

WORKING WITH CHILDREN CHECK POLICY

PP.23

1.0 Introduction

- 1.1 A Working With Children Check (WWCC) is a pre-requisite for anyone who work or volunteer in child-related work in NSW. It involves a national criminal history check and a review of findings of workplace misconduct.
- 1.2 Providing face-to-face, in-person vocational education to a child, whether paid or unpaid, is child-related work under the *Child Protection (Working with Children) Act 2012*. In NSW, any organisation engaging workers in child-related work (an “**Employer**”) must verify the WWCC clearance of those workers, provided they are not exempt.
- 1.3 The result of a WWCC is either a clearance to work with children for five years, or a bar against working with children.

2.0 Objective

- 2.1 This policy describes the policy and procedures by which AAPA will ensure compliance with the relevant legislations to maintain a safe environment for children and young people.

3.0 Scope

- 2.1 This policy applies to all new and existing employees employed by or contracted to AAPA. New and existing volunteer in a child-related role is also included.

3.0 What is child-related work?

- 3.1 Child related work is defined as work in a specific, child related role or face-to-face contact with children in a child-related industry sector. Please see **Annex A** for details.
- 3.2 There are specified exemptions from WWCC. People covered by these exemptions are not required to have a WWCC. Please see **Annex A** on the list of exemptions.

4.0 Procedures

- 4.1 AAPA will register online with the new WWCC to create a profile with the Office of the Children’s Guardian.

- 3.2 AAPA will use the online profile to verify employees' WWCC numbers including:
- new paid employees before the commencement of any child-related work
 - current paid employees
 - new and current volunteers
- 3.3 Ensure their WWCC number is verified online by an appropriate person in AAPA.
- 3.4 Keep records of each child-related employees including their:
- Full name (including first, middle and last name)
 - Date of birth
 - WWC number
 - Verification date
 - Verification outcome
 - Expiry date
 - Whether the employee is in paid or volunteer work
- 3.5 These records may be electronic or in hard copy format and will be made available for audit and monitoring purposes. Please see **Form F.49** on 'Working With Children Check Record'.
- 3.6 Remove any barred or unauthorised persons from child-related work.

4.0 How to verify

- 4.1 As online verification is the only accurate report of an employee's clearance status, we will not accept printed evidence / letters of clearance from employees as these documents may be falsified or employees may have become barred since receiving their initial clearance.
- 4.2 The online process also connects employees to AAPA which allows the Office of the Children's Guardian to immediately notify AAPA if a worker becomes barred.

5.0 Results of a Check

- 5.1 If the outcome of the online verification is 'cleared' or 'application in progress' the employee may begin working with children immediately.
- 5.2 If the result of online verification is:
- Barred,
 - Interim Barred or
 - Not Found

the employee cannot be employed (paid or unpaid) in child-related work or roles as it will be an offence for AAPA to do so and penalties apply.

5.3 Also if AAPA receive notification advising that a current employee or volunteer has become barred (or has an interim bar), AAPA must immediately remove the person from child-related work. It does not matter whether the person is paid or unpaid; supervised or unsupervised. The person may be:

- Dismiss
- Suspend from child-related work pending outcome of an appeal
- Transfer to non child-related role, if any, although AAPA is under no legal obligation to find an alternative position for a barred employee. Damages or compensation are not payable to a person who has been removed from child-related work because the person is barred from working with children.

5.4 Cleared applicants may use their WWCC for any child related work in NSW for five years. They are also subject to ongoing monitoring for relevant new records which may lead to the clearance being revoked before it is expired for child-related work, paid or unpaid.

6.0 Mandatory Reporting

6.1 AAPA has a legal responsibility to report certain misconduct involving children to the Office of the Children's Guardian.

6.2 The conduct that must be reported are:

- Sexual misconduct committed against, with or in the presence of a child, including grooming of a child
- Any serious physical assault of a child

6.3 Under the legislation, AAPA must investigate allegations of such conduct to make an informed finding as to whether or not the conduct occurred.

6.4 If the investigation results in a finding that sexual misconduct or serious physical assault occurred, AAPA must report this finding to the Office of the Children's Guardian even if appropriate disciplinary action in respect of the misconduct has not yet been determined or review or appeal processes remain available.

6.5 To submit a relevant misconduct finding in respect of a child-related employee, please contact the Office of the Children's Guardian on (02) 9286 7219 to request for authority to do so. Once permission is granted, submit report online using the

employer login details. If assistance is needed with any part of this process, please call the Office of the Children's Guardian on (02) 9286 7276.

- 6.6 AAPA must keep records of all allegations, investigations and findings about a notification for at least 30 years, unless the records are given to the Office of the Children's Guardian. If AAPA or any successor ceases to exist all records must be lodged with the Office of the Children's Guardian before AAPA or successor ceases to exist.
- 6.7 An employee who is the subject of a relevant misconduct finding must be informed of that finding and that AAPA has a statutory obligation to report this finding to the Office of the Children's Guardian.
- 6.8 AAPA may amend or withdraw a notification of a finding of relevant misconduct if:
- The finding was quashed, withdrawn or amended
 - There as an error in the notification or the finding
 - The notification was wrongly made
 - The person against whom the finding was made has died
- 6.9 AAPA to provide a statutory declaration to the Office of the Children's Guardian as to the reasons for the amendment or withdrawal.

7.0 Managing complaints

- 7.1 As children are often reluctant to complain and may feel powerless, they should be encouraged to approach any person in AAPA to express concerns about their treatment.
- 7.2 All employees of AAPA have a duty of care to report and respond to concerns and complaints about behaviours towards a child, a disclosure of abuse or abuse.
- 7.3 Anyone who has reasonable grounds to suspect that a child or young person is at risk of being neglected or physically, sexually or emotionally abused should make a report to the Child Protection Helpline. Call Family and Community Services Helpline on 132111 (24 hours a day 7 days a week) if you suspect child abuse. For AAPA the number to call is 133 627.

8.0 Associated Forms

F.49 – Working With Children Check Record

9.0 Associated Website

Link: <http://www.kidsguardian.nsw.gov.au/child-safe-organisations/working-with-children-check/about-the-check>

Responsibility: Authorised personnel designated by AAPA Management Committee

Approved by: AAPA Executive Chairman

Annex A

Child-related sectors

Child-related sectors		
<p><u>Child development and family welfare services</u></p> <p><u>Child protection</u></p> <p><u>Children's health services</u></p> <p><u>Clubs or other bodies providing services for children</u></p>	<p><u>Disability services</u></p> <p><u>Early education and child care</u></p> <p><u>Education</u></p> <p><u>Entertainment for children</u></p> <p><u>Youth workers</u></p> <p><u>Membership of governing body of certain agencies</u></p>	<p><u>Justice centres</u></p> <p><u>Religious services</u></p> <p><u>Residential services</u></p> <p><u>Transport services for children</u></p> <p><u>School cleaners</u></p> <p><u>Principal officer of registered agency</u></p>

Child related roles

The following roles are classified as child-related work:

- An approved provider or manager of an educational and care services
- A certified supervisor of an education and care services
- 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

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.

Exemptions from the Working With children Check

There are specified exemptions from the Working With Children Check. People covered by these exemptions are not required to have a Working With Children Check. The exemptions are:

- **Children** (under the age of 18)
- **Volunteering by a parent or close relative** (except where the work is part of a formal mentoring program or involves intimate, personal care of children with a disability):
 - with the child's school, early education centre or other educational institution
 - with a team, program or other activity in which the child usually participates or is a team member
- **Administrative**, clerical, maintenance or ancillary work not ordinarily involving contact with children for extended periods
- **Very short term work**:
 - A worker who works for a period of not more than a total of 5 working days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present
 - As a visiting speaker, adjudicator, performer, assessor or other similar visitor for a one off occasion, in the presence of one or more other adults
- **Informal domestic work** (not on a professional / commercial basis)
- **Work only with close relatives** (except as an authorised carer)
- **Co-workers and supervisors** where a child works
- **Interstate visitors**:
 - can work or volunteer at a one-off event such as a jamboree, sporting or religious event or tour, for up to 30 days a year without a NSW Working With Children Check
 - can work or volunteer in any child-related work for up to 30 days a year, if the person holds an interstate Working With Children Check, or is exempt from the requirement to have such a check in his or her home jurisdiction
 - health practitioners working in NSW from outside the State for up to five days in any three month period
- **Home carers** with a current police certificate for aged care where the clients are not primarily children
- **NSW Police or Australian Federal Police** officers in the role of police officer
- **Private practice health practitioners** who do not ordinarily treat children without other adults present

Part 2 of the ***Child Protection (Working With Children) Regulation 2013*** also gives specific instances of work that is not child-related (which means it will not require a Check).