

6.4 PROHIBITED EMPLOYMENT DECLARATION



The *Commission for Children and Young People Act 1998* makes it an offence for a prohibited person (a person convicted of a serious sex offence, the murder of a child or a child-related personal violence offence, as well as a Registrable person under the *Child Protection (Offenders Registration) Act 2000*) to apply for or otherwise attempt to obtain, undertake or remain in, child-related employment. It does not apply if an order from the Industrial Relations Commission, Administrative Decisions Tribunal or Commission for Children and Young People, declares that the Act does not apply to a person in respect of a specific offence.

For further information on what is child-related employment see the *Working With Children Employer Guidelines*.

Section 33B of the *Commission for Children and Young People Act 1998* defines a serious sex offence as:

- an offence, involving sexual activity or acts of indecency, committed in New South Wales and that was punishable by penal servitude or imprisonment for 12 months or more; or
- an offence, involving sexual activity or acts of indecency, committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more, if it had been committed in New South Wales; or
- an offence under section 80D or 80E (sexual servitude) of the *Crimes Act 1900*, committed against a child; or
- an offence under Sections 91D-91G (child prostitution, other than if committed by a child prostitute) of the *Crimes Act 1900* or a similar offence under a law other than a law of New South Wales; or
- an offence under Section 91H, 578B or 578C (2A) (child pornography) of the *Crimes Act 1900* or a similar offence under a law other than a law of New South Wales; or
- an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs; or
- any other offence, whether under the law of New South Wales or elsewhere, prescribed by the regulations.

NOTE: A conviction for carnal knowledge is classified as a serious sex offence under this legislation.

Section 33B of the *Commission for Children and Young People Act 1998* defines a child-related personal violence offence as an offence committed by an adult:

- involving intentionally wounding or causing grievous bodily harm to a child; or
- of attempting, or of conspiracy or incitement, to commit such an offence.

Under *Commission for Children and Young People Act 1998*:

- it is an offence for a prohibited person to apply for or otherwise attempt to obtain, undertake or remain in child related employment;
- employers must ask existing employees, both paid and unpaid, and preferred applicants for child-related employment to declare if they are a prohibited person or not;
- all people in child-related employment must inform their employers if they are a prohibited person or remove themselves from child-related employment; and
- penalties are imposed for non compliance.

ATTACHMENT 4 (CONTINUED)

I am aware that I am ineligible to apply for or otherwise attempt to obtain, undertake or remain in, child-related employment if I have been convicted of a serious sex offence or child-related personal violence offence as defined in the *Commission for Children and Young People Act 1998*, or if I am a Registrable Person under the *Child Protection (Offenders Registration) Act 2000*.



I have read and understood the above information in relation to the *Commission for Children and Young People Act 1998*. I am aware that it is an offence to make a false statement on this form.

I consent to a check of my relevant criminal records, to verify the statements I have made here, being undertaken by the NSW Commission for Children and Young People for monitoring and auditing purposes in accordance with Section 36 (1)(f) of the *Commission for Children and Young People Act 1998*.

I declare that I am not a person prohibited by the Act from seeking, obtaining, undertaking or remaining in child related employment.

I understand that this information may be referred to the Commission for Children and Young People and/or to NSW Police for law enforcement purposes and for monitoring and auditing compliance with the procedures and standards for the Working With Children Check in accordance with Section 36 (1)(f) of the *Commission for Children and Young People Act 1998*.

All fields must be completed. Please use block letters.

Name: _____

Aliases (previous/other names): _____

Date of birth: _____

Signature: _____

Date: _____ Contact telephone number: _____

Contact Email: _____

NOTE: Seek legal advice if you are unsure of your status as a prohibited person.

THIS FORM IS TO BE RETURNED TO YOUR EMPLOYER

ATTACHMENT 5

6.5 WORKING WITH CHILDREN BACKGROUND CHECK CONSENT



All fields must be completed. Please use block letters.

Family name: _____

Given name(s): _____

Previous names/aliases: _____

Date of birth: _____ Gender: (Please tick) Male Female

Place of birth (city, state, country): _____

Identifying document type (e.g. driver's licence/passport): _____

Identifying document number: _____

Address: _____

Suburb/Town: _____ State: _____ Postcode: _____

Contact telephone number: _____ Contact Email: _____

Title of position applied for: _____

Type of position (Please tick):

Paid employee Religious leader/spiritual official of a religion Foster carer

I certify that the above information is accurate and understand that if I have provided false or misleading information it may result in a decision not to employ me, or, if already employed, may lead to my dismissal.

I am aware that if considered for child-related employment, several checks will be undertaken to ascertain my suitability, including:

1. a national criminal record check for charges and/or convictions (including spent convictions) for:

- any sexual offence (including but not limited to, sexual assault, acts of indecency, child pornography, child prostitution and carnal knowledge);
- any child-related personal violence offence;
- any assault, ill treatment or neglect of, or psychological harm to a child and any registrable offence;

punishable by imprisonment for 12 months or more.

I understand that this check includes convictions or charges that:

- may have not been heard or finalised by a court; or
- are proven but have not led to a conviction; or
- have been dismissed, withdrawn or discharged by a court.

ATTACHMENT 5 (CONTINUED)

2. a check for relevant Apprehended Violence Orders taken out by a police officer or other public official for the protection of a child/ren; and
3. a check for relevant employment proceedings involving an act of violence committed in the course of employment and in the presence of children or reportable conduct. Reportable conduct means any sexual offence, or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence), any child-related personal violence offence, or any assault, ill treatment or neglect of a child, or any behaviour that causes psychological harm to a child.



I understand that a conviction for a serious sex offence (including but not limited to, sexual assault, acts of indecency, child pornography, child prostitution and carnal knowledge) or child-related personal violence offence (including but not limited to, intentionally wounding or causing grievous bodily harm to a child) will automatically prohibit me from child-related employment. This includes a charge that is proven in court but does not proceed to a conviction. I am aware that if I am a Registrable person under the Child Protection (Registrable Offenders) Act 2000, I am prohibited from child-related employment.

I consent to these checks being conducted and am aware that if any relevant record is identified, additional information relating to that record may be sought by an Approved Screening Agency from sources such as courts, police, prosecutors and past employers to enable a full and informed estimate of risk.

I acknowledge that:

- the above information and any information obtained during the Working With Children background check may be collected and used by and/or disclosed to the Commission for Children and Young People or any Approved Screening Agency for the purposes of the Working With Children Check;
- the Commission for Children and Young People or any Approved Screening Agency may share the information obtained during the Working With Children background check with each other to support further estimates of risk arising from additional Working With Children background checks;
- the outcome of an estimate of risk conducted with information obtained through the Working with Children Check by the Approved Screening Agency may be provided to my current or prospective employers or an employer-related body (where applicable) only for background checking purposes;
- details of my relevant records will not be released to my current or prospective employers;
- any information obtained as part of this process may be used by Australian Police Services for law enforcement purposes, including the investigation of any outstanding criminal offences; and
- the information provided may be referred to the Commission for Children and Young People and/or to NSW Police for law enforcement purposes and for monitoring and auditing compliance with the procedures and standards for the Working With Children Check in accordance with Section 36 (1)(f) of the Commission for Children and Young People Act 1998.

Name: _____

Signature: _____ Date: _____

NOTE: This form is to be kept by the employer.

What is 100 points of identification?

Proof of identity information

Before a Working With Children Background Check can be conducted on a preferred applicant, the applicant must provide documentation to support their identity as required by the 100 Point Check under the Financial Transaction Reports Act 1988.

All preferred applicants for a position that is deemed to be child-related must provide certified identification from Category A and Category B to equal 100 points to enable a background check to be conducted:

Category A (70 points) – An item from this list is essential
<p>One document from this list:</p> <ul style="list-style-type: none">• Birth Certificate• Birth Card issued by the NSW Registry of Births, Deaths and Marriages• Citizenship Certificate• Current Australian passport• Expired Australian passport which has not been cancelled and was current within the preceding 2 years• Current passport from another country or diplomatic documents. <p>For a preferred applicant under 18 years, one document from the above list, or the following, is sufficient:</p> <ul style="list-style-type: none">• Identity of the applicant verified by an educational institution, either on a student card or a letter signed by the principal, deputy principal, head teacher, deputy head teacher or enrolment officer, confirming that the applicant currently attends the institution.
Category B
<p>40 points</p> <p>Name and photograph/signature of preferred applicant verified from one of the following (more than one document can be counted):</p> <ul style="list-style-type: none">• Current driver photo licence issued by an Australian state or territory• Identification card issued to a public employee• Identification card issued by the Australian or any state government as evidence of a person's entitlement to a financial benefit• Identification card issued to a student at a tertiary education institution.
<p>35 points</p> <p>Name and address of preferred applicant verified from any of the following (more than one document can be counted):</p> <ul style="list-style-type: none">• Document held by a cash dealer giving security over property• A mortgage or other instrument of security held by a financial body

- Council rates notice
- Document from current employer or previous employer within the last two years
- Land Titles Office record
- Document from the Credit Reference Association of Australia.

25 points

Name of preferred applicant verified from any of the following (more than one document can be counted):

- Current credit card or account card from a bank, building society or credit union
- Current telephone, water, gas or electricity bill
- Foreign driver's licence
- Medicare Card
- Electoral roll compiled by the Australian Electoral Commission
- Lease/rent agreement

What is a certified copy?

A photocopy of the original witnessed by a qualified witness.

The original and photocopy must be presented to the witness who notarises the photocopy with "**I certify that this is a true copy of the original which I have sighted**".

We must receive the photocopy with the original signature of the witness.

Qualified Witnesses

- Justice of the Peace
- Barrister/Solicitor
- Commissioner for Affidavits
- Notary Public
- Officers at the NSW Registry of Births Deaths & Marriages

Alternatively, the employing officer of the Department may sight the original document, take a copy and sign the copy certifying that it is a true copy.

Alternatively, the employer may sight the original document, take a copy and sign the copy certifying that it is a true copy. Identification is kept on file with the Working With Children Consent Form and Prohibited Employment Declaration. Employers must certify on the Working With Children Background Check Request Form that they have sighted and retained a copy of the identification for their records.

<http://www.dsr.nsw.gov.au/children/wwcc.asp>