

# Working with Children (UWS Employees) Policy

## Section 1 - Purpose and Context

(1) The [Commission for Children and Young People Act 1998](#) (NSW) aims to protect children by prohibiting certain persons from being involved in Child-Related Employment. This involves background checking for Child-Related Employment which is administered by the Commission and other agencies.

(2) Although universities are expressly excluded from the operation of the Act, the University recognises that there may be some circumstances in which activities are undertaken that would otherwise fall within the notion of Child-Related Employment. By way of example, such activities may include, but are not limited to, programs specifically developed for participation by high school students under the age of 18 years or research involving children. The University therefore has an obligation to ensure that such children are protected from harm.

(3) It is not the purpose of this Policy to create a requirement that all lecturers of first year students (a limited number of whom may be under 18 years of age) submit to a Working With Children Check.

## Section 2 - Definitions

(4) For the purposes of this policy:

- a. "Act" means the [Commission for Children and Young People Act 1998](#) (NSW).
- b. "Child" or "children" means a person or persons under the age of 18 years.
- c. "Child-Related Employment" means any employment that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the person in the course of the employment.
- d. "Commission" means the NSW Commission for Children and Young People.
- e. "Prohibited Person" means a person convicted of a serious sex offence, the murder of a child or a child-related personal violence offence or a registrable person within the meaning of the [Child Protection \(Offenders Registration\) Act 2000](#) (NSW).

## Section 3 - Policy Statement

(5) Wherever possible, the University will ensure that it does not employ a Prohibited Person to carry out work that is, or may reasonably be foreseen as becoming or involving, Child-Related Employment whether on a fixed-term, ongoing or casual employment basis.

(6) In addition, the University will not engage persons on a voluntary basis to perform any activity which involves unsupervised direct contact with children.

### Part A - Approved Screening Agency

(7) The University's Approved Screening Agency for employment screening is the NSW Department of Education and

## Section 4 - Procedures

(8) This policy utilises resources developed and provided by the New South Wales Government via their [NSW Commission for Children and Young People](#) website. Hyperlinks to the various forms are available from the [Resources for Employers](#) page. For ease of access references to forms in this document have been hyperlinked to the resources page. The Government's website also provides other information and resources and employees are encouraged to refer to this site for information.

### Part B - Current Employees

(9) As at the date of publication, the University has obtained a declaration from all existing ongoing, fixed-term and casual employees employed in Child-Related Employment as to whether they are a Prohibited Person.

(10) If an employee in Child-Related Employment who has previously completed a declaration becomes a Prohibited Person during the course of their employment, they must notify the University immediately and the Unit Head, in consultation with the Office of People and Culture, will take immediate appropriate action to ensure that the employee does not remain in Child-Related Employment.

(11) The procedure will be as follows:

- a. The Office of People and Culture (OPC) will advise all staff of the requirement of this policy and inform staff that they must notify OPC if:
  - i. Their work with the University is, or may reasonably be foreseen as becoming or involving, Child-Related Employment; or
  - ii. Their employment circumstances change at any point in the future such that (i) applies.
- b. Staff members who notify OPC will be asked to complete the [Prohibited Employment Declaration Form](#) issued by the Commission. The original of the completed form is to be sent to OPC for filing on the staff member's personal file.
- c. OPC will arrange for a Working With Children Check to be carried out in relation to the staff member.
- d. If any employee identifies as a Prohibited Person, the Unit Head, in consultation with OPC, will take immediate appropriate action to ensure that the employee does not remain in Child-Related Employment.
- e. If an employee in Child-Related Employment becomes a Prohibited Person during the course of their employment after they have filled out the Declaration, they must notify the University immediately and the action in (d) above will be effected.

### Part C - Recruitment of New Employees (ongoing and fixed-term)

(12) The University will ensure that all persons shortlisted for a position that involves Child-Related Employment are subject to a Working With Children Check to ensure that they are not a Prohibited Person.

- a. The Chair of the selection panel will notify OPC when recruitment action is initiated for a position that will involve, or may reasonably be foreseen as becoming or involving, Child-Related Employment.
- b. OPC will indicate on the job advertisement that Prohibited Persons are not permitted to apply for the role and that all shortlisted applicants for the position will be asked to complete the [Working With Children Consent Form](#), authorising a Working With Children Check to be conducted.
- c. The Chair of the selection panel will undertake Structured Referee Checks for all applicants considered for appointment to the position. It is recommended that references be obtained orally.

- d. Office of People and Culture will arrange for the person selected by the committee to be checked by the approved screening agency, which will;
  - i. carry out the Working With Children Check for the University (see clause 14) through (17);
  - ii. undertake a risk assessment of any prospective employee whose check reveals any matter which should be taken into consideration before engagement is confirmed;
  - iii. contact any prospective employee whose check has revealed a matter which should be taken into consideration regarding that person's possible engagement; and
  - iv. submit a report to the University about the assessed level of risk of employing the person.

## **Part D - Employment of Casual Staff**

(13) A staff member who intends to engage a casual employee for work that will involve, or may reasonably be foreseen as becoming or involving, Child-Related Employment must inform the prospective employee that a Prohibited Person cannot be engaged for this type of work and the screening agency will be asked to perform a Working With Children Check on them before employment can be authorised. The staff member will then perform an ID check on the prospective employee (photo on licence or passport) and contact OPC, who will request that the approved screening agency perform a Working With Children Check and notify the staff member of the result. The staff member authorising the employment must indicate in the appropriate place on the Casual Employment Authority form the fact that the work involves unsupervised direct contact with children and that an employment screening check has been completed. OPC will file the response from the screening agency.

## **Part E - "Working With Children Check"**

(14) The Working With Children Check includes a check for any;

- a. Relevant national criminal records;
- b. Relevant apprehended violence orders; and
- c. Relevant disciplinary proceedings.

(15) Relevant national criminal records are any criminal records relating to offences involving sexual activity, acts of indecency, child abuse or child pornography, that are punishable by penal servitude or imprisonment for 12 months or more. Registrable offences under the [Child Protection \(Offenders Registration\) Act 2000](#) are also classed as relevant criminal records.

(16) Relevant apprehended violence orders are any Apprehended Violence Order (other than an interim order) made by a court under Part 15A of the [Crimes Act 1900](#), taken out in NSW and made on the application of a police officer or other public official for the protection of a child (or a child and others), including those taken out from a date five years prior to the commencement of the legislation.

(17) Relevant disciplinary proceedings include actions where a person, who has the authority to do so, enquires into an allegation of: child abuse, sexual misconduct or an act of violence committed by an employee in the course of employment and a finding is reached, regardless of whether the matter is sustained or not sustained. It is only a requirement to notify the Commission of sexual misconduct or acts of violence in the workplace where these acts involve children, are directed at children, or take place in the presence of children. It is not a requirement to notify the Commission where completed disciplinary proceedings have proven the allegations to be false, vexatious, or misconceived.

## **Part F - Notification of Adverse Reports**

(18) The Office of People and Culture will notify the Commission of any;

- a. decision not to engage a person as a result of the findings of the employment screening process (Refer to Rejected Applicants Notification Form); and
- b. completed disciplinary proceedings against an employee involving child abuse, sexual misconduct or acts of violence in employment where these acts involve children, are directed at children, or take place in the presence of children (Refer to [Completed Relevant Disciplinary Proceedings](#)).

(19) Relevant disciplinary proceedings do not include those where there has been a finding that allegations were false, vexatious or misconceived.

## **Section 5 - Guidelines**

(20) Nil.

## Status and Details

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