



Working at a TAFE institute or with TAFE students – who needs a Working with Children Check

This guide is designed to help TAFE institutes and their employees and contractors determine who needs a Working with Children Check (WWC Check).

What is child-related work?

Only a person who engages in *child-related work* (as defined in the *Working With Children Act 2005*) will require a WWC Check.

In the context of a TAFE institute, *child-related work* means paid work engaged in by an employee or contractor, or volunteer work, that usually involves, or is likely usually to involve, regular direct contact with a child in connection with the TAFE institute in circumstances where that contact is not directly supervised by another person.

A teacher registered under the *Victorian Institute of Teaching Act 2001* does not require a WWC Check.

Risk management issues

An absence of a legal obligation requiring a person to obtain a WWC Check does not prevent a TAFE institute from requiring all or some of its employees or contractors, particularly those who may have some or potential contact with children, to hold a WWC Check.

Steps to working out who needs a WWC Check

Go through each of the following four steps to determine who needs a WWC Check:

Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18?

If yes, go to step 2. If no, a WWC Check is not likely to be required.

Step 2: Is the VCAL/VCE program *primarily directed* at students under 18?

If yes, go to step 3. If no, a WWC Check is not likely to be required.

Step 3: Does the employee or contractor have *regular direct contact* with students under 18?

Direct contact means any contact between a person and a child that involves physical contact, face to face oral communication or physically being within eyeshot.

Regular in the context of *regular direct contact* has its ordinary meaning.

If yes, go to step 4. If no, a WWC Check is not likely to be required.

Step 4: Is the employee or contractor *directly supervised* in their contact with students under 18?

Direct supervision requires immediate and personal supervision of a person but does not require constant physical presence.

If yes, a WWC Check is not likely to be required.

If no, a WWC Check is likely to be required.

Applying the steps

The following 14 scenarios provide a guide as to how the above steps are used to determine whether certain staff or contractors working at a TAFE institute or dual sector university undertake child-related work and require a WWC Check:

- A TAFE teacher delivering a VCAL/VCE program to students under 18 at a TAFE institute
- Employees or contractors at a TAFE institute who perform mowing and general maintenance duties at a VCAL/VCE campus during school hours
- A CEO or director of a TAFE institute which offers a VCAL/VCE program, who has no teaching load, and who attends annual student awards nights or has lunch in the cafeteria with students under 18
- A student services officer in a teaching department of a TAFE institute where a small proportion of programs are VCAL/VCE
- A library officer who works in the higher education library at a dual sector university, where the youngest student each year turns 18 in April
- A receptionist who works at the front desk of a TAFE institute or the main campus of a dual sector university which offers a VCAL/VCE program primarily directed at students under 18
- Non-teaching TAFE staff who run overnight camps with students under 18 who are not VCAL/VCE students
- A teacher who teaches full time in Certificate III Apprenticeship or in Certificate IV (including a few students under 17), but where neither program leads to VCAL/VCE qualification
- An administrative officer in the 'corporate hub' of a TAFE institute in which across three campuses, only 5% of the TAFE institute's programs are VCAL/VCE programs and only 20% of its students are VCAL/VCE students under 18
- A technical officer who works at a TAFE institute that provides VCAL/VCE programs for students under 18 who spends over 20 hours per week of their full time position setting up experiments for students and is sometimes called in to attend to equipment used in experiments during class time
- A library officer at a TAFE institute that does not offer a VCAL/VCE program for students under 18
- A student counsellor at a TAFE institute which offers a VCAL/VCE program for students, of whom 20% are under 18, and whose case load includes both students under and over 18

- A TAFE student recruitment officer who travels around to different secondary schools and on occasion works directly with students under 18
- Gym staff and fitness instructors who work at a gym attached to a TAFE institute that offers VCAL/VCE programs to students under 18, but not exclusively

Scenario 1

A TAFE teacher delivering a VCAL/VCE program to students under 18 at a TAFE institute

- Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*
- Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *Yes*
- Step 3: Does the employee or contractor have regular direct contact with students under 18? – *Yes, while teaching in the classroom*
- Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *No, the teacher works autonomously in the classroom*

A WWC Check is likely to be required.

Scenario 2

Employees or contractors at a TAFE institute who perform mowing and general maintenance duties at a VCAL/VCE campus during school hours

- Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*
- Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *Yes*
- Step 3: Does the employee or contractor have regular direct contact with students under 18? – *Yes, on the basis that students are regularly moving around the campus grounds in close proximity to the grounds maintenance staff*
- Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *Yes, by a supervisor who closely oversees work undertaken on the campus grounds by the grounds maintenance staff*

A WWC Check is not likely to be required as the regular direct contact with students under 18 by the ground maintenance staff is directly supervised by their supervisor, who would require a WWC Check.

Scenario 3

A CEO or director of a TAFE institute which offers a VCAL/VCE program, who has no teaching load, and who attends annual student awards nights or occasionally has lunch in the cafeteria with students under 18

- Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*
- Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *Yes*
- Step 3: Does the employee or contractor have regular direct contact with students under 18? – *Arguably no, based on the CEO or director not having a teaching load and having*

irregular contact with the students at annual awards nights and in the cafeteria from time to time

Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *No*

A WWC Check is not likely to be required as the CEO or director does have not regular direct contact with students under 18.

Scenario 4

A student services officer in a teaching department of a TAFE institute where a small proportion of programs are VCAL/VCE

Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*

Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *No, based on only a small proportion of programs being provided for VCAL/VCE students*

Step 3: Does the employee or contractor have regular direct contact with students under 18? – *No, based on only a small proportion of programs being provided for VCAL/VCE students*

Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *No*

A WWC Check is not likely to be required as the VCAL/VCE program is not primarily directed at students under 18. In addition the student services officer does not appear to have regular direct contact with students under 18.

Scenario 5

A library officer who works in the higher education library at a dual sector university, where the youngest student each year turns 18 in April

Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *No*

A WWC Check is not likely to be required as it is unlikely that the TAFE institute would fall within the definition of 'educational institution' under the Working With Children Act, as it does not offer a VCAL/VCE program for students under 18. Therefore, it is not necessary to go through and consider the other steps.

Scenario 6

A receptionist who works at the front desk of a TAFE institute or the main campus of a dual sector university which offers a VCAL/VCE program primarily directed at students under 18

Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*

Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *Yes*

Step 3: Does the employee or contractor have regular direct contact with students under 18? – *Yes, students regularly walk past reception going between classes and occasionally approach the receptionist for assistance*

Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *Yes, by a manager who works in a nearby office*

A WWC Check is not likely to be required as the receptionist's regular direct contact with students under 18 is directly supervised by a manager, who would require a WWC Check.

Scenario 7

Non-teaching TAFE staff who run overnight camps with students under 18 who are not VCAL/VCE students

Section 9(3)(o) of the Working With Children Act provides that overnight camps for children, regardless of, the type of accommodation or how many children are involved, is an activity that constitutes child-related. Therefore, a WWC Check will be required for a person who runs an overnight camp with students under 18.

Scenario 8

A full time teacher at a TAFE institute who teaches Certificate III Apprenticeship or Certificate IV (including to a few students under 17), but where neither program leads to VCAL/VCE qualification

Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *No*

A WWC Check is not required as the TAFE institute does not offer a VCAL/VCE program for students under 18. Therefore, it is not necessary to go through and consider the other steps.

Scenario 9

An administrative officer in the 'corporate hub' of a TAFE institute, in which across three campuses, only 5% of the TAFE institute's programs are VCAL/VCE programs and only 20% of its VCAL/VCE students are under 18

Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*

Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *No, based on only a small proportion of programs being offered for VCAL/VCE student*

Step 3: Does the employee or contractor have regular direct contact with students under 18? – *No*

Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *Yes, by a manager who works in a nearby office*

A WWC Check is not likely to be required as the VCAL/VCE programs offered by the TAFE institute are not primarily directed at students under 18. In any case, an administrative officer, who works in an administrative department within a TAFE institute, would be unlikely to have regular direct contact with children and any such contact, if it was of a regular direct nature, would be directly supervised by a manager, who would require a WWC Check.

Scenario 10

A full time technical officer who works at a TAFE institute that provides VCAL/VCE programs for students under 18 who spends approximately 20 hours per week setting up experiments for students and is sometimes required to enter a classroom during class time to attend to equipment

- Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*
- Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *Yes*
- Step 3: Does the employee or contractor have regular direct contact with students under 18? – *Yes, but this may depend on whether the technical officer usually has or is likely to usually have regular direct contact with the students*
- Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *Yes, by the teacher who would generally be present in the classroom*

A WWC Check is not likely to be required if the technical officer performs his or her duties in the absence of students. In any case, if the technical officer was sometimes required to attend to equipment during class time, any such contact would be directly supervised by the TAFE teacher present in the class room who would require a WWC Check.

Scenario 11

A library officer at a TAFE institute that does not offer a VCAL/VCE program for students under 18

- Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *No*

A WWC Check is not required as the TAFE institute does not offer a VCAL/VCE program for students under 18. Therefore, it is not necessary to go through and consider the other steps.

Scenario 12

A student counsellor at a TAFE institute which offers a VCAL/VCE program for students, of whom 20% are under 18, and whose case load includes both students under and over 18

- Step 1: Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*
- Step 2: Is the VCAL/VCE program primarily directed at students under 18? – *No, on the basis that only a small proportion are under the age of 18*
- Step 3: Does the employee or contractor have regular direct contact with students under 18? – *Yes*
- Step 4: Is the employee or contractor directly supervised in their contact with students under 18? – *No*

While the TAFE institute does not provide a VCAL/VCE program primarily directed at students under 18, s 9(3)(n) of the Working With Children Act provides that counselling or other support services for children, are activities that constitute child-related work. Therefore, a WWC Check will be required for a student counsellor whose case load includes any students under 18.

Scenario 13

A student recruitment officer who travels around to secondary schools recruiting new TAFE students and on occasion works directly with students under 18

- Step 1:** Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Not relevant*
- Step 2:** Is the VCAL/VCE program primarily directed at students under 18? – *Not relevant*
- Step 3:** Does the employee or contractor have regular direct contact with students under 18? – *Yes, on the basis that the student recruitment officer has regular direct contact with students under 18 at secondary schools*
- Step 4:** Is the employee or contractor directly supervised in their contact with students under 18? – *No*

While the recruitment officer does not work at a TAFE institute that provides a VCAL/VCE program primarily directed at students under 18, it is likely that his or her recruitment work in secondary schools will involve regular direct contact with students under 18. Unless such contact is directly supervised by a person who holds a WWC Check, a WWC Check is likely to be required.

Scenario 14

Gym staff and fitness instructors who work at a gym attached to a TAFE institute that offers VCAL/VCE programs to students under 18, but not exclusively

- Step 1:** Does the TAFE institute offer a VCAL/VCE program for students under 18? – *Yes*
- Step 2:** Is the VCAL/VCE program primarily directed at students under 18? – *No, however, this may depend on the proportion of VCAL/VCE programs offered in comparison to other non-VCAL/VCE programs*
- Step 3:** Does the employee or contractor have regular direct contact with students under 18? – *Yes*
- Step 4:** Is the employee or contractor directly supervised in their contact with students under 18? – *Yes*

A WWC Check is not likely to be required if the TAFE institute with which the gym is attached is not primarily directed at students under 18. However, given that the work undertaken by gym staff and fitness instructors may involve regular direct contact with students under 18, unless such contact is directly supervised by a person who holds a WWC Check, such as a gym supervisor, a WWC Check is likely to be required.

What about when a VCAL/VCE student at a TAFE institute undertakes study off campus?

- Step 1:** Is the course or module of study undertaken primarily directed at students under 18?

If yes, go through steps 2-4 above. If no, a WWC Check is not likely to be required.

What about when a VCAL/VCE student at a TAFE institute undertakes work experience off campus?

- Step 1:** Is the work experience primarily directed at students under 18? – *Yes*
- Step 2:** Does the work experience involve regular direct contact with students under 18? – *If the work experience arrangement is on a one-off basis or only once or twice per year, a WWC Check is not likely to be required, however, if the work experience arrangement is a regular arrangement between a company and the TAFE institute, a WWC Check is likely to be required*
- Step 3:** Is the work experience employer directly supervised in their contact with students under 18? – *Based on step 2, the contact with the student is not directly supervised therefore, a WWC Check is likely to be required*

Further information

- **Working With Children Check Unit** on 1300 652 879 or at <http://www.justice.vic.gov.au/workingwithchildren>
- **Victorian Government Solicitor's Office** on 8684 0444 or at www.vgso.vic.gov.au
 - John Cain, Victorian Government Solicitor, 8684 0400 or john.cain@vgso.vic.gov.au
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