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Guidance on overseas convictions for core children's workers

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Guidance on overseas convictions for core children's workers

Overview

Changes¹ to the Children's Act 2014 (the Act) mean that specified organisations² providing regulated services³ will need to consider overseas convictions when safety checking core workers, not just convictions that occurred in New Zealand.

Under the changes, the workforce restriction⁴ has been expanded and now applies to overseas convictions. This means that a person cannot be employed or engaged, or continue to be employed or engaged, as a core worker⁵ if they have been convicted of an offence overseas that, if committed in New Zealand would be a Schedule 2 specified offence⁶ (equivalent offence), unless they have a core worker exemption⁷.

Specified organisations must take reasonable steps to ensure that people with these convictions are not employed or engaged, or continue to be employed or engaged, as a core worker. If after undertaking these steps, specified organisations receive overseas conviction information about an applicant or an existing core worker, they must determine whether any convictions are for an equivalent offence.

This guidance is intended to help specified organisations to meet their obligations under the Act but does not constitute legal advice. It should be read alongside the Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015 and any sector specific guidance. While this guidance refers to safety checking requirements, it does not provide in-depth information about them.

If an overseas conviction is identified, to meet safety checking requirements, specified organisations need to consider:

Is the overseas conviction for an equivalent offence?

You will need to consider whether the overseas conviction would be an equivalent offence.

If yes, the person cannot be employed, engaged, or continue working as a core worker unless they hold a core worker exemption for that offence, or the determination made by the specified organisation is overturned through a review or appeal process⁸.

Is the person safe to work with children?

If a person has an overseas conviction that is not determined to be an equivalent offence, the specified organisation must still consider any information gathered during the standard risk assessment to decide whether the person is safe to work with children.⁹

¹ [Responding to Abuse in Care Legislation Amendment Act 2025 | New Zealand Legislation](#).

² Specified organisations employ or engage core children's workers. Refer to [section 24](#) of the Act for the definition of a 'specified organisation'.

³ Regulated services are set out in [Schedule 1](#) of the Act.

⁴ Refer to [Section 28](#) of the Act.

⁵ A core worker is a children's worker whose work in providing a regulated service involves being either the only children's worker present with the child(ren) or they have primary responsibility or authority over the child(ren) present.

⁶ Specified offences are set out in [Schedule 2](#) of the Act.

⁷ Exemptions are granted under [section 35](#) of the Act.

⁸ Review and appeals are discussed further, below. Also see [sections 28A – 28C](#) of the Act.

⁹ Under the safety checking requirements set out in the [Act](#) and the [Children's \(Requirements for Safety Checks of Children's Workers\) Regulations 2015](#), a specified organisation can take into account other information considered relevant to a risk assessment.

Key dates

From 24 October 2026	By 24 April 2027
Specified organisations must:¹⁰ ensure that they do not employ or engage a new core worker if they have an equivalent conviction, unless they have a core worker exemption.	Specified organisations must: ensure they do not continue to employ or engage an existing core worker if they have an equivalent conviction, unless they have a core worker exemption.

The six-month period between the requirements applying to new core workers and existing core workers provides time to identify any relevant overseas convictions for existing core workers and, if appropriate, for the person to be granted a core worker exemption. A core worker who has a conviction for an equivalent offence may continue working without an exemption until 24 April 2027. If an exemption is not granted by this date, the worker must be suspended in line with the process set out in section 28(4) to (8) of the Act¹¹.

Reasonable steps specified organisations could take to implement the changes in the Children's Act 2014

The purpose of the safety check required by Part 3 of the Act is to reduce the risk of harm to children. This guidance outlines reasonable steps specified organisations can take to reduce risk when considering overseas convictions.

It is the responsibility of specified organisations to make a determination where there is evidence of overseas convictions for an equivalent offence and apply the workforce restriction accordingly (i.e. a person with an overseas conviction determined to be an equivalent offence must not be employed or engaged, unless they have a core worker exemption). Specified organisations must follow a fair and reasonable process, gather relevant information, and make a determination. People will have the opportunity to test adverse determinations through the review process (details below).

The recommended steps set out in this guidance are applicable to both new core workers and existing core workers, however in some cases specified organisations will have already completed some of these steps for existing core workers. You could first check your records to confirm the process that was followed for previous safety checks, identify and complete any additional steps set out in this guidance where applicable and record the process followed.

1. Decide whether an overseas police certificate is needed.

2. If an overseas police certificate is needed, ask the person to obtain one and provide it to you.

3. If a criminal conviction is identified, assess the information provided and make a determination.

4. Take appropriate action based on the determination.

¹⁰ Specified organisations will also need to ensure that they do not employ or engage a new core worker, or continue to employ or engage an existing core worker, if they have a conviction for one of the new specified offences in [Schedule 2](#) of the Act 2014 (offences added from [sections 20-22](#) of the Prostitution Reform Act 2003), unless they have a core worker exemption.

¹¹ At the end of the period of suspension, the employer must terminate the worker's employment or engagement as a core worker in line with sections 28 (1) and (7) of the Act.

All information gathered through the process should be kept on record, including information about how the determination was made as to whether the conviction is equivalent.

1. Decide whether an overseas police certificate is needed

Obtaining an overseas police certificate¹² helps to determine whether a person has an overseas conviction that could prevent them from being employed or engaged as a core worker in New Zealand. Specified organisations could consider whether an overseas police certificate is required when:

- recruiting a core worker from 24 October 2026
- checking existing core workers by 24 April 2027 and determining whether they have overseas convictions that may be an equivalent offence.

IF	THEN
If the person is not a core children's worker	No action is needed. Only core workers are captured by the changes to the Act referred to in this guidance.
The person is registered with a professional body that regularly obtains and assesses overseas police certificates as part of its registration or certification process. ¹³	A separate overseas police certificate is not usually needed. If you are unsure, contact the relevant body to find out if they obtain overseas police certificates and if one has been obtained for the person, since they have returned from living overseas. If it has, this can be used to show that reasonable steps have been undertaken.
The person is registered with a professional body that obtained an overseas police certificate at the time of registration.	Consider when the person was registered. If the person has not lived overseas since then, an overseas police certificate is not usually needed
The person has disclosed an overseas conviction. ¹⁴	The specified organisation should request that the person obtain an overseas police certificate for applicable countries or states.
For example, the person has lived in the same overseas country for a total of 12 months or more since the age of 16 years old. ¹⁵	The specified organisation could request that the person obtain an overseas police certificate for applicable countries or states. All convictions will be relevant to the workforce restriction, not just recent offences (e.g. a conviction from 30 years ago must be considered).

¹² Note, in most cases the core worker or prospective core worker will need to request the overseas police certificate, themselves from the relevant overseas police, criminal records, justice, or government agency, or through a specialist provider.

¹³ For example, the Teaching Council has an overseas police clearance process for registration and certification: if a person has lived overseas for a period of 12 months or more within the previous 10 years, they require an overseas police certificate.

¹⁴ In the recruitment process, a specified organisation can ask whether a person has any overseas convictions. Employers may choose to update their job application forms to ask new employees to disclose overseas convictions.

¹⁵ Such a threshold focuses overseas criminal history checks on people who have spent a significant period living outside New Zealand. This approach is commonly used in immigration and some health, education, and social-care visas/workforces e.g. in the UK.

Note, the information provided by the person (e.g. information from a person's CV and work history) can be used to cross-reference the time spent overseas and in New Zealand. Reviewing applicants' CVs and asking questions about any gaps or inconsistencies is a standard part of safe recruitment.¹⁶

2. Obtaining an overseas police certificate

The process of obtaining an overseas police certificate varies between countries.

In New Zealand, police vetting is undertaken by the specified organisation, and the results of the police vet are received directly by the organisation.

For overseas police certificates, the person will usually need to apply directly to the relevant police, criminal records, justice, or government agency in that country.¹⁷ This process will take time and fees will apply. Specialist providers also offer this service and typically the result is obtained more quickly but additional fees will apply. The costs of obtaining these checks will need to be met either by the specified organisation or the person applying for or employed in a core worker role.

Australian police certificates can be obtained through the New Zealand Police vetting service.¹⁸ Also, some countries have specific police certificates for people who work with children that can be obtained by the person (e.g. Canada, UK, USA¹⁹).

Translations of documents will be necessary if the documents are not in English.

In some cases, a person may not be able to obtain an overseas police certificate. This can happen, for example, because the:

- country does not issue police certificates
- issuing authority refuses access
- records have been destroyed, or
- the worker has made reasonable attempts but cannot obtain the required documents within a reasonable timeframe.

In these circumstances, specified organisations should ask for evidence of the attempts that have been made to obtain an overseas police certificate, and ask the person to complete a statutory declaration. Records should be maintained showing that the applicant has tried but been unable to obtain a police certificate, and that they have been asked to supply a statutory declaration.

A statutory declaration²⁰ is a written statement signed in front of an authorised person²¹ and declared to be true. A statutory declaration is legally binding and making a false declaration can have legal consequences.

The statutory declaration should state that the person is unable to obtain an overseas police certificate and whether they have or do not have an overseas conviction. This declaration can form part of the other information considered during the safety checking risk assessment.

¹⁶ Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015, [regulation 7\(1\)\(a\)\(i\)](#) - [require] 'a chronological summary of his or her work history, if any, for the preceding 5 years (including a description of previous employment positions)'.

¹⁷ Immigration NZ provides information about how to obtain overseas police certificates: [How to get a police certificate: Immigration New Zealand](#).

¹⁸ [Australia's National Police Checking Service \(NPCS\) | New Zealand Police](#).

¹⁹ **Canada** Request a Vulnerable Sector Check. If this isn't available, a name-based or certified criminal record check from the RCMP is also acceptable. [Criminal Records Check | Royal Canadian Mounted Police](#); **United Kingdom** Apply for an International Child Protection Certificate (ICPC) via the [official website](#); **United States of America** request a criminal record from the [FBI Identification Division](#).

²⁰ [Making a statutory declaration | New Zealand Government](#).

²¹ Only certain people are allowed to witness statutory declarations as an official person, a lawyer (Community Law Centre, Citizens Advice Bureau, Law Society), Justice of the Peace, Court Registrar or Deputy Registrar of the District or High Court, Notary Public.

3. If an overseas criminal conviction is identified, assess the information and make a determination

If an overseas police certificate confirms that a person has been convicted of an overseas offence, the specified organisation is responsible for making a determination about whether an overseas conviction is an equivalent offence.

The assessment should focus on whether the offence and the conduct that resulted in the overseas conviction would amount to an offence listed in Schedule 2 if it had occurred in New Zealand.

Where an overseas police certificate identifies a conviction, it may include more detailed information about an offence, but typically the result shows the name of the conviction only. You could ask the person for additional overseas conviction information, such as court records or a police summary of facts. However, this information may not always be available. The relevant legislation from the country where the conviction occurred will provide key information to inform the determination and should be the starting point for making an equivalence determination.

Overseas conviction information, including the relevant legislation, may be difficult to interpret because jurisdictions use different offence categories and legal terminology. As a result, overseas convictions that indicate potential risk to children may not clearly align with a Schedule 2 specified offence.

Process specified organisations could follow to make a determination

Gather details of the conviction

Collect as much information as possible about the offence and conviction

Look at the legislation

If possible, obtain and review the relevant legislation/offence provision for that country, state or jurisdiction at the time of the conviction.

- What is the name of the offence?
- Note the nature of the conduct and the type of harm involved.

Look at the key elements of the offence

Nature of the harm or conduct

Does the offence involve any of the following:

- | | |
|--|---|
| • Sexual offending, indecency, or grooming | • Human trafficking |
| • Violent or dangerous offending | • Abduction or kidnapping |
| • Abuse or neglect | • Underage prostitution |
| • Exploitation | • Exposure to harmful or objectionable material |
| • Coercion or intimidation | • Other comparable forms of harm |

Who was harmed or put at risk?

- Is the type of victim or their specific age or age range referenced in the overseas offence?

Assess against New Zealand Schedule 2 specified offences

Compare the overseas offence with the Schedule 2 specified offences in the Act.²²

Equivalence assessment

The overseas conviction does not need to have the same name, description, or all of the same elements as the Schedule 2 specified offence.

Instead, focus on identifying whether the available evidence of the overseas conviction matches a Schedule 2 specified offence including the conduct involved and the people affected.

Consider the following questions:

The overseas conviction

Does the evidence regarding the overseas conviction match the key components of a Schedule 2 specified offence?

Nature of the harm or conduct

Does the offence address a similar type of harm or conduct?

People affected

Does the offence involve similar victims?²³

A specified organisation can seek advice (e.g. from an employment or legal advisor) to assist with making a determination. Where no such support is available, they may contact safety.checking@education.govt.nz for information about the process and requirements, but not about specific decisions. The responsibility for making a determination rests with the specified organisation.

Document the determination

Record and keep detailed information showing the information collected and the final decision:

- The overseas offence the person was convicted of
- The steps taken to identify the overseas conviction
- A final determination on whether the overseas offence is considered an equivalent offence
- If equivalent, state which Schedule 2 specified offence is equivalent to
- State all Schedule 2 specified offence(s) considered (including any offences ultimately determined not an equivalent offence).
- Reasons for the decision
- Any assumptions, limitations, or gaps in the available information.

See determination template

²² [Schedule 2](#) of the Act contains hyperlinks, which connect to the relevant section in the relevant Act e.g., [section 98](#) of the Crimes Act 1961.

²³ Note that Schedule 2 specified offences are not exclusively about harm to children.

4. Take appropriate action based on the outcome

Following an assessment, an overseas conviction will be determined to be either **equivalent** or **not equivalent** to a Schedule 2 specified offence.

IF	THEN
A preferred candidate has an overseas conviction for an offence that is determined not to be an equivalent offence.	Advise the person that the overseas conviction is not considered an equivalent offence. They can be employed, engaged, or continue working as a core worker, provided all safety checking requirements are met. Note: complete and maintain a full record of the determination showing what information was considered and why you do not consider the person to have been convicted of an equivalent offence.
A preferred candidate applying for a core worker role has an overseas conviction for an offence that has been assessed by the specified organisation as an equivalent offence. ²⁴	Advise the person they cannot be employed or engaged as a core worker unless: • they have a core worker exemption for the conviction; or • following a review or appeal process, the determination is reversed.
An existing core worker has an overseas conviction that has been assessed by the specified organisation as an equivalent offence.	An existing core worker who has a conviction for an equivalent offence can seek a core worker exemption. After 24 April 2027, they will not be able to continue to work as a core worker without an exemption. If an exemption is not granted by 24 April 2027 the worker must be suspended²⁵ for at least five days and be given an opportunity to respond. After this suspension period, if the employer still believes on reasonable grounds that the worker has an equivalent offence, the worker's employment as a core worker must be terminated.²⁶ The specified organisation may later choose to employ or engage the person as a core worker if a core worker exemption is granted or the determination (that they have a conviction for an equivalent offence) is reversed, provided all other safety-checking requirements are met.

²⁴ Note, the decision to employ or engage a person, is ultimately up to the specified organisation. However, they must meet all legislative requirements.

²⁵ The process in [section 28\(4\)-\(8\)](#) of the Act must be followed. Employers should also consider seeking employment advice.

²⁶ The process in [section 28\(4\)-\(8\)](#) of the Act must be followed. Employers should also consider seeking employment advice.

Core worker exemption, review and appeal process

A person who has been convicted of an overseas offence, determined by a specified organisation to be an equivalent offence, can apply to Te Kāhui Kāhu for a core worker exemption²⁷.

For an existing core worker, where it has been determined that they have an overseas conviction that is an equivalent offence (and an exemption has not been granted for that offence) the worker must be suspended in line with the process set out in section 28(4) to (8) of the Act.

If a specified organisation determines that an overseas offence is an equivalent offence, they should advise affected individuals of their right to apply for a review and, where applicable, to appeal the decision.

The review decision is made by the chief executive of one of the five key agencies listed in the Act (Ministry of Social Development, Ministry of Health, Ministry of Education, Ministry of Justice, and Oranga Tamariki). It is likely that the decision will be made by the chief executive of the agency most closely associated with sector in which the applicant works or is seeking to work.

If the determination is reversed, this is binding on the specified organisation. This means that the overseas offence is not equivalent to a Schedule 2 offence and does not automatically prevent the person from being employed or engaged as a core worker. If a review confirms the determination, the worker can appeal to the High Court.

It is recommended that specified organisations seek independent advice from an employment advisor, if a person does seek to review a determination.

If an existing core worker applies to review a determination, the specified organisation may consider extending a suspension to allow this process to be completed.²⁸

Risk Assessment

All information gathered in relation to the overseas offending can be considered for relevance to the risk assessment that specified organisations must complete as part of the safety checking of all children's workers.

The purpose of the risk assessment is to decide whether the available information indicates that the person is safe to work with children.

If an overseas police certificate could not be obtained for a person who has lived overseas, it is important to consider all information gathered as part of the safety check and equivalence assessment (e.g. CV, work history and any accompanying documentation).

Note, all safety checking steps, including the risk assessment, must be completed before people are employed or engaged.

²⁷ [Core worker exemptions | Te Kāhui Kāhu](#). Note, A core worker exemption does not guarantee employment or continued employment. A specified organisation must still decide whether the person is suitable for the role based on the outcome of the safety check, in particular, the risk assessment component.

²⁸ In these circumstances it is recommended that the specified organisation seeks legal advice.

Record keeping

Specified organisations should keep records of:

- any criminal history information obtained, including court records
- any additional information considered, including statutory declarations
- any equivalence assessments completed
- the decisions made and the reasons for those decisions²⁹
- communications with the person about the decision
- the outcome of any review, appeal, or core worker exemption application
- any actions taken as a result of those outcomes.

Your records should demonstrate that you have taken reasonable steps to ensure that existing core workers you employ or engage do not have an equivalent offence.

Keeping good records will enable specified organisations to demonstrate the safety checking process they have completed in relation to core workers. This is particularly important because it is an offence subject to a fine of up to \$50,000 for a specified agency to knowingly or recklessly employ or engage a person with a conviction for a Schedule 2 specified offence, or an equivalent offence, to work as a core worker.

The Care Records Framework sets out best practice principles for people and organisations that create, manage, and provide access to care records. Specified organisations can find the Framework on the Crown Response Office website. Clauses 1.4 and 2.3-2.5 in the [Care Records Definition](#) are relevant to record keeping about core workers.

The Chief Archivist has issued a temporary care records protection instruction. This means that while Archives New Zealand is working on the review of disposal authorities that relate to care records, **no disposal or destruction** of care records may occur. This includes records about employees hired to provide care.

Note that employers must comply with the Privacy Act 2020 and the Information Privacy Principles, which govern how they can collect, store, use, and share employee-related information.

²⁹ Including, for example, decisions about whether to seek an overseas certificate or whether to accept an applicant's efforts to obtain an international certificate are sufficient and a statutory declaration is acceptable.



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