



WAVERLEY COLLEGE

## 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).

Our staff, volunteers and others have a number of responsibilities and obligations under the Act and the Regulation which are outlined in this policy.

### **Who Needs a WWC Check?**

Subject to the exemptions referred to below, any **worker** who engages in **child-related work** that involves direct contact (physical or face-to-face contact) with a child must undergo a WWC 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?**

Under the Act and of relevance to Waverley College, child-related work is work for, or in connection with, any of the following:

- 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 college bus services and taxi services for children with a disability and supervision of college road crossings.

Under the Regulation:

- (section 16A) a cleaner providing cleaning services at the College; and
- (section 16D) a worker 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),

is child-related work.



### ***What is Not Considered to be Child Related Work***

The following types of work are not considered to be child-related:

- work as a referee, umpire, linesperson, other sporting official or grounds person is not child-related work, if the work does not ordinarily involve contact with children for extended periods without other adults being present; and
- providing food or equipment at or for a sporting, cultural or other entertainment venue.

### **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;
- 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:
  - of a child in activities for the child's school, early education service or other educational institution; except where the work is part of a formal mentoring program or involves intimate personal care of children with a disability;
  - with a team, program or other activity in which their 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 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; and
- people under the age of 18.

**While these exemptions exist, it is the policy of Waverley College that all staff employed at the College will hold a current WWCC.**

### **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.

**It is an offence to work with children without a valid WWC Check. It is also illegal for the College to engage a worker in child-related work who does not hold a valid WWC Check.**



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.

Waverley College does not reimburse this fee for staff. Volunteer WWC Checks incur no cost.

### **What is Checked?**

The WWC Check obtains applicants' national criminal histories including:

- convictions (spent or unspent);
- charges (whether heard, unheard or dismissed);
- juvenile records;
- findings of misconduct (e.g. sexual misconduct or serious physical assault of a child) by a government agency; and
- 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 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; or
- 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 Waverley College, along with their full name and date of birth for online verification.



Workers are responsible for renewing their own WWC Check as necessary. They will receive a reminder to renew their WWC Check three months before it expires.

### **Waverley College's Obligations**

The college must:

- register online as a child-related employer by going to the [NSW Office Of the Children's Guardian website](#) by completing the form;
- before engaging a new worker, verify that each worker who carries out, or is to carry out, child-related work for the college is the holder of a WWC Check clearance that authorises their work or that they have made a current application to the Children's Guardian for a WWC Check. The only way to verify a status is using the [new online verification system](#).
- paper evidence must not be accepted of a clearance or an application from the worker because they may have been barred.
- verify a worker's WWC Check clearance, within 5 working days after the WWC Check clearance expires at the end of every five-year period;
- ensure current paid workers and all volunteers apply for the new Check in accordance with the phase in schedule;
- remove any barred or unauthorised persons from child-related work;
- 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.

For more information, refer to [EREA 'Working with Children Check NSW' WWCC Guidance](#).

### **Penalties & the Phase in Period**

All secondary school workers must have a WWC Check from 31 March 2017.

Early education, childcare and all other school workers have until 31 March 2018 to obtain their new WWC Check. Until staff are phased in, they will be covered by their current WWC Check.

For details relating to the phase in schedule refer to:

### **[Fact Sheet 2 Phase in Schedule for Existing Workers](#)**

### **Record Keeping**

It is the responsibility of the Executive Assistant to the Director of Personnel to verify the status of all Waverley College staff and non-parent volunteers' WWC Checks.

Waverley College maintains records (electronic or hard copy format) of child-related workers including:

- full name
- date of birth
- start date
- WWC number
- verification date and check outcome
- expiry date (of clearance)
- whether the person is a paid worker or volunteer
- does an exemption apply - if so, why.



Records must be readily available if required for audit and monitoring purposes. The College utilises the [FERA Sample Record Keeping Register](#) to maintain its WWC Check records.

Records are retained by the college for a period of seven years and closely monitored to ensure that all clearances are current for employed workers and volunteers at the college.

### **Privacy & 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 Office of the Children's Guardian to an employer or proposed employer, upon request in the approved format, containing the particulars required by the 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; and
- 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 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; and
- whether any requests for information regarding a Check status were made to the Children's Guardian by the employer within a specified period.

### **Implementation**

This policy is implemented through a combination of:

- staff training;
- effective communication and incident notification procedures;
- effective record keeping procedures;
- initiation of corrective actions where necessary.

### **Discipline for Breach of Policy**

Where a staff member breaches this policy Waverley College may take disciplinary action, including in the case of serious breaches, summary dismissal.



## Related Policies

[Child Protection - Incident Management Overview Flow Chart](#)

[Child Protection - Abuse, Grooming & Neglect Identification & Initial Notification](#)

[Child Protection - Mandatory Reporting of Abuse & Neglect Policy](#)

[Child Protection - Reportable Conduct of Staff, Volunteers & Others Policy](#)

[Child Protection - Detecting, Reporting and Addressing Grooming Behaviours](#)

## Key References

[NSW New Working With Children Checks Website](#)

[Fact Sheet 2 Phase in Schedule for Existing Workers](#)



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