

Child Protection - Working with Children Checks

Working With Children Checks - Source of Obligation

The Child Protection (Working with Children) Act 2012 (NSW) (the Act) and the Child Protection (Working with Children) Regulation 2013 (NSW) (the Regulation) aim to protect children from harm by providing a high standard of compulsory national criminal record checking for people wishing to do paid, unpaid or volunteer child-related work in NSW. These background checks are referred to as Working with Children Checks (WWC Checks).

It is an offence to engage in child-related work without a valid WWC Check.

It is an offence for the School to commence employing or continue to employ a worker in child-related work if the School knows or has reasonable cause to believe that:

- the worker is not the holder of a WWC Check Clearance that authorises that work and that there is no current application by the worker to the Children's Guardian for a clearance of a class applicable to that work, or
- the worker is subject to an interim bar,

unless the School has obtained and verified the worker's relevant details and made a record of those relevant details.

Pacific Hills Christian School, our staff, volunteers and others have a number of responsibilities and obligations under the Act and the Regulation which are outlined in this policy.

All employed staff at the School must have a paid Working with Children Check.

Who Needs a WWC Check?

Subject to the exemptions referred to below, any **worker** who engages in **child-related work** must undergo a WWC Check.

The School requires all staff to hold a current employment Working With Children Check.

Under the Act, a child is defined as a person who is under 18 years of age.

Definition of Worker

A **worker** means any person who is engaged in work, as an employee, a self-employed person, a contractor or subcontractor, a volunteer, a person undertaking practical training as part of an educational or vocational course (other than as a school student undertaking work experience), or as a minister, priest, rabbi, mufti or other like religious leader, or spiritual officer of a religion, or other member of a religious organisation.

What is Child-Related Work?

A worker is engaged in child-related work for the purposes of the Act if:

- the worker is engaged in work for, or in connection with, work declared by the Regulation to be child-related work that involves direct contact by the worker with a child or children and that contact is a usual part of and more than incidental to the work, or
- the worker is engaged in work in a child-related role.

Under the Act and Regulation, work for, or in connection with, any of the following is declared to be child-related work:

- mentoring and counselling services for children
- direct provision of child health services
- clubs, associations, movements, societies or other bodies (including bodies of a cultural, recreational or sporting nature) providing programs or services for children
- education and care services, child care centres, nanny services and other child care
- sporting, cultural or other entertainment venues used primarily by children and entertainment services for children
- justice services such as detention centres
- any religious organisation where children form part of the congregation
- private coaching or tuition to children
- boarding houses or other residential services for children and overnight camps for children
- transport services especially for children, including School bus services and taxi services for children with a disability and supervision of School road crossings
- the role of a cleaner providing cleaning services at the School
- providing ongoing, counselling, mentoring or distance education using any form of communication that does not primarily involve direct contact (physical or face-to-face contact).

Under the Act and Regulation, the following roles are considered to be child-related roles:

- an approved provider or manager, or a certified supervisor, of an education and care service
- an authorised carer
- an assessment officer of a relevant agency under the Children and Young Persons (Care and Protection) Act 1998 (NSW)
- the principal officer of a designated agency or an accredited adoption service provider.

The governing body of the School must also ensure that any person who is appointed to a key position in the School is the holder of a WWC Check applicable to that work. For example, responsible persons. Refer to our **Responsible Persons Policy**.

What is Not Considered to be Child-Related Work

Under the Regulation, the following types of work are not considered to be child-related work, although all paid employees and volunteers are required to have a current WWC Check, unless exempt under the legislation:

- if the work does not ordinarily involve contact with children for extended periods without other adults being present, the work is not child-related work if it is:
 - work as a referee, umpire, linesperson, other sporting official or grounds person for a club, association, movement, society or other body of a cultural, recreational, sporting or community service nature that involves providing programs or services primarily for children, or
 - work in providing respite care or other support services primarily for children with a disability
- work as a student in the course of a student clinical placement in a hospital or other health service, and
- providing food or equipment at or for a sporting, cultural or other entertainment venue or providing a venue.

What is 'Direct Contact'?

Under the Act, 'direct contact' with children means:

- physical contact, or
- face-to-face contact.

The Regulation may provide for circumstances in which direct contact by a worker with a child or children is taken to be a usual part of and more than incidental to a worker's work.

Key Exemptions

People engaged in the following types of work are not required to have a WWC Check:

- administrative, clerical or maintenance work, or other ancillary work, that does not ordinarily involve contact with children for extended periods, other than School cleaners
- work with minimal direct contact or unsupervised contact with children, done for no more than five days in a calendar year
- volunteering by a parent or close relative in the following areas, except where the work involves providing mentoring services as part of a formal mentoring program, providing personal care services to children with disabilities, or attending an overnight camp for children:
 - of a child in activities for the child's school, early education service or other educational institution
 - with a team, program or other activity in which their child usually participates or is a team member
- a visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person at that place is for a one off occasion and is carried out in the presence of one or more other adults
- work by an interstate visitor:
 - in a one-off event such as a jamboree, sporting or religious event or tour, 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
 - 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
- people under the age of 18.

How to Apply for a WWC Check?

A worker who engages in child related work is responsible for applying for his or her own WWC Check. An employer cannot apply on behalf of a worker.

To apply for a WWC Check, or to renew your clearance, visit the **NSW Office of the Children's Guardian website** and follow the prompts to either apply, renew or update your details.

What is Checked?

The WWC Check obtains applicants' national criminal histories including:

- convictions (including convictions that have been spent, quashed or set aside or for which a pardon has been granted)
- charges (whether or not heard, proven, dismissed, withdrawn or discharged)
- convictions or findings dealt with by way of recognizance after 15 years under the Crimes Act 1900 (NSW)
- juvenile records
- findings of misconduct (e.g. sexual misconduct or serious physical assault of a child) by a government agency
- notifications on matters indicating serious risk to children made by the Ombudsman.

Outcome of the WWC Check

There are two key results for a WWC Check – a clearance to work with children or a bar against working with children.

Where the outcome is a **clearance**, the applicant will be provided with a WWC Check number. The WWC Check is valid for five years and may be used for any child-related work (paid or voluntary) in NSW. Cleared applicants will be subjected to ongoing monitoring for relevant new records which could lead to a bar and the clearance being revoked before the five year expiry date.

Where a **bar** is being considered, the NSW Office of the Children's Guardian will call and write to the applicant to inform them of the proposed decision. Applicants will be invited to submit information to support their application and the Office of the Children's Guardian will take this information into account when making their final decision.

Bar Against Working with Children

If the outcome is a bar, applicants must not engage in any child-related work. The barred applicant will receive a letter from the Office of the Children's Guardian notifying them of the decision and an explanation of the appeals process, should they wish to appeal through the NSW Administrative Decisions Tribunal.

The online verification process may produce the following other results:

- Application in progress
- Interim barred
- Not found.

Refer to the guidance available on the **NSW Office of the Children's Guardian website** for more information about the meaning of these results.

Worker Obligations

Upon receiving clearance, it is compulsory that the worker provides their WWC Check number to Pacific Hills Christian School, along with their full name and date of birth for online verification.

Workers are responsible for renewing their own WWC Checks and notifying the Office of the Children's Guardian of changes to their personal details as necessary. They will receive a reminder from The Office of the Children's Guardian to renew their WWC Check three months before it expires.

All teaching and non-teaching staff at Pacific Hills Christian School are required to have a current WWC.

Pacific Hills Christian School's Obligations

The School must:

- register online as a child-related employer by going to the **NSW Office of the Children's Guardian website** and completing the form
- before engaging a new worker, obtain and verify the worker's relevant details. The only way to verify these details is by using the online verification system
- not accept paper evidence of a clearance or an application from the worker because they may have been barred
- update the record of the worker's relevant details within five working days after the worker's WWC Check clearance expires
- verify volunteers who are not covered by the key exemptions have obtained a WWC Check clearance

- remove any barred or unauthorised persons from child-related work
- maintain all records of verifications and other WWC documentation in accordance with this policy
- notify the Office of the Children's Guardian if a staff member or volunteer is subject to an adverse finding in relation to an allegation of misconduct that is the subject of a Mandatory Reporting and/or a Reportable Conduct notification. This notification will trigger a risk assessment by the Children's Guardian and a review of the individual's WWC Check.

Record Keeping

Pacific Hills Christian School is required to obtain, verify and record the relevant details of all workers engaged in child-related work. Relevant details will only be correctly verified if they accord with the information relating to the worker recorded in the NSW Office of the Children's Guardian's working with children register, accessed via the **online verification system**, as at the date the record is made by the School.

There are two methods of keeping records of WWC Checks at Pacific Hills Christian School, one for staff and one for volunteers. These methods apply to all staff and volunteers, regardless of when they commence child-related work at the School.

1. Staff

Prior to the commencement of any appointment, staff must provide their WWC Check Number to the School and have a WWC Check Clearance.

Using the NSW Government Office of Children's Guardian Working with Children Check employer log in, the Payroll Office is responsible for the initial verification of all staff WWC Checks.

Once verified, status reports are recorded in Edumate by the Payroll Office.

The original copies are stored by the Payroll Office in individual staff members' files. In addition, the following information for each staff member is recorded electronically in a consolidated staff details register:

- full name
- date of birth
- verification date
- WWC number
- result status
- time until expiry
- expiry date of the WWC Check
- result of the verification (full text).

The Payroll Office is responsible for monitoring the WWC Check status of all staff members and keeping details up-to-date.

A Microsoft Access database linked to Edumate generates an automated reminder email driven by the expiry date of the WWC Check. The automated email will be sent to the staff member 90 days, 60 days, 30 days, and 7 days from expiry.

Edumate generates an automated email regarding the upcoming expiry of staff WWC Checks to the Payroll Office daily. The report lists the staff members whose WWC Check is due to expire within the next 3 days, or has already expired.

These records are:

- retained by the School for the duration of the staff member's employment and for a period of seven years after the staff member ceases to work for the School.

2. Volunteers

Prior to the commencement of any volunteer work for the School that requires a WWC Check, volunteers must provide their WWC Check Number to the School and have a WWC Check Clearance.

Using the NSW Office of Children's Guardian Working with Children Check employer log in, the Payroll Office is responsible for the initial verification of all volunteer WWC Checks.

Results of the verification process are recorded in the volunteer spreadsheet. If the volunteer does not have a file, one is created.

The Volunteer Coordinator is responsible for keeping the volunteer WWC Check information up-to-date.

The records must be updated no later than five working days after the expiry date of a volunteer's WWC Check.

These records are:

- located in the volunteer spreadsheet
- retained by the School for the duration of the volunteer's work with the School and for a period of seven years after the volunteer ceases to work for the School.

Privacy and Confidentiality

The Office of the Children's Guardian maintains a register for Working with Children Checks.

Worker Information Disclosure

The following information about a worker in the register may be made available by the NSW Office of the Children's Guardian to an employer or proposed employer, upon request in the approved format, containing the particulars required by the NSW Office of the Children's Guardian:

- particulars of applications for WWC Check clearances
- WWC Check application number of any worker
- current clearance status of a child-related worker
- number, class (volunteer or non-volunteer) and expiry date of a WWC Check clearance held by a child-related worker and whether the clearance holder is subject to an interim bar or has had a clearance cancelled.

Employer Information Disclosure

Similarly, the following information about an employer in the register may be made publicly available by the NSW Office of the Children's Guardian:

- trading name or registered business name of the employer
- child-related work for which the employer engages a child-related worker
- postcode or name of the place in which the employer's business is located
- whether any requests for information regarding a Check status were made to the NSW Office of the Children's Guardian by the employer within a specified period.

Implementation

This policy is implemented through a combination of:

- the Payroll Supervisor will check the validity of all WWCC before employment using Employment Checklist
- the Payroll office will maintain records for all staff
- the Payroll office will monitor WWC and remind staff whose WWC will expire in the next three months of their responsibility to renew their WWC. The Payroll office will also advise the Principal of these staff
- staff are required to provide evidence of renewal.

Discipline for Breach of Policy

Where a staff member breaches this policy, Pacific Hills Christian School may take disciplinary action, including in the case of serious breaches, summary dismissal.