

Appendix 1: Discussion document: Proposed changes for Police vetting of non-teaching and unregistered employees

Have your say about amending the Police vetting provisions in the Education and Training Act 2020 to remove the two-week application period

Proposal

In most circumstances, safety checks under the Children's Act 2014 and Police vets under the Education and Training Act 2020 (the Act) must be obtained *before* staff begin work in their new jobs at early childhood services (ECE services) and schools. However, there is one exception. The Act currently provides that non-teaching and unregistered employees can begin work without a Police vet as long as the vet is applied for within two weeks of their beginning working, and as long as they are supervised at all times around children until the Police vet is obtained.

We are proposing to amend the Police vetting provisions in the Act to remove the application period and to ensure all employees who require a vet are vetted before they begin work. This change is intended to remove confusion and ensure consistency for all Police vetting requirements for ECE and school staff.

Background

All children's workers in ECE services and schools, whether teaching or non-teaching staff, are subject to the safety check requirements in the Children's Act 2014. Children's workers are people who work in, or provide, a regulated service (including ECE services and schools), and where the person's work may or does involve regular or overnight contact with children without the parents being present. The majority of workers in the education sector are children's workers.

For all other staff (i.e. staff who are not "children's workers"), the Act requires ECE services and schools to Police vet specified groups of workers involved in the education sector, including their non-teaching and unregistered employees. In practice, the Police vet provisions apply to workers who are not required to be safety checked as children's workers. This is one very important way of keeping children and young people safe while engaging in education.

The current situation

Under the Act, ECE services and schools must obtain a vet of their non-teaching and unregistered employees before those employees have unsupervised access to children. ECE services and schools have two weeks after these employees begin work to **apply** for a Police vet (the application period), as long as the employee does not have unsupervised access to children before the Police vet is obtained.

The application period under the Act

The application period was intended as a compromise between flexibility and safety

At the time the application period was introduced in 2010, the processing times for vets had the potential to cause delays for ECE services and schools recruiting staff. ECE services and schools were given two weeks to apply for a vet as a compromise between flexibility and safety. However, processing times for vets have improved, and Police are currently working on changes to improve them further. In limited circumstances, approved agencies which meet the criteria managed by the Ministry of Education can make requests for urgent vets.

The application period only applies to a few employees

In practice, the application period only applies to non-teaching and unregistered employees at licensed ECE services and schools, who are unlikely to have unsupervised access to children in their daily jobs (otherwise they would be children's workers and must be safety checked). Examples include some office staff and cooks, although many of these staff may also have unsupervised access to children (and would therefore be safety checked).

The application period causes confusion

We've heard that the application period causes confusion. Although it only applies to a very limited number of staff in practice, some ECE services, schools and staff mistakenly think it applies when it doesn't. The application period does not apply to children's workers as there is no two-week window in the Children's Act safety checking provisions. Given the nature of the ECE and school environments, we think there are very few staff for whom the application period applies.

Questions:

Q.1. Do you agree that the application period causes confusion?

Q.2. Do you have any roles at your ECE service or school where the application period currently applies (i.e. the staff member is not also a children's worker who needs to undergo a safety check)? What are these roles, and what access do they have to children?

Q.3. Have you vetted staff before they start even when you are able to vet once the staff member has started work? If so, why?

Proposed solution – removing the application period

We are proposing to amend the Act to remove the application period and to ensure ECE services and schools must **obtain** the vet before non-teaching and unregistered employees begin work.

We want to hear about the advantages and disadvantages of this solution, especially if additional costs will be imposed on ECE services and schools, or they will need to change the way they operate.

Questions:

Q.1. Do you agree with the proposed solution?

Q.2. What are the advantages and disadvantages (including costs) of the proposed solution?

Q.3. How would having to obtain a vet before beginning work impact you?

Q.4. Are there other solutions to the problem we identified? What are the advantages and disadvantages (including costs) of those solutions?

How to have your say

We are seeking your views on changes to Police vetting of non-teaching and unregistered employees discussed above. You can email your submissions to legislation.consultation@education.govt.nz or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to Police vetting for non-teaching and unregistered employees.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.