

INFORMATION FOR EMPLOYERS

August 2013

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Note: All fact sheets referred to in this guide are available from www.newcheck.kids.nsw.gov.au.

1. Overview of the new Check

A Working With Children Check is a prerequisite for anyone in child-related work in NSW. The new Check covers more people, is more comprehensive and provides better protection for children than the previous model. It is also more consistent with other state and territory Checks, giving us the starting point for a national Check.

A Working With Children Check includes a national police check and review of findings of misconduct involving children. The result is either a clearance or a bar.

If the outcome is a clearance, the Check is valid for five years and may be used for any child-related work (paid or voluntary) in NSW. Cleared applicants will be subject to ongoing monitoring and relevant new records could lead to a bar and the clearance being revoked.

Before engaging an individual for child-related work (paid or unpaid), an employer must verify that the worker has a Working With Children Check clearance (or has completed the application process for a new Check). The only way to verify a status is using the new online verification system; you may not accept paper evidence of a clearance or an application from the worker because they may have since been barred.

The Working With Children Check is not the only resource available to employers to provide better protection for children. Implementing child-safe and child-friendly policies and procedures is an essential part of [creating a child-safe organisation](#). For more information, go to www.kids.nsw.gov.au.

Employers must:

- Register online with the new Working With Children Check
- Verify every **new paid employee** online before hiring them
- Verify **current paid workers and all volunteers (new and current)** online as they are phased in to the new Check (see phase in schedule at [ANNEX B](#))
- Remove any barred or unauthorised person from child-related work (see part [10. Workers not authorised to work with children](#))

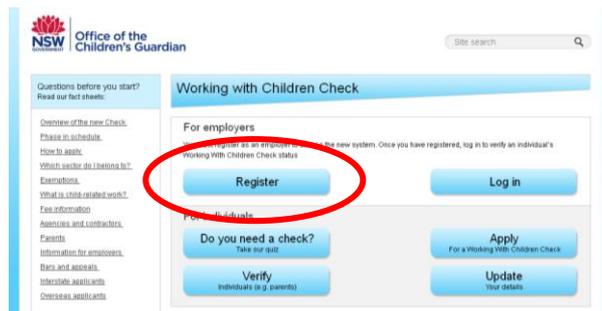
2. Register as an employer

It does not matter if you have previously registered with the current system: you must still [register with the new online Working With Children Check](#).

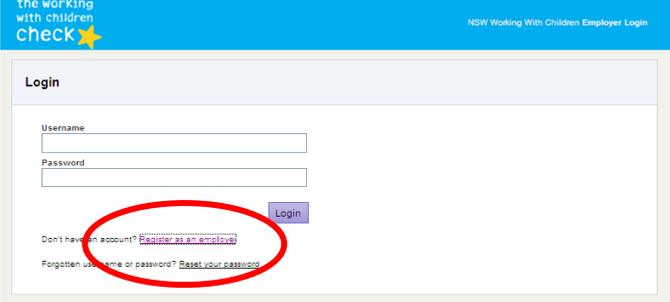
1. Go to www.newcheck.kids.nsw.gov.au and click the **Start here** button.



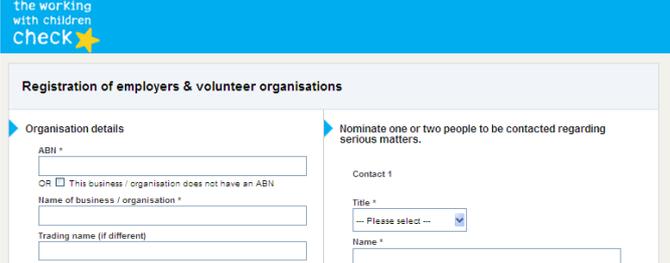
2. A new window will open. Click **Register**.



3. A login screen will appear. Click **Register as an employer**.



4. Fill in the form that appears (shown here in part) and click **Submit**.



3. Who needs a Working With Children Check?

The Check is only available for child-related workers. There are other screening tools available for non child-related workers.

Organisations are also strongly encouraged to adopt [child-safe policies and practices](#) to help keep children safe. For more information about creating child-safe organisations or to register for a workshop, go to www.kids.nsw.gov.au.

Child related work is defined as face-to-face contact with children in a child-related sector or work in a child-related role.

3.1 Child-related industry sectors

Face-to-face work with children in one of these sectors is child-related work:

- Child development and family welfare services
- Child protection
- Children's health services
- Clubs or other bodies providing services for children
- Disability services
- Early education and child care
- Education
- Entertainment for children
- Justice centres
- Religious services
- Residential services
- Transport services for children
- Youth workers

For more information about each of these sectors, see [ANNEX A](#) or refer to the [Child Protection \(Working With Children\) Regulation 2013](#).

3.2 Child-related roles

The following roles are classified as child-related work:

- An approved provider or manager of an education and care service
- A certified supervisor of an education and care service
- An authorised carer (foster carers and other authorised carers of children in statutory and supported out-of-home care)
- An Assessment Officer
- The Principal Officer of a designated agency
- The Principal Officer of an accredited adoption service provider

Additional roles requiring a Working With Children Check

- Prospective adoptive parents
- An adult who resides at the home of:
 - an authorised carer
 - family day care service provider
 - home-based education and care service provider.

An employer may also apply to the Children's Guardian to have a role designated as child-related if it involves access to confidential records regarding children. A role may not be designated as child-related without the written permission of the Children's Guardian.

3.3 Exemptions

There are specified exemptions from the Working With Children Check under Part 4, Clause 20 of the [Child Protection \(Working With Children\) Regulation 2013](#). People covered by these exemptions are not required to have a Working With Children Check:

- Administrative, clerical or maintenance work, or other ancillary work, that does not ordinarily involve contact with children for extended periods.
- Work with minimal direct contact or unsupervised contact with children, done for no more than five days in a calendar year.
- Informal domestic arrangements not carried out on a professional or commercial basis.
- Work with close relatives of the worker (not including work as a foster carer or other authorised carer of children in statutory and supported out-of-home care).
- Volunteering by a parent or close relative:
 - of a child in activities for the child's school, early education service or other educational institution; except where the work is part of a formal mentoring program or involves intimate personal care of children with a disability
 - with a team, program or other activity in which the child usually participates or is a team member; except where the work is part of a formal mentoring program or involves personal care of children with a disability.
- A visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person

at that place is for a one off occasion and is carried out in the presence of one or more other adults.

- A health practitioner in private practice, if the practice does not ordinarily involve treatment of children without one or more other adults present.
- A health practitioner who is working in and visiting New South Wales from outside the State, if the period of work does not exceed a total of five days in any period of three months.
- A co-worker or work supervisor where a child works.
- Work by an interstate visitor:
 - in a one-off event such as a jamboree, sporting or religious event or tour, if the event is the only child-related work carried out by the worker in NSW in that calendar year and the period of work does not exceed 30 days
 - who holds an interstate working with children check, or is exempt from the requirement to have such a check in his or her home jurisdiction, whose child related work in NSW is for no more than 30 days in any calendar year.
- NSW Police or Australian Federal Police officers in their capacity as police officers.
- Home carers accredited with a current police certificate for aged care, for home care work where the clients are not primarily children.
- People under the age of 18.

Non-child related work

Under Part 2 of the [Child Protection \(Working With Children\) Regulation 2013](#), some work is not considered to be child-related, which means it will not require a Working With Children Check. This includes:

Clause 6 (4) Work as a student in the course of a student clinical placement in a hospital or other health service is not child-related work

Clause 7 (3) Work as a referee, umpire, linesperson or otherwise as a sporting official or a groundsperson is not child-related work, if the work does not ordinarily involve contact with children for extended periods without other adults being present

Clause 8 (2) Work in providing respite care or other support services primarily for children with a disability **is** child-related work; **but it is not child-related work if** the work does not ordinarily involve contact with children for extended periods without other adults being present.

Clause 11 (3) Providing food or equipment at or for a sporting, cultural or other entertainment venue or providing a venue is not child-related work.

4. How workers apply for a Check

A child-related worker is responsible for applying for his or her own Working With Children Check. **An employer cannot apply on behalf of a worker.**

Application is a simple, two-step process:

STEP 1

Applicants fill in an online form at www.newcheck.kids.nsw.gov.au. Once they have submitted the form, they will receive an application number.

STEP 2

Applicants take their application number and proof of their identity to a NSW motor registry or NSW Council Agency. Proof of identity for the Working With Children Check is the same as for a NSW driver's licence. If they are in paid work, they must also pay an \$80 fee for a five year clearance.

PLEASE NOTE! An applicant must appear in person to prove their identity – this task cannot be delegated to a third party. Proof of identity must also be performed within NSW. It cannot be completed from interstate or overseas.

See also: [FACT SHEET: How to apply](#)

The fee is not refundable if the worker terminates or withdraws their application or if they do not receive a clearance.

The Working With Children Check remains free for:

- Volunteers
- Students over 18 on a professional placement
- Prospective adoptive parents
- Authorised carers (foster carers and other authorised carers of children in statutory and supported out-of-home care)
- An adult who resides at the home of:
 - an authorised carer
 - a family day care service provider
 - a home-based education and care service provider.

4.1 Results of a Check

If the worker receives a clearance, he or she will be issued with a Working With Children Check number. This number must be provided to the employer, along with the worker's surname and date of birth for online verification. **This is mandatory. Employers cannot accept the worker's notification letter as proof of a clearance.**

If the outcome of online verification is a clearance, the Check is valid for five years and may be used for any child-related work in NSW. Cleared applicants will be subject to ongoing monitoring for relevant new records which could lead to a bar and the clearance being revoked before the five year expiry date.

Barred applicants must not engage in any child-related work (paid or unpaid). It is an offence for them to do so and penalties apply. It is also an offence to hire a barred worker for child-related work.

4.2 When to apply

- **Paid child-related workers starting a new job** must apply for a Check before they begin their new role (and must be verified by their employer before they start).
- **Paid child-related workers who are already working** do not need to apply until their industry sector is being phased in (see the phase in schedule at [ANNEX B](#) for details).
- **Volunteers (new and current)** will also be phased in according to their industry sector. (See the phase in schedule at [ANNEX B](#) for details).
- **Self employed people** who hold a Certificate for Self Employed People (CSEP) may continue to use their CSEP until it expires. To check the validity of a CSEP, call a Customer Support Officer on (02) 9286 7219 and quote the CSEP number. Self employed people must apply for the Check once their CSEP expires.

5. What records are checked?

A Working With Children Check includes a national police check and review of findings of misconduct involving children. For more information, refer to the [What gets checked?](#) section of the website at www.newcheck.kids.nsw.gov.au or see [FACT SHEET: Assessment requirement triggers - Schedule 1.](#)

6. Risk assessment

6.1 What triggers a risk assessment?

A risk assessment is an evaluation by the Office of the Children's Guardian of an individual's suitability for child-related work. It will be triggered by:

- an offence listed in Schedule 1 of the [Child Protection \(Working With Children\) Act 2012](#) (equivalent records from other states and territories are also assessment triggers)
- a pattern of behaviour or offences involving violence or sexual misconduct that represents a potential risk to children (even if the records are not individually listed on Schedule 1 or 2)
- [findings of misconduct reported by a reporting body](#)
- notifications by the Ombudsman

Schedule 1 records are listed in [FACT SHEET: Assessment requirement triggers - Schedule 1](#) available from www.newcheck.kids.nsw.gov.au.

6.2 How is risk assessed?

When assessing risk, the following factors set out in section 15 of the [Child Protection \(Working With Children\) Act 2012](#) must be considered:

Factors relating to the conduct:

- seriousness (as demonstrated by details of the conduct, court outcome and penalty)
- length of time since it occurred
- age and vulnerability of the victims

- relationship between offender and victim(s)
- age difference between offender and victim
- whether the offender knew or could have known the victim was under 18

Factors relating to the applicant:

- conduct since the offence
- age at the time
- current age
- seriousness of total criminal and misconduct records

Factors relating to recurrence:

- likelihood of the offences being repeated
- impact on children of the offences being repeated.

The Office of the Children’s Guardian must also take into consideration any information given in or in relation to the application, and any other matters considered necessary.

6.3 Communication during the risk assessment process

The Office of the Children’s Guardian will keep the applicant informed during the risk assessment process. If a bar is being considered, the applicant will be contacted and informed of the potential decision and invited to submit information which may affect the outcome of the final decision.

If the final outcome is a bar, notification will be issued by post. In most cases, barred workers can apply for a review of the decision to the [Administrative Decisions Tribunal](#). For more information refer to the [FACT SHEET: Bars and appeals](#), available from www.newcheck.kids.nsw.gov.au

7. Verifying a child-related worker

PLEASE NOTE! Verification can only be completed online. You must not accept letters of clearance from workers because these documents may be falsified or the worker may have become barred since receiving their initial clearance.

Online verification is the only accurate report of a worker’s clearance status.

Employers who verify their workers online will also be notified by the Office of the Children’s Guardian if one of these workers becomes barred. Online verification enables workers to be matched to employers, which means if a worker becomes barred, it is possible to notify every employer who has recently verified that individual.

7.1 When to verify workers

- **New paid workers** need to be verified online before they can begin working with children
- **Current paid workers** and **all volunteers** (new and current) need to be verified online once they have been phased in to the new Check. (See the phase in schedule at [ANNEX B](#)).

7.2 How to verify a Working With Children Check status:

1. Go to www.newcheck.kids.nsw.gov.au and [Log in](#) to your employer's account.

2. Once you have logged on, click the **Verify Working With Children status** tab.
3. Enter the worker's family name, date of birth and Working With Children Check number (or application number) and click **Verify**.
4. The results will appear immediately on screen.

7.3 Understanding the results of online verification

Shortly after you submit these details, a brief report will appear on-screen. These are the possible results and their meaning:

Status	Meaning
Application in progress	A Working With Children Check application is being processed and the applicant may work with children. If the applicant becomes barred, you will be contacted and advised on what to do next.
Cleared	This applicant has a Working With Children Check clearance that is valid until the listed expiry date. The applicant may work with children.
Barred	The applicant has been barred from working with children and it is an offence to engage this person for child-related work.
Interim barred	The applicant has been barred from working with children during the course of a risk assessment. It is an offence to engage this person for child-related work.
Not found	The database cannot find a matching Working With Children Check for any one of these reasons: <ul style="list-style-type: none"> • The data entered for verification (name, date of birth and Working With Children Check number or application number) has errors; • The person's application has been withdrawn or terminated without an outcome; • An application has not been completed by this individual. It is an offence to engage this person in child-related work or child-related roles.

8. Record keeping

Workers will be reminded to renew their Check three months before it expires but no notification will be sent to employers. This is because workers are responsible for applying and renewing their own Working With Children Checks; and employers have responsibility for verifying the status of Working With Children Checks.

Employers are required to keep records of child-related workers including their:

- Full name
- Date of birth
- Working With Children Check number (or application number) and expiry date
- Date and outcome of online verification

These records may be electronic or in hard copy format, but must be made available if required for audit and monitoring purposes.

9. Notifications

The Working With Children Check is valid for five years and during this time, cleared applicants will be subject to ongoing monitoring.

If a relevant new record appears it may lead to the worker becoming barred before the Check's five year expiry date.

If a worker becomes barred, the employer will be contacted, using details provided during the online verification process. If the worker has been verified by more than one employer (for example, if he or she has a paid job as well as a volunteering role), notification will be sent to each employer who has verified that worker.

PLEASE NOTE! Only the worker's status will be shared with the employer. No other information – including details of work and/or criminal records will be shared.

Notification will be sent by letter, addressed to the individual who verified the worker. The letter will outline the legal implications of a barred status and the action required by the employer.

10. Workers not authorised to work with children

You cannot employ a worker for child-related work (paid or unpaid) if the outcome of their online verification is:

- barred
- interim barred
- not found

If you receive a letter advising you that a current employee or volunteer has become barred (or has an interim bar) you must immediately remove them from child-related work. It doesn't matter whether they are paid or unpaid; supervised or unsupervised.

Your options are:

- dismiss the worker

- suspend them from child-related work pending the outcome of an appeal
- transfer them to a non child-related role within the business (although you are under no legal obligation to find an alternative position for a barred worker).

PLEASE NOTE! The courts cannot order the re-employment of a person for child-related work if the person is barred from working with children. Damages or compensation are not payable to a worker who has been removed from child-related work because they are barred from working with children.

See [FACT SHEET: Bars and appeals](#) available from www.newcheck.kids.nsw.gov.au

11. Findings of misconduct involving children

Findings of misconduct by a reporting body that the following conduct occurred will trigger a risk assessment:

- a) sexual misconduct committed against, with or in the presence of a child, including grooming a child
- b) any serious physical assault of a child.

A reporting body is defined and listed in section 35 of the [Child Protection \(Working With Children\) Act 2012](#). Additional reporting bodies are prescribed in clause 25 of the [Child Protection \(Working With Children\) Regulation 2013](#).

See [Information for reporting bodies: Reporting certain misconduct involving children](#), available from www.newcheck.kids.nsw.gov.au

12. Privacy and confidentiality

The Office of the Children’s Guardian will maintain a register for Working With Children Checks.

12.1 Information about a person that may be shared

The following information about a person contained in this register may be made available by the Office of the Children’s Guardian to an employer or proposed employer on request by the employer or proposed employer:

- The Working With Children Check application number of any worker;
- The current Check status of a child-related worker;
- The number, type (volunteer or non-volunteer) and expiry date of a Working With Children Check held by a child-related worker.

The Office of the Children’s Guardian must not make this information available unless the request is made in an approved format and contains the particulars required by the Office of the Children’s Guardian.

12.2 Information about an employer that may be shared

The following information about an employer contained in the register may be made publicly available by the Office of the Children’s Guardian:

- the trading name or registered business name of the employer

- the child-related work for which the employer engages a child-related worker
- the postcode or name of the place in which the employer's business is located
- whether any requests for information regarding a Check status were made to the Children's Guardian by the employer within a specified period

13. More information

If you have any questions regarding the new Working With Children Check, please refer to the fact sheets and resources page of the website at www.newcheck.kids.nsw.gov.au. Alternatively, email your query to newcheck@kids.nsw.gov.au or call (02) 9286 7276.

From our website, you can also register for a free information session, sign up for fortnightly Check e-news or learn more about child-safe organisations.

Disclaimer: The material provided in this Fact Sheet is an information source for the guidance of users only. Every effort has been made to ensure that the information is accurate, current and not misleading. However, this cannot always be guaranteed and no warranty is given that the information is free from error or omission. Users should exercise their own skill and care with respect to the use of the material. The information is also not a substitute for independent legal or other professional advice and users should obtain appropriate professional advice relevant to their particular circumstances. The Office of the Guardian does not guarantee, and accepts no legal liability whatsoever for any act done, omission made, loss, damage, cost or inconvenience arising from, connected to, or as a consequence of, using or relying on the material contained in this Fact Sheet

From Part 2, Child-related Work, [Child Protection \(Working With Children\) Regulation 2013](#)
(under the [Child Protection \(Working With Children\) Act 2012](#))

4 Child development and family welfare services

- (1) Work in mentoring and counselling services for children is child-related work, if the mentoring and counselling services are provided to children as part of a formal mentoring program provided by a government or non-government agency.
- (2) Work in providing family welfare services is child-related work, if clients to whom the services are provided ordinarily include children.

5 Child protection

Work in child protection services provided by a government or non-government agency is child-related work.

6 Children's health services

- (1) Work as a health practitioner providing health services in wards of hospitals where children are treated is child-related work.
- (2) Other work as a health practitioner providing child health services is child-related work.
- (3) Work by persons (other than health practitioners) who provide health and care services in paediatric or adolescent health services, is child-related work.
- (4) Work as a student in the course of a student clinical placement in a hospital or other health service is not child-related work.
- (5) In this clause:

health practitioner means:

- (a) a health practitioner registered under the *Health Practitioner Regulation National Law (NSW)*, and
- (b) any other individual who provides a health service.

health service includes the following:

- (a) medical, hospital and nursing and midwifery services,
- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, physiotherapy, podiatry and psychology services,

- (k) optical dispensing, dietician, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services,
- (l) services provided in other alternative health care fields.

hospital means:

- (a) a private health facility licensed under the Private Health Facilities Act 2007, or
- (b) a declared mental health facility or private mental health facility within the meaning of the Mental Health Act 2007, or
- (c) a public hospital within the meaning of the Health Services Act 1997.

7 Clubs or other bodies providing services for children

- (1) Work for a club, association, movement, society or other body of a cultural, recreational, sporting or community service nature that involves providing programs or services primarily for children is child-related work.
- (2) Without limiting subclause (1), work as a coach or as a team manager, or an assistant coach or assistant team manager, for a sport or activity for children is child-related work.
- (3) However, the work is not child-related work if the work is work as a referee, umpire, linesperson or otherwise as a sporting official or a groundsperson, and the work does not ordinarily involve contact with children for extended periods without other adults being present.

8 Disability services

- (1) Work in providing respite care or other support services primarily for children with a disability is child-related work.
- (2) However, the work is not child-related work if the work does not ordinarily involve contact with children for extended periods without other adults being present.

9 Early education and child care

- (1) Work in education and care services, child care centres, nanny services and other child minding services provided on a commercial basis is child-related work.
- (2) Work in providing baby sitting services is child-related work, unless the services are provided under a private arrangement (whether or not a fee is payable).
- (3) Work as an au pair is child-related work, if the work involves the provision of child care.

10 Education

- (1) Work in schools or other educational institutions (other than universities) is child-related work.
- (2) Work providing private coaching or tuition to children is child-related work.

11 Entertainment for children

- (1) Work at sporting, cultural or other entertainment venues where services, activities or entertainment is provided on a commercial basis primarily for children is child-related work.
- (2) Work that involves providing entertainment services primarily for children on a commercial basis is child-related work.
- (3) However, providing food or equipment at or for a sporting, cultural or other entertainment venue or providing a venue is not child-related work.

12 Justice centres

- (1) Work at detention centres and juvenile correctional centres is child-related work.
- (2) Work as a supervisor or case manager of children on community justice placements, for a government or non-government body, is child-related work.
- (3) Work for a residential parent and child program provided by a government or non-government agency involving inmates or detainees, and their children, at a correctional centre, juvenile correctional centre or detention centre or other place is child-related work.
- (4) Expressions used in this clause have the same meaning as they have in the Children (Detention Centres) Act 1987 and the Crimes (Administration of Sentences) Act 1999.

13 Religious services

Work for a religious organisation where children form part of the congregation or organisation is child-related work, if the work is carried out:

- (a) as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of the organisation, or
- (b) in any other role in the organisation involving activities primarily related to children, including youth groups, youth camps, teaching children and child care.

14 Residential services

(1) Work at the following services is child-related work:

- (a) refuges used regularly by children,
- (b) boarding houses or places providing other residential services for children,
- (c) overnight camps for children.

(2) Work in providing home-stays of 3 weeks or more for children is child-related work.

15 Transport services for children

Work in providing transport services especially for children on a government funded or commercial basis, including school bus services and taxi services for children with a disability and supervision of school road crossings, is child-related work.

16 Youth workers

Work as a youth worker, for a government or non-government agency, is child-related work.



FACT SHEET: Phase in schedule for existing workers

ANNEX B

July 2013

- **Already working with children?** You will be phased in. Find your industry sector on the chart below.
- **Volunteering?** You will also be phased in. Find your industry sector on the chart below.
- **Self-employed?** Apply when your Certificate for Self-Employed People (CSEP) expires, or apply now if you do not have a CSEP.
- **Starting a new job?** Apply before you start work.

Not sure which sector you belong to? See [FACT SHEET: Which sector do I belong to?](#) or refer to the [Child Protection \(Working With Children\) Regulation 2013?](#) both available from www.newcheck.kids.nsw.gov.au.

INDUSTRY SECTORS

- | | | | | |
|--|--|---|---|--|
| <ul style="list-style-type: none"> ▪ Child protection ▪ Disability services ▪ Justice services ▪ Religious services (work as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of the organisation) ▪ Youth workers ▪ Authorised carers* ▪ Adults who reside in the home of an authorised carer or family day care service provider or home-based education and care service provider. | <ul style="list-style-type: none"> ▪ Child development and family welfare services ▪ Religious services (work in roles including youth groups, youth camps, teaching children and child care) ▪ Residential services ▪ Transport services for children | <ul style="list-style-type: none"> ▪ Clubs or other bodies providing services to children (including sporting bodies) ▪ Entertainment for children ▪ Assessment of reportable matters (assessment officer) ▪ Principal Officer of a designated agency ▪ Principal Officer of an accredited adoption service provider | <ul style="list-style-type: none"> ▪ Children's health services (Local Health Districts) <ul style="list-style-type: none"> - Central Coast LHD - Hunter New England LHD - Illawarra Shoalhaven LHD - Mid North Coast LHD - Northern NSW LHD - South Eastern LHD ▪ Education - Secondary schools ▪ Education - Vocational ▪ Education - Private tuition and coaching | <ul style="list-style-type: none"> ▪ Children's health services
All remaining Local Health Districts not already phased in ▪ The Sydney Children's Hospitals Network (Randwick and Westmead) ▪ Justice Health and Forensic Mental Health Network ▪ Ambulance Service of NSW ▪ Children's Health - remaining services ▪ Early education and child care ▪ Education – all remaining services ▪ Education and care service - approved provider, manager or certified supervisor |
|--|--|---|---|--|

PHASE IN
15 Jun - 31 Dec 2013

PHASE IN
1 Jan - 31 Dec 2014

PHASE IN
1 Jan - 31 Dec 2015

PHASE IN
1 Jan - 31 Dec 2016

PHASE IN
1 Jan - 31 Dec 2017

*Foster carers and other authorised carers of children in statutory and supported out-of-home care.