



'WORKING WITH CHILDREN CHECKS'

1.0 RATIONALE & OVERVIEW

A Working With Children Check (WWCC) is a prerequisite for anyone in child-related work in NSW.

The *New Working With Children Check* (see e.g. Fact Sheet 10, September 2013) commenced on 15th June 2013 for prospective workers and volunteers at The Joseph Varga School, if their role involves face-to-face contact with children in a child related role.

The Check involves a national police check and a review of findings of misconduct involving children, and covers more people, is more comprehensive and provides better child protection than previously.

Unlike the previous WWCC (from the *Commission for Children and Young People Act 1998*), The New Working With Children Checks (from the *Child Protection (Working With Children) Act 2012* & *Child Protection (Working With Children) Regulation 2013*):

- 'last for five years, are portable and renewable'
- 'make it easy for employers to recruit safely, as the outcome is either a bar or a clearance, for any child-related work or volunteering anywhere in NSW'
- subject 'child-related volunteers and workers, and self-employed people to the same check (unless exempt)'
- ensure 'cleared applicants are subject to continuous monitoring for new NSW criminal (e.g. related to serious sex or violence offences) and disciplinary records'
- requires 'an individual applies for his or her own check'
- bars 'high risk people so they cannot be hired to work with children, on a paid or unpaid basis'
- provide a 'broad access to appeal provisions through the Administrative Decisions Tribunal'
- 'access full national criminal history'
- 'streamline online application, registration and verification systems, so employers will be able to verify the worker's clearance instantly – online'
- ensure 'paid workers or volunteers can commence once check application has been completed (unless given an interim bar)'

To summarize, before engaging a new, paid, child-related worker, The Joseph Varga School must 'ensure the worker has a clearance to work with children, or a completed Check application in progress. Existing workers and volunteers should be verified online as they are phased in to the new Check.'

'The only way to accurately determine a person's clearance status is by verifying their Working With Children Check online; **paper evidence of a clearance is no longer acceptable.**

This check is one aspect of the school's overall Child Protection policies and procedures committed to providing a 'child-safe organization'.

2.0 POLICY & PROCEDURES – Employer responsibilities

2.1 The Principal of The Joseph Varga School must:

*'not accept letters of clearance from workers or the worker's notification letter as proof of his/her clearance because these documents may be falsified or the worker may have become barred since receiving their initial clearance'

* register online with the new Working With Children Check by going to www.newcheck.kids.nsw.gov.au (it does not matter that the school was previously registered with the old system; it must be registered with the new online system)

*accurately verify every new paid employee online before hiring them by logging into the school's employer account at www.newcheck.kids.nsw.gov.au

by choosing the Verify Working With Children status tab, Entering the required details, and Clicking Verify, with the Results appearing immediately on screen

*Results will convey one of the following Status reports:

Application In Progress – the applicant may work with children

Cleared – valid clearance until listed expiry date; can work with children

Barred – it is offence to engage this person for child-related work

Interim barred – barred from working during the course of a risk assessment; making it an offence to engage this person for child-related work

Not found – database cannot find a match due to errors with data entered, person's application has been withdrawn or terminated without an outcome; making it an offence to engage this person for child-related work

*verify current paid workers and all volunteers online as they are **Phased In** to the new Check (according to industry sector [e.g. Education – Secondary Schools, Apply between 01/01/2016- 31/12/2016; Education –all remaining services, Apply between 01/01/2017-31/12/2017; in a Phase In Schedule - see *Fact Sheet, September 2013*)

*ensure that Transport Service Providers (e.g. Taxi) and Residential Service Providers (e.g. overnight camps) employed by The Joseph Varga School,

comply with the Apply By Dates (i.e. up to Dec 2014) for this sector in the Phased In Schedule

*ensure that existing child-related workers and volunteers who are due to be phased in, in a particular year, and new paid worker's, have obtained an appropriate AAP number, so that their clearances can be performed more easily online

*ensure its own Working With Children Check is verified online by an appropriate person in the organization (employers cannot self-verify)

*remove any barred or unauthorized person from child-related work.

2.2 The Principal of The Joseph Varga School must ensure that only checks are performed for child-related workers, where 'child related work' is defined as '**face-to-face contact with children in a child-related sector** (such as Education) or **work in a child-related role**' (such as an approved provider or manager of an education and care service; an assessment officer; school psychologist).

2.3 The Principal of The Joseph Varga School may also apply to the Children's Guardian to have a special role designated as child-related if it involves access to confidential records regarding children.

2.4 There are specified **Exemptions** from the Working With Children Check, under Part 4, Clause 20 of the *Child Protection (Working With Children) Regulation 2013*, so people covered by these exemptions are not required to have a WWCC.

2.5 These exemptions cover:

*'Administrative, clerical or maintenance work, or other ancillary work, that does not ordinarily involve contact with children for extended periods'

*'Work for a period of no more than five days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present'

*'Work with close relatives of the worker'

*'Volunteering by a parent or close relative of a child in activities for the child's school; except where the work is part of a formal mentoring program or involves intimate personal care of children with a disability'

*'Volunteering by a parent or close relative with a team, program or other activity in which the child usually participates or is a team member; except where the work is part of a formal mentoring program or involves personal care of children with a disability'

*'A visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out in the presence of one or more other adults'

*'A health practitioner in private practice, if the practice does not ordinarily involve treatment of children without one or more other adults present'

*'A co-worker or work supervisor where a child works'

*'Work by an interstate visitor in a one-off event (such as sporting event), if the event is the only child-related work carried out by the worker in NSW in that calendar year and the period of work does not exceed 30 days'

*'Work by an interstate visitor who holds an interstate working with children check, or is exempt from the requirement to have such a check in his or her home jurisdiction, whose child-related work in NSW is for no more than 30 days in any calendar year'

*'NSW Police or Australian Federal Police officers in their capacity as police officers'

*'People under the age of 18'.

2.6 Under Part 2 of the *Child Protection (Working With Children) Regulation 2013*, some work is **not** considered to be child-related, which means it will not require a WWCC.

2.7 This work includes:

*'Work as a student in the course of a student clinical placement in a hospital or other health service (Clause 6[4])'

*'Work as a referee or likewise as a sporting official or a groundsperson, if the work does not ordinarily involve contact with children for extended periods without other adults being present (Clause 7[3])'

*'Work in providing respite care or other support services for children with a disability if the work does not ordinarily involve contact with children for extended periods without other adults being present (Clause 8[2])'

*'Work that involves providing food, equipment or a venue at or for a sporting, cultural or other entertainment'.

3.0 POLICY & PROCEDURES – Employee responsibilities

3.1 A child-related worker is responsible for applying for his or her own Working With Children Check.

3.2 'Paid child-related workers starting a new job must apply for a check before they begin their new role (and must be verified by their employer before they start)'.

3.3 'Paid child-related workers who are already working do not need to apply until their industry sector is being phased in (see 2.1), with Current Volunteers also being phased in'.

3.4 This policy stresses that this school, as an employer, **cannot apply on behalf of a worker**.

3.5 Application is a simple two-step process, with the first step requiring:

*filling in an online form at www.kids.nsw.gov.au (supported by an Online Tutorial and Fact Sheets) and the receipt of an application number,

while the second involves:

*the applicants, in person, taking their application number, proof of their identity and a non-refundable \$80 fee (for a 5 year period) to a NSW motor registry or a NSW Council Agency. (The Working With Children Check remains free for Volunteers.)

3.6 'If a worker receives a clearance, he or she will be issued with a WWCC number, which is provided to their employer, along with their surname and date of birth for online verification.'

3.7 'Cleared applicants are still subject to ongoing monitoring.'

3.8 For the record, a WWCC includes a national police check and reviews of findings of misconduct involving children.

4.0 Risk Assessment

4.1 Risk assessments of new prospective and currently employed workers are triggered by:

* 'an offence listed in Schedule 1 (see Fact Sheet: *Assessment requirement triggers*) of the *Child Protection (Working With Children) Act 2012* (or equivalent records in other states and territories)'

**a pattern of behaviour or offences involving violence (e.g. any serious physical assault of a child) or sexual misconduct (being with or in the presence of a child, including grooming a child) that represents a potential risk to children (even if the records are not individually listed on Schedule 1 or 2)'

**findings of misconduct reported by a reporting body (as listed in Section 35 of the *Child Protection (Working With Children) Act 2012* and in Clause 25 of the *Child Protection (Working With Children) Regulation 2013*')

*'notifications by the Ombudsman'

4.2 The Office of the Children's Guardian must take into consideration factors relating to: the conduct (e.g. seriousness, length of time since it occurred, age & vulnerability of the victims), the applicant (e.g. conduct since offence, age now & at time) and recurrence (e.g. likelihood of offences being repeated).

4.3 'Applicants will be kept informed by the Office during the risk assessment process, so that if, for instance, a bar is being considered, the applicant will be invited to submit information which may affect the outcome of the final decision.'

4.4 'If the final outcome is a bar, notification will be issued by post, with barred workers free to apply for a review of the decision.'

5.0 Record keeping, Notifications & Confidentiality

5.1 'Workers will be reminded to renew their Check three months before it expires but no notification will be sent to employers, since it is the responsibility of workers to apply for and renew their own WWCC.'

5.2 'The school, as the employer, only has the responsibility of verifying the status of Working With Children Checks.'

5.3 The school is also required to keep records (electronic or in hard copy format) of child-related workers including their: Full name, Date of Birth, WWCC number or Application Number & Expiry Date, and Date and Outcome of Online Verification. (These records must be made available if required for audit and monitoring purposes.)

5.4 'If a relevant new record appears (e.g. a bar), it may lead to the worker becoming barred before the Check's five year expiry date.'

If this happens, the school will be notified using information supplied during the online verification process.'

5.5 It is essential that the school verifies workers online, otherwise it will not be notified immediately if a worker is barred.

5.6 Given Privacy and Confidentiality laws, 'the Office of the Children's Guardian will only ever share with the employer, the WWCC application number of any worker; the current Check Status of a child-related worker; the Number, Type (volunteer or non-volunteer) and Expiry Date of a WWCC held by a child-related worker', with no other information – including details of work and/or criminal records ever shared.

Requests for such information must be made in the approved format required by the Office of the Children's Guardian.

5.7 'Notification will be sent by letter, addressed to the individual who verified the worker. The letter will outline the legal implications of a barred status and the action required by the school.'

5.8 'The school, to reiterate, cannot employ a worker for child-related work (paid or unpaid) if the outcome of their online verification is: Barred, Interim Barred, Not Found.'

5.9 'If the school receives a letter advising it that a current employee or volunteer has become barred or has an interim bar, it must:

*'immediately remove him/her from child-related work (it doesn't matter whether him/her are paid or unpaid; supervised or unsupervised)' by:

dismissing the worker

suspending the worker from child-related work pending the outcome of an appeal

transferring the worker to a non child-related role within the school (although the school is under no legal obligation to find an alternative position for a barred worker).

5.10 'The Office of the Children's Guardian maintains a Register for Working With Children Checks with it able to release certain information about the school including: its Trading Name, the type of child-related work it engages in, its Location or Postcode, whether Requests for information regarding a Check status were made by the employer within a specified period.'

6.0 Other School Policies & Procedures

6.1 The Principal is currently reviewing the school's Child Protection policy and Code of Conduct in terms of this new policy and procedures, in order to ensure that all school policies and procedures are consistent with one another.

6.2 The school intends to seek further advice and support in the area of child protection and employment screening from the relevant advisors from the AIS of NSW.

This Policy must be viewed alongside such related Policies & Procedures as: Child Protection, External Activities and/or Venue Provider, External Educational Provider, Outside Tutors, Code of Conduct.

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