport Australia Child Safe Code of Conduct.
2. Create a culture of zero tolerance for Child Abuse.
3. Recognise the best interests of the Children in motorsport.
4. Ensure that a risk management approach is adopted towards Child Abuse.

Most State and Territory laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work with Children, whether in a paid or volunteer capacity. This is normally called a working with children check (**WWCC**).

Motorsport Australia recognises that WWCCs are of themselves not sufficient to create a Child safe environment at Motorsport Australia Events. This Policy aims to increase the level of Child safety in Motorsport Australia Events through requiring that Relevant Persons:

1. Identify and analyse the risk of harm to Children.
2. Follow the Motorsport Australia Child Safe Code of Conduct attached to this part B.
3. Choose suitable employees and volunteers.
4. Support, train, supervise and enhance performance of those working with Children.

Child Member Policy

1. Motorsport Australia Child Safe Code of Conduct
2. Child Safety Requirements.
3. Member Protection Declaration.
4. State and Territory WWCC Requirements.

Attachment B1: MOTORSPORT AUSTRALIA CHILD SAFE GUIDELINES

Caring for Children brings additional responsibilities for Relevant Persons. All Relevant Persons are responsible for promoting the safety and well-being of Children by:

1. Reading and adhering to this Policy at all times and take all reasonable steps to ensure the safety and protection of Children.
2. Treating everyone with respect and honesty (this includes staff, volunteers, students, Children, young people and parents).
3. Remembering to be a positive role model to Children and young people in each Relevant Person's conduct with them.
4. Setting clear boundaries about appropriate behaviour between Relevant Persons and Children who participate in Motorsport Australia Events. Boundaries help everyone to carry out their roles well.
5. Listening and responding appropriately to the views and concerns of Children.
6. Ensuring another adult is always present or in sight when conducting one to one coaching, instruction or other activities.
7. Ensuring that any necessary risk assessments and working with children checks required by law are provided and obtained before working with Children.
8. Reporting suspected Child abuse and neglect to Motorsport Australia and the Child Abuse Report Line (13 14 78) as soon as practicable.
9. Responding quickly, fairly and transparently to any serious complaints made by a Child or their parent/guardian.
10. Encouraging Children to 'have a say' on issues that are important to them.
11. Providing feedback to both Children and parents or guardians.
12. Not engaging in rough physical games with Children.
13. Not developing any 'special' relationships with Children that could be seen as favouritism such as the offering of gifts or special treatment.
14. Not doing things of a personal nature that a Child can do for themselves, such as toileting or changing clothes.
15. Not placing themselves in an isolated or unsupervised area with a Child without another Relevant Person present.
16. Not discriminating against any child or young person because of age, gender, cultural background, religion, vulnerability or sexuality

Attachment B2: CHILD PROTECTION REQUIREMENTS

This attachment sets out the screening process for people who currently occupy or who apply for any work (paid or voluntary) in our organisation which involves regular contact with Children.

Identifying at Risk Areas

Relevant Persons who engage others to work with Children must undertake a risk assessment process to identify any areas where there is a risk of harm to Children and that those risks are actively managed. Motorsport Australia recommends this first step even if a WWCC is not required as a matter of law.

As a general guide, Motorsport Australia considers that generally the following are areas in which there is a higher risk of harm to children in relation to Motorsport Australia Events:

1. where coaching, tuition or overnight camps are provided to Children;
2. where services are provided which primarily provide programs or services for Children;
3. clubs, associations or movements which provide services or conduct activities for, or directed at, children or whose membership is mainly composed of Children;
4. venues used primarily by Children; and
5. areas of work that usually involved, or is likely usually to involve, regular, direct contact with Children which is not supervised by another.

Relevant Persons need to make their own assessment of risk which takes into account the special circumstances of Children. For example, a Motorsport Australia Event which is targeted at Children may pose a larger risk than a Motorsport Australia Event predominantly attended by adults.

Some State and Territory laws require that a risk assessment is performed. Further, some State and Territories require that the risk assessment is submitted to the state or territory government once complete on a periodic basis.

The following is a general guide to adopting practices and procedures which protect Children:

1. The development and maintenance of a Child Safety Policy, which outlines:
 - a. a Code of Conduct;
 - b. recruitment, training and management procedures for staff;
 - c. reporting guidelines and directions for handling disclosures or suspicions of harm; and
 - d. consequences to staff for non-compliance with the Policy.
2. Communication and support strategies, such as:
 - a. information sheets for staff, volunteers and parents about policies, procedures and codes of conduct; and
 - b. training materials and communication strategies which help staff, volunteers and parents identify risks of harm.
3. Documentation of risk management processes including:
 - a. registers of staff;
 - b. strategies and plans for high-risk and special events which are documented and communicated as appropriate;
 - c. complaints registers; and
 - d. forms to ensure consistent handling of incidents, disclosures of harm, permissions and approvals for related activities.

Relevant Persons may be able to rely on some of the information contained in this Policy to achieve this outcome.

Asking About a Relevant Person's History

Declarations

As part of Motorsport Australia's licence process, those applying for officials and competitors licences may be asked questions in relation to their criminal history (**Motorsport Australia Declaration**) and whether they are aware of any facts which may prevent them from being considered a fit and proper person to participate in motor racing. Relevant Persons must, as a minimum, also make enquiries of people who are as a minimum applying for positions which involve working with Children.

Affiliated Clubs may also consider making enquiries more broadly of its members and those who work for the persons to which this Policy applies.

Affiliated Clubs should obtain a completed Member Protection Declaration (**MPD**) from all Relevant Persons if they occupy or apply for a position that involves working with Children. An example of a MPD is attached (attachment B3). The MPD should be kept in confidence and in a secure place.

If a Motorsport Australia Declaration or MPD is requested and not provided, or it reveals that a person does not satisfactorily meet with one or more of the clauses in the Motorsport Australia Declaration or the MPD (e.g. has a relevant criminal conviction), the Relevant Person will:

1. provide an opportunity for the person to respond/provide an explanation; and
2. make an assessment as to whether the person may pose a risk to or be unsuitable to work with Children, hold a licence or where relevant to be a member of the Associated Club, participate in a Motorsport Australia Event, etc.

Reference Checks

It is also recommended that Relevant Persons check a person's referees (verbal or written) and interview a person about his/her suitability for the role and his/her suitability for working with Children for both paid and voluntary positions.

Screening under this Policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, then those standards apply to the exclusion of those set out in this Policy.

Working with Children Check

A WWCC is done by checking certain criminal history and other matters. In some States this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations. Please note that the State and Territory specific Child safety requirements apply despite the existence or absence of this Policy.

The legal requirements to have a WWCC in each State and Territory vary and therefore it is up to each Relevant Person to ensure that they are meeting the relevant requirements. Information in relation to each of the requirements in each State and Territory are included in attachment B4, as well as links to any summary information which is specific to sporting activities. Relevant Persons should be aware that the laws in each State and Territory are detailed and may vary over time. Motorsport Australia will update this attachment from time to time but cannot guarantee its accuracy.

As a general guide, Motorsport Australia considers that employees and volunteers who are working in the at-risk areas identified above are more likely to be required to have a valid working with children check in place before providing that work.

Each State and Territory has a WWCC scheme in place. A WWCC should be obtained for people applying for and people who currently occupy, paid or paid and voluntary positions as required by the relevant law.

If the WWCC indicates a relevant offence or if a person does not consent to providing a WWCC, Relevant Persons will provide an opportunity for the person to respond/provide an explanation. Depending on the response to that question, Relevant Persons should:

1. in the case of an existing Relevant Person, transfer the person to another role which does not require them to work directly and unsupervised with Children. If this is not possible, then the appointment/position/entitlement of the Relevant Person or person may be ended. Note: legal advice should be obtained before the termination process begins; or
2. in the case of a someone applying for the position/role, not appoint them.

Where it is not practical to complete the WWCC prior to employment or a position commencing, the Relevant Person must still complete the check as soon as possible. The Relevant Person should advise the person that their ongoing employment is conditional upon the satisfactory outcome of the check.

Where a WWCC is obtained under this Policy, another organisation which is also required to screen may obtain a copy of the WWCC provided that the consent of the Relevant Person is obtained and the WWCC was performed in the immediately preceding two years.

Privacy

The privacy of any person who is checked and the confidentiality of any information obtained through the checking process must be protected. Information collected during screening (such as a completed MPD form, police records and referee reports) will be returned to the relevant person if that person is not appointed to/will not remain in the position, or otherwise be destroyed with the consent of the person concerned.



Attachment B3: MEMBER PROTECTION DECLARATION

[Insert name] has a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with our activities. As part of this duty of care and as a requirement of the Motorsport Australia’s Member Protection Policy, [Insert name] must enquire into the background of those applying for, undertaking or remaining in any work (paid or voluntary) that involves regular contact with children.

I(name) of

.....(address) born/...../.....

sincerely declare that I (except where exempt from making such a declaration at law):

- have advised us in writing of any act, omission, fact or circumstance which may affect my ability to be and remain a fit and proper person to perform my role and exercise the duties and privileges that relate to it;
- have advised us in writing if I have been found guilty of or charged with any serious or indictable criminal offence or with any sexual offence (unless this is a 'spent' or 'annulled'* conviction); and
- undertake to advise us immediately in writing upon any court of competent jurisdiction making any such finding, or upon being charged with any such offence.

Declared in the State/Territory of

on/...../.....(date) Signature

** 1 As determined by the Crimes Act 1914 (Cth), Criminal Records Act 1991 (NSW), Criminal Law (Rehabilitation of Offenders) Act 1986 (Qld), Spent Convictions Act 2000 (ACT), Criminal Records (Spent Convictions) Act 1992 (NT), Spent Convictions Act 1988 (WA) and/or the Annulled Convictions Act 2003 (Tas) (including their successors and replacements.)*

Parent/Guardian Consent (in respect of Child)

I have read and understood the declaration provided by my Child. I confirm and warrant that the contents of the declaration provided by my Child are true and correct in every particular.

Name:.....

Signature:.....

Date:



Attachment B4: STATE AND TERRITORY WWCC REQUIREMENTS

The requirements for when WWCC's are required and how to obtain them are different in each State and Territory in Australia. Unfortunately at this time there is no federal scheme to bring a unified approach to national organisations such as Motorsport Australia.

The information in this attachment is subject to change. It is up to each Relevant Person to ensure that they are up to date at all times with the relevant legal requirements.

ACT

Laws

1. Working with Vulnerable people (Background Checking) Act 2011 (ACT)
2. Working with Vulnerable people (Background Checking) Regulations 2011 (ACT)

Resources

1. Working with Vulnerable People Check
([https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/kw/Working%20with%20vulnerable%20people%20\(WWVP\)%20registration](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/kw/Working%20with%20vulnerable%20people%20(WWVP)%20registration))
2. WWCC fact sheet for each State and Territory, available at playbytherules.net.au
(<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

NSW

Laws

1. Child Protection (Working with Children) Act 2012 (NSW)
2. Child Protection (Working with Children) Regulations 2013 (NSW)
3. Child Protection (Working with Children) Amendment (Statutory Review) Act 2018

Resources

1. NSW Office of the Children's Guardian (<http://www.kidsguardian.nsw.gov.au>)
2. WWCC fact sheet for each State and Territory, available at playbytherules.net.au
(<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

Queensland

Laws

1. Commission for Children and Young People and Child Guardian Act 2000 (QLD)
2. Commission for Children and Young People and Child Guardian Regulation 2011 (QLD)

Resources

1. QLD Government Blue Card Services (<https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/regulated-industries-and-licensing/blue-card-services>)
2. WWCC fact sheet for each State and Territory, available at playbytherules.net.au
(<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

South Australia

Laws

1. Children's Protection Act 1993 (SA)
2. Children's Protection Regulations 2010 (SA)
3. Child Safety (Prohibited Persons) Act 2016 (SA)

Resources

1. Department of Human Services (<https://screening.sa.gov.au/home>)
2. WWCC fact sheet for each State and Territory, available at playbytherules.net.au (<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

Northern Territory

Laws

1. Care and Protection of Children Act 2007 (NT)
2. Care and Protection of Children (Screening) Regulations 2010 (NT)

Resources

1. Screening Assessment for Employment (SAFE NT) (<https://forms.pfes.nt.gov.au/safent/>)
2. NT Government WWCC website (<https://nt.gov.au/emergency/community-safety/working-with-children-clearance-before-you-apply>)
3. WWCC fact sheet for each State and Territory, available at playbytherules.net.au (<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

Western Australia

Laws

1. Working with Children (Criminal Record Checking) Act 2004 (WA)
2. Working with Children (Criminal Record Checking) Regulations 2005 (WA)

Resources

1. WA Government WWCC website (<https://workingwithchildren.wa.gov.au/>)
2. WWCC fact sheet for each State and Territory, available at playbytherules.net.au (<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

Victoria

Laws

1. Working with Children Act 2005 (VIC)
2. Working with Children Regulations 2016 (VIC)

Resources

1. Department of Justice (<http://www.justice.vic.gov.au>)
2. Victorian Government WWCC website (<http://www.workingwithchildren.vic.gov.au>)
3. WWCC fact sheet for each State and Territory, available at playbytherules.net.au (<http://www.playbytherules.net.au/got-an-issue/child-safe-sport/child-safeguarding-laws-explained>)

Tasmania

Working with Children Registration aims to reduce the potential for sexual, physical, psychological, emotional or financial harm or neglect of children in Tasmania.

People from Motorsport Australia Clubs and Associations must hold registration by 1 April 2015 to participate in activities provided primarily for children.

Working with Children Registration provides a minimum screening process for people working or volunteering in these organisations. The new law requires registration for some important roles within child related organisations, but importantly allows organisations to adjust the screening requirements to suit their particular organisation.

There are a number of exemptions under the new law regarding situations where people engaged in regulated activities need not apply. These exemptions can be overridden if, after assessment of the risk of harm to children, an organisation determines that it wants these roles to be included in their screening regime.

Examples of roles where registration is mandatory:

- Sports coaches, team managers and committee members for a club that primarily involves the participation of children;
- Playgroup facilitators and staff;
- Member protection information officers;
- Guides and scout leaders;
- Committee members or members of a board of management or similar;
- Track officials (age group managers, arena managers etc.) at athletics meets that primarily involve the participation of children;
- First aid officers;
- Hockey, Cricket, AFL, Little Athletics, Gymnastics, Cycling, Basketball, Yachting, Netball, Squash etc. see relevant Sector Guide on the Working with Children Registration website for more examples.

Examples of roles where registration is **optional** but can be enforced by your club or association as part of their requirements:

- Administrative staff of a club if their usual duties of work do not bring them into contact with a child;
- Lifeguards providing general life saving services at a pool for adults and children;
- Referee, umpire, linesperson or other sporting official or grounds person where the work does not ordinarily involved contact with children for extended periods without other adults being present;
- Additional parent help at athletics meets where the parents are not designated officials;
- A person that is a registered teacher and is coaching as part of their teaching role.

Examples of people who should NOT apply:

- Children under 16 years of age.

Importantly – responsibility for screening rests with the incorporated body – so your club is liable if there are people operating under your banner that should be registered but have not been screened and do not hold current registration.



See 'Fact sheet: Exemptions from Registration' at the Working with Children Registration website: www.justice.tas.gov.au/working_with_children

Applications are commenced online:
www.justice.tas.gov.au/working_with_children

Motorsport Australia recommends your club completes the following procedures:

1. Download the Motorsport Australia Member Protection Policy from www.motorsport.org.au/regulations/safety-integrity
2. Advise all applicable people within your Club or Association of the legislation and their requirements for registration.
3. Include collection of Registration ID Number as part of your information gathering processes.
4. Attend any regional seminars with the Department of Justice if you have any further questions.

Further information

Visit the Department of Justice website; www.justice.tas.gov.au/working_with_children
Visit: www.playbytherules.com.au

For more information, contact:

Phone: 1300 13 55 13
Fax: (03) 6233 8338
Email: workingwithchildren@justice.tas.gov.au
Mail: PO Box 56, Rosny Park, TAS, 7018
Web: www.justice.tas.gov.au/working_with_children

Moving between States and Territories

As noted above, there is no single legislative regime which covers State and Territories. Each State and Territory recognises valid WWCC's from other State and Territories in different ways. The need for a national scheme has been the subject of various proposals and debate but there has not been a scheme introduced as of yet.

In March 2012, State and Territory government ministers agreed that State and Territories would introduce, by late 2012, national exemptions to assist volunteers and workers with a valid check in their home state or territory to participate in short-term activities (for a maximum period of 30 days) across State and Territory borders without the need for additional checks.

