

# Victorian Children's Services

## Assessment of a fit and proper person

Fact Sheet | January 2011

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The Secretary of the Department of Education and Training (the Department) or his or her Delegate is required to consider whether the persons who will operate or manage a children's service are fit and proper to do so. This includes the licensee, their nominated representatives, primary nominee and approved nominees. Any person who is nominated to manage or control a children's service is assessed by the Secretary or Delegate to determine whether they are a fit and proper person to manage or exercise control over a children's service, unless they are an accepted nominee. The licensee assesses accepted nominees and will nominate these persons to the Department.

### Currency of assessment

The fit and proper assessment is current for a maximum period of five years. This means that a person is assessed at least once in a five year period regardless of how many services they operate.

Anyone who was a licensee, or their designated director(s) or officer(s), or a primary nominee, immediately prior to 25 May 2009 was deemed fit and proper until a new licence application is submitted.

### Assessment of the licensee, representative, primary nominee and approved nominee

The *Children's Services Act 1996* (Victorian Act) requires that all licence applicants be assessed as fit and proper. Where the applicant is a body corporate, this will mean at least one director or other officer of the body corporate must be assessed. In addition, the applicant may nominate a person to manage or control the children's service in the licensee's absence. In the case of a body corporate this may include a representative, who will be named on the licence application as representing the licensee in relation to the application and the operation of the children's service.

A fit and proper person check is not required to be carried out if a person has already been approved as an approved provider, a certified supervisor or a person with management or control of an education and care service approved under the *Education and Care Services National Law Act 2010* (National Law).

When a person is nominated as a licensee, representative, primary nominee or approved nominee, and will manage or control a children's service, the fit and proper assessment includes:

- providing the following information and declarations to the Department:
  - identity statement
  - charges and convictions declaration (including offences in other jurisdictions)
  - referee statement
  - financial declaration
  - health declaration
  - current and original criminal history notification
  - a current assessment notice (Working with Children Check) or Victorian Institute of Teaching registration
  - a summary of experience in controlling and managing a children's service (if any).

When a person is first nominated to manage or control a service they are generally required to attend an interview at the relevant office of the Department. The interview will be used to assess each person's understanding of controlling or managing a children's service and their knowledge of the Victorian Act and the Victorian Regulations.

The Secretary or Delegate may also require the applicant to submit to any tests, provide references or reports and submit to any medical or psychiatric examinations (section 24).

Persons who manage or control a school holidays care service will be assessed as fit and proper in the period before a licence is granted.

## Assessment of Accepted Nominees

Accepted nominees are nominees who have been assessed by the licensee or their representative and nominated to the Department as a person who is fit and proper to manage or control the children's service in the absence of the licensee.

The licensee's assessment of the nominee includes examining the following documents and making a declaration to the Department that they consider that the proposed nominee is fit and proper to manage or control the children's service. In assessing the nominee the licensee must consider:

- two forms of identification which confirm the nominees full name
- a current assessment notice (Working with Children Check) or Victorian Institute of Teaching registration original
- an original certificate or certified copies of qualifications
- a summary of the person's experience relevant to a children's service or an education and care service under the National Law
- information from two referees chosen by each nominee to confirm the nominee's integrity, good character and repute.

The licensee or their nominee or an approved provider or nominee of an associated children's service, must be present at the premises where a children's service is operating at all times when children are being cared for or educated by the service (section 30).

## Determinations of fitness and propriety

The information required of persons who operate, manage or control a service is determined by the person's role as a licensee, representative, primary nominee, approved nominee, or in the case of an approved associated children's service; an approved provider, a certified supervisor or a person with management or control of an education and care service. It will also be dependent on whether the person:

- has been determined as a fit and proper person within the previous 5 years; or
- has been determined as fit and proper more than 5 years ago.

A fit and proper determination may be revoked at any time if that person ceases to be fit and proper to manage or control a children's service (section 25A (4)).

The form *Application for determination of fit and proper person* is available from [www.education.vic.gov.au/childhood/providers/regulation/Pages/vcslicensingforms.aspx](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/vcslicensingforms.aspx).

## Further information

### The Department of Education and Training

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Web: [www.education.vic.gov.au/childhood/providers/regulation](http://www.education.vic.gov.au/childhood/providers/regulation)