

Department of Justice – Working with Children Check VCAT applications: factors for consideration

In arriving at its decision, the Victorian Civil and Administrative Tribunal (VCAT) will take into account a number of factors, depending on which category your application is placed in.

For **Category one** applicants, in making its decision, VCAT is required to consider the following factors:

- the nature and gravity of the offence and its relevance to child-related work
- the period of time since you committed the offence
- whether a finding of guilt or conviction was recorded for the offence or a charge for the offence is still pending
- the sentence imposed for the offence
- the ages of the applicant and of any victim at the time the offence was committed
- whether or not the conduct that resulted in the offence has been decriminalised since you committed the offence
- your behaviour since you committed the offence
- the likelihood of future threat to a child
- any information you give about the application
- any other matter VCAT considers relevant to the application.

For **Category two** applicants, in making its decision, VCAT will review the department's assessment of the following factors:

- the nature and gravity of the offence (or alleged offence) and its relevance to 'child-related work'
- the period of time since the offence was committed (or allegedly committed)
- whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending
- the sentence imposed for the offence
- your age or the age of any victim at the time the offence was committed (or allegedly committed)
- whether or not the conduct that resulted in the charge or offence has been decriminalised since you committed (or allegedly committed) the offence
- your behaviour since you committed (or allegedly committed) the offence
- the likelihood of future threat to a child posed by you
- any information you gave in relation to the application
- any other matter the Secretary to the Department of Justice considered relevant to the application.

For **Category three** applicants, in making its decision, VCAT will review the department's assessment of the following factors:

- the nature and gravity of conduct and its relevance to 'child-related work'
- the period of time since you engaged (or allegedly engaged) in the conduct
- whether a criminal finding of guilt or conviction was recorded or a charge is still pending for the conduct (or alleged conduct)
- the sentence imposed for any offence constituted by the conduct
- your age and the age of any victim at the time you engaged (or allegedly engaged) in the conduct
- whether or not the conduct has been decriminalised or ceased to be subject to disciplinary charges since the time you engaged (or allegedly engaged) in it
- your behaviour since engaging (or allegedly engaging) in the conduct
- the likelihood of future threat to a child posed by you
- any information you gave in relation to your application

- any other matter that the Secretary to the Department of Justice considered relevant.

For **other applicants**, in making its decision, VCAT will review the department's decision that there are exceptional circumstances justifying the refusal of your application and that there is a significant link between your offending behaviour and a risk to children. In doing so, it will review the department's assessment of:

- the nature and gravity of the offence (or alleged offence) and its relevance to 'child-related work'
- the period of time since the offence was committed (or allegedly committed) and, where there is more than one offence, the time between the offences
- whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending
- the sentence imposed for the offence
- your age or the age of any victim at the time the offence was committed (or allegedly committed)
- whether or not the conduct that resulted in the charge or offence has been decriminalised since you committed (or allegedly committed) the offence
- your behaviour since you committed (or allegedly committed) the offence
- the likelihood of future threat to a child posed by you, and
- any information you gave in relation to the application.