

Windsor Public School
Working with Children Policy



2023

Policy statement

- In accordance with the Child Protection (Working with Children) Act 2012, the safety, welfare and wellbeing of children and, in particular protecting them from child abuse, is the paramount consideration in the operation of this policy and the Working with Children Check Procedures.
- The Working with Children Check is an important part of the NSW Department of Education's screening process to prevent people who pose a risk to the safety, welfare and wellbeing of children from being employed or engaged in child-related work.
- This policy outlines processes for conducting the:
 - Working with Children Check (WWCC) for child-related work
 - Not to be Employed (NTBE) check
 - National Criminal Records Check requirements for all paid employees of the department and contractors in the Assisted School Travel Program to determine a person's suitability for employment or engagement.
- Employment or engagement may also be subject to other checks as prescribed in relevant legislation, industrial instruments, or policy. This includes but is not limited to the conduct and service check, health assessment requirements, and verification of professional and/or academic qualifications.

Audience and applicability

- This policy applies to people who are employed or engaged (or who are seeking to be employed or engaged) in child-related work in the NSW Department of Education, in any one of the following capacities:
 - as a paid employee
 - as a self-employed person or as a contractor or subcontractor
 - as a volunteer
 - as a person undertaking practical training as part of an educational or vocational course (other than as a student undertaking work experience)
 - as a minister, priest, rabbi, mufti or other religious leader or spiritual officer of a religion or other member of a religious organisation.
- People who are employed or engaged (or who are seeking to be employed or engaged) in non-child-related work in the NSW Department of Education in any capacity may be subject to their own screening requirements.

Context

- From 15 June 2013, people who are seeking to be employed or engaged in child-related work in the department are subject to relevant requirements under the [Child Protection \(Working with Children\) Act 2012](#) and the [Child Protection \(Working with Children\) Regulation 2013](#)
- This Working with Children Check policy and the [Working with children check procedure \(PDF 250 KB\)](#) together outline the requirements employees must meet to commence and continue working in their roles within the department.
- In addition to the WWCC requirements, workers engaged in child-related work as a paid employee of the department or as a contractor in the Assisted School Travel Program must meet the department's National Criminal Records Check requirements to determine their suitability for employment or engagement. From 15 June 2013, subject to conditions, a person may meet National Criminal Records Check requirements through a declaration process. For further details, refer to the [Working with children check procedure \(PDF 250 KB\)](#).
- The department must also conduct a Not to be Employed (NTBE) check for all workers against the department's confidential NTBE database to ensure all workers maintain exemplary levels of behaviours that reflect community expectations.

Responsibilities and delegations

- The department:
 - has a responsibility as an employer to take reasonable steps to ensure that all persons to be employed or engaged in child-related work are suitable for child-related work
 - must verify the WWCC credentials of all workers, and monitor the expiry of their WWCC. Knowingly employing someone without a WWCC clearance, or with a pending WWCC application, is an offence that can incur a fine of up to \$11,000 per non-compliant worker.
 - must ensure that staff whose WWCC is suspended or expired are barred from continuing in their current child-related role with the department.
- Executive leaders, directors, principals and managers:
 - are responsible for ensuring that screening processes within their area/s of responsibility are consistent with the Working with Children Check policy and procedures. This includes ensuring that all persons required to either obtain a WWCC clearance or provide a WWCC declaration have met the relevant requirement, prior to commencing employment or engagement. Failure to comply may result in disciplinary action and referral to Performance and Ethical Standards (PES)
 - who undertake screening are responsible for records management, including securely storing relevant WWCC and National Criminal Records Check documents for 7 years after the employment or engagement has been completed. Records may need to be kept for longer if required, for example, if the recruitment or engagement action has been the subject of legal action. Records must be disposed in a secure manner. Refer to the [Records Management intranet page](#) for further information

- are responsible for maintaining records of the status of each position within their area/s of responsibility (whether a position is child-related) and for reviewing these periodically to ensure consistency with policy and procedural requirements.

Employees:

- must maintain the correct level of WWCC clearance for the work they are undertaking. Failure to comply can incur a \$11,000 fine and/or 2 years imprisonment. Engaging in work while subject to an 'interim bar' can attract the same penalty
- must ensure they action a renewal of their WWCC in a timely manner to continue in their role.

Applying for and verifying a Working with Children Check

Who needs to apply – is it a child-related role? All staff in NSW public schools are automatically deemed to be in a child-related role.

Staff categories include:

- teachers
- executive staff and principals
- school administrative and support staff
- business managers
- teacher education students seeking to undertake paid internship (interns) or associate teacher program
- student support officers
- paraprofessional staff
- public service staff in schools (for example, general assistants, farm assistants, agricultural high school household staff, matrons and sub-matrons)
- non-school-based teaching service staff in schools.

The following specified volunteers are child related. Specified volunteers are volunteers 18 years or older, who are:

- parents or close relatives attending overnight excursions
- volunteers providing personal care services to children with disabilities involving intimate contact with those children (such as assistance with toileting, bathing or dressing)
- volunteers providing mentoring services as part of a formal mentoring program provided by a government or non-government agency
- volunteers at a school who are not parents or close relatives, including
 - Duke of Edinburgh's International Award volunteers
 - teacher practicum students (unpaid)
 - other people undertaking practical training as part of an educational or vocational course

- special educator in ethics, minister, priest, rabbi, mufti or other like religious leader or spiritual official of a religious organisation, or in any other role in the religious organisation, involving activities primarily related to children including youth groups, youth camps, teaching children and child care

- providers of special religious education and special education in ethics. The list of approved providers can be found on the Special religious education and special education in ethics providers intranet page.

The following contractors are child related:

- contractors in the Assisted School Travel Program
- contractors engaged by the principal or local parents and citizens association and who will have direct contact with children, for example - community users of school facilities during school hours - employment agency staff - tennis coaching school staff - karate school staff - drama groups - paid band/music tutors - paid sports coaches - paid choreographers - those employed to manage or lease school canteens - in-class tutors - project officers - external consultants - those employed under funded programs where local arrangements are made
- cleaners in schools. Other child-related groups include:
 - teaching service staff not located in schools (for example, non-school-based teaching service positions)
 - certain roles are deemed to be in child-related work regardless of whether they have direct contact with children as prescribed in section 6(3) of the Act. These include, for example, assessment officers under the Child Protection (Working with Children) Act 2012
 - paid employees of the school parents and citizens association (P&C) working in schools, including but not limited to paid canteen workers, outside of school hours care workers, music tutors employed by the school P&C
 - volunteers of the school P&C working in schools, including but not limited to volunteer canteen workers and outside of school hours care workers
 - volunteer outside of school hours care workers

Roles that are exempt or not considered child-related roles

The following categories of department staff are exempt workers. These workers must complete the relevant sections in the WWCC Declaration for Child-Related Work:

- people under the age of 18 years
- any parent volunteers coming into their child's school are exempt from obtaining a Working with Children Check (WWCC) clearance. This includes parents volunteering - to attend excursions during school hours - for reading groups in primary schools - at school events - in the canteen.

Roles not considered child-related roles

Individuals who fall into any of the categories below do not need a WWCC or declaration:

- parents and relatives of students, who are visiting the school but are not working as a volunteer or contractor (for example, attending a sports carnival)
- local members of Parliament
- local council officials
- cleaning inspectors employed by Public Works Authority

- School Infrastructure NSW asset management officers
- unpaid speakers and guests invited by the school on special occasions, where the person's contact with children is minimal and always supervised
- videographers in schools.

Individuals who will be undertaking work that does not involve direct contact with people under 18 years but will be done in an environment where they will be present are non-child-related workers. Non-child related workers outside of those noted above (in this section) may be required to complete the WWCC Declaration for Non-Child-Related Workers and/or complete additional screening requirements.

Before engaging or employing an individual, the hiring manager or person who has engaged them should clearly determine and communicate their role, whether it is child-related or non-child-related, and the relevant screening requirements.

Applying for a Working with Children Check clearance

Where a person in child-related work is required to obtain a WWCC clearance as a condition of employment or engagement, it is that person's responsibility to apply for the WWCC clearance with the Office of the Children's Guardian. The department's Applying for a WWCC intranet page also provides information on the application process.

Application outcomes

When an individual applies for a WWCC clearance with the Office of the Children's Guardian, the possible application outcomes are:

Clearance The worker is cleared to hold the position applied for. The department will be notified if the cleared worker later becomes a disqualified person, has their WWCC cancelled or becomes subject to a bar or interim bar.

Barred or subject to an interim bar The person cannot be employed or engaged in child-related work, or placed on any employment or engagement lists for child-related work.

Closed Either the applicant did not continue with the WWCC application process or the applicant's WWCC clearance was terminated.

The department will verify the Working with Children Check clearance

Once a worker provides their WWCC clearance, the department must verify the clearance with the Office of the Children's Guardian to ensure it is valid and current.

People Group will verify the WWCC clearance and undertake probity checks for all recruitment it coordinates (for example, all teachers, permanent SASS and corporate child-related roles).

Principals are responsible for all recruitment they coordinate (for example, temporary/casual SASS or contractors and volunteers), for checking the Not to be Employed database through Electronic Casual Pay Claims (eCPC), initiating the WWCC clearance verification (where this is required) through eCPC and keeping relevant records for 7 years. A principal can delegate the process of checking, verifying and record keeping to an appropriate school administrator (SAMs, SBMs, authorised to access eCPC). See the Record Keeping Guidelines for more information on record keeping.

The possible verification outcomes are:

Cleared The person can commence or continue employment or engagement in child-related work.

Pending Verification is underway. The person cannot commence or continue to work until a cleared result is received.

Declined/closed/cancelled The person cannot be employed or engaged in child-related work or placed on any employment or engagement list for child-related work

How and when workers need to renew their Working with Children Check

Once granted, a person's WWCC clearance remains valid for 5 years from the date it is granted.

A person's WWCC clearance may be closed or cancelled sooner or may become subject to an interim bar as determined by the Office of the Children's Guardian.

Declarations for volunteers and contractors are valid for the length of the volunteering/contracting period. For example, parents volunteering in their child's school every year from Kindergarten to Year 6 will submit one declaration for the entire period. However, if there is a break of greater than 12 months in the volunteering period, parents must complete a new declaration.

Individuals engaged by the department are required to hold a valid and verified WWCC. They must ensure it remains current and inform the department of any changes as soon as possible. Staff are expected to action any WWCC renewals in a timely manner and follow the letter of direction from the department.

Nationally Coordinated Criminal History Check mobility between roles

Anyone moving from non-child-related to child-related work in the department (including temporary acting arrangements) must meet the relevant WWCC requirements outlined in these procedures prior to commencing the employment or engagement.

Where a person moves from one type of child-related work to another type of child-related work in the department, it is not necessary to re-verify the person's WWCC clearance or conduct a new screening, provided there is no break in child-related work with the department.

Exceptions are where:

- a volunteer who holds a volunteer WWCC clearance is to be engaged or employed in paid child related work – the department does not accept a volunteer clearance from paid workers so the person must obtain a paid worker WWCC clearance with the Office of the Children's Guardian
- a contractor gains employment in a child-related role with the department – they are treated as a new employee and must obtain a WWCC clearance
- a person is changing status, for example from a child-related contractor to a child-related employee (whether permanent, ongoing, temporary or casual) or where a child-related contractor will be placed on an employment list, or changing from a temporary or casual child-related employee (or a person placed on an employment list) to a child-related permanent or ongoing employee, a probity screening must be processed, along with a re-verification of the individual's WWCC clearance
- a person is moving to a teacher or student learning support officer position (including all positions that have an in-classroom support role in schools), they must obtain a WWCC clearance – this is because a higher level of check applies to teachers and student learning support officers.

Providing a reference for an employee

If a principal or other workplace manager is asked to provide a reference as part of an Office of the Children's Guardian WWCC clearance risk assessment, they should complete all sections of the employer reference form, except part 6, and sign the form. When completing the form, principals or managers should ensure they:

- complete the form in a timely manner
- state the facts as the principal or manager knows them
- do not delegate the task to another staff member (however they may consult other staff members if they can provide relevant information)
- provide a sufficient level of detail (generally one-line responses are not sufficient)
- complete the section that asks for the employee's length of service – log in to SAP on the department's website

Consequences of not obtaining or renewing a WWCC clearance

An existing child-related worker who fails to obtain or renew a WWCC clearance cannot continue to be employed or engaged in child-related work.

In the case of a teaching service or SASS employee, the department may suspend the person's employment without pay or dismiss the employee under the Teaching Service Act 1980 section 93L and the Education (School Administrative and Support Staff) Act 1987 section 32D.

In the case of a public service employee, the department may terminate the person's employment under the Government Sector Employment Act 2013 section 47, for having failed to meet a condition of engagement as a child-related employee.

In the case of a contractor or volunteer, the department may terminate the person's engagement in child related work.

Temporary staff engaged in child-related work may have their engagement terminated from the date that their WWCC clearance expires or is no longer valid. This may happen regardless of the overall length of their contract.

Disqualified persons, bars and interim bars

The Office of the Children's Guardian will notify the probity unit if, at any time after the department's initial verification:

- a person who holds or has applied for a WWCC clearance becomes a disqualified person
- a person is subject to an interim bar or bar
- a person's WWCC clearance is closed.

The probity unit will contact the school or business unit to inform it that the person is to be removed from duty. It will also contact the person to determine if they intend to appeal the decision or resign from the department.

The probity unit will record the information, place the person on the Not to be Employed database as required, and notify Professional and Ethical Services (PES). If the person is a teacher, the probity unit will also notify the NSW Education Standards Authority.

PES will determine the course of action regarding the person's employment or engagement with the department, having regard to the specific circumstances of the case and in accordance with any relevant legislation, industrial instrument, policy and procedure.

Where PES has no existing record of any matter giving rise to a disqualification, bar or interim bar, PES may liaise with the probity unit to inform the appropriate course of action.

Where a person's WWCC clearance has been closed, the probity unit will determine the course of action regarding the person's employment or engagement with the department. The probity unit will then advise the person and their principal/manager of the outcome.

If the holder of a barred or interim barred WWCC has lodged a successful appeal to the Office of the Children's Guardian and has been provided with a new WWCC clearance, they may be subject to employment screening requirements in addition to WWCC verification.

Record keeping

The department must keep records showing the person's WWCC clearance, and the date on which each clearance of the person ceases to have effect, for 7 years post-employment.

For centrally coordinated recruitment, this information is captured through the relevant human resources system. Once entered into the system for verification, it is captured automatically and no further action is required.

For principal arranged recruitment, the principal must retain a copy of all relevant documentation. Where the requirement is to only show or view a photographic identity document, principals do not need to retain copies of the identity document.

The documents collected to conduct the WWCC clearance verification and probity check contain sensitive personal information. They must be securely stored for 7 years, in compliance with the State Records Act, General Authority 28 (GA28-15.4.4) and privacy legislation.

Personal information stored in electronic files must be password protected and manual information storage systems such as filing cabinets must be locked when unattended. Limit access to staff whose duties require them to have access. Make back-ups of personal information in electronic and store these securely. Where practicable, transmit the information in an encrypted form.

When using credit/debit cards for identification purposes, retain only the front of the card with the cardholder name and obscure the numeric details. To comply with the Payment Card Industry Data Security Standard, never write down or store customer credit/debit card data.

Schools and business areas can scan and store an electronic copy of the documents instead of keeping the hard-copy records. After checking the documents have been saved to a secure electronic file, use a shredder or locked disposal bin to securely dispose of the original documents.