



Protocol: Screening of persons who work with children

This protocol sets out the requirements of the Child Protection (Working with Children) Act 2012 (NSW) in relation to the screening of persons who work with children. It also outlines the Archdiocese's expectations of employees, volunteers and religious appointees.

Key obligation

Under the *Child Protection (Working with Children) Act 2012 (NSW) (WWC Act)*, any person working with children must obtain a working with children check (**WWCC**) before they can be engaged in child-related work.

1 Who is a worker?

- 1.1 "Worker" is broadly defined in the WWC Act to mean a person engaged in work in any of the following capacities:
- employee;
 - volunteer;
 - self-employed person or a contractor or sub-contractor;
 - person undertaking practical training as part of an educational or vocational course; or
 - minister, priest or other like religious leader or spiritual officer of a religion, or other member of a religious organisation.

2 What is child-related work?

- 2.1 A worker is engaged in "child-related work" if they have physical or face to face contact with children during work performed for, or in connection with:
- child development (mentoring and counselling services) and family welfare services;
 - child protection;
 - children's health services;
 - clubs, associations, movements, societies or other bodies of a cultural, recreational, sporting or community service nature that provide programs or services primarily for children;
 - disability services;
 - early education and child care (including child minding services);
 - education;
 - entertainment services primarily for children, provided on a commercial basis;

- i) justice services;
 - j) religious services;
 - k) residential services (including overnight camps for children);
 - l) transport services provided especially for children on a government funded or commercial basis;
 - m) youth work; and
 - n) school cleaning.
- 2.2 Not all of these will arise in a parish or agency context. Further details of what is considered to be child-related work are contained in **Guidance document: What is child-related work?**

3 Exemptions

- 3.1 Some workers who are engaged in child-related work may be exempt from obtaining a WWCC because they have minimal contact, they are too young or they are parents or close relatives acting as volunteers at their children's activities.
- 3.2 In the parish and agency context, the following workers engaged in child-related work are exempt from applying for a WWCC:
- a) a worker (other than a school cleaner) who only provides administrative, clerical or maintenance services, if the work does not ordinarily involve contact with children for extended periods;
 - b) a worker who works for a period of not more than a total of 5 working days in a calendar year, if that work involves minimal direct contact with children or the person is supervised while children are present;
 - c) a worker whose work involves direct contact only with children who are close relatives of the worker;
 - d) a parent or close relative of a child, when volunteering in connection with a team, program or other activity of which the child is a member or in which the child usually participates (unless providing personal care services to children with disabilities);
 - e) a worker who is under the age of 18;
 - f) a worker who is a co-worker of a child or who is a work supervisory or work placement supervisor of a child;
 - g) a worker who is working in and visiting NSW from outside the state for the purposes of 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 the work does not exceed 30 days;
 - h) a worker who is working in and visiting NSW from outside the state for the purposes of child-related work (other than a one-off event of the kind described above), if the worker is the holder of an interstate working with children check in the state or territory in which the person ordinarily resides, or

is exempt from the requirement to have such a check in that state or territory, and the period of the child-related work in NSW does not exceed a total of 30 days in any calendar year; and

- i) a visiting speaker, adjudicator, performer, assessor or other similar visitor at a 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.

4 Application process

- 4.1 Workers must apply for a WWCC through the Office of the Children's Guardian (**Children's Guardian**). The Children's Guardian then reviews each applicant's full criminal history and employer disciplinary findings (as defined in the WWC Act).
- 4.2 Following that review:
 - a) if there is no relevant criminal history or any employer findings, the applicant will be cleared to work with children;
 - b) if "trigger records" are found, the applicant will be placed under an interim bar, and will not be cleared to engage in child-related work until the Children's Guardian completes a risk assessment to determine whether the applicant should be issued a clearance or bar; and
 - c) if there is a conviction or a pending charge for certain offences, the applicant will be automatically barred, without an assessment, unless the offence was committed as a child.
- 4.3 There are different classes of WWCCs for volunteer and non-volunteer workers.

5 Role of the employer

- 5.1 While an individual must apply for and obtain a WWCC, their employer faces a substantial fine (currently \$5,500 for an individual) if it employs a person who is required to obtain a WWCC but knows that that person does not hold one.
- 5.2 The definition of "employer" in the WWC Act is very broad. "Employer" is defined to include a person who:
 - a) in the course of business, arranges for the placement of a person in employment with others;
 - b) engages a person under a contract to perform work; or
 - c) engages a worker to perform work as a volunteer for the person under an agreement (whether written or unwritten).
- 5.3 Accordingly, for the purposes of the WWC Act, the Parish Priest (or administrator) or agency head will be considered the employer of any of the following persons engaged in child-related work at the relevant parish or agency:
 - a) employees;
 - b) volunteers;

- c) self-employed person or a contractor or sub-contractor;
- d) person undertaking practical training as part of an educational or vocational course; or
- e) priest or religious brother or sister.

6 Archdiocese policy and procedure

6.1 Before engaging or employing a worker to engage in child-related work

- a) Each Parish Priest (or administrator) and agency head must verify the WWCC of each prospective worker who is to carry out child-related work (as those terms are defined in the WWC Act) **before** engaging or employing them. A record must be kept to demonstrate compliance with the verification process (see section 6.5 below).
- b) Parish Priests (or administrators) do not have to verify the WWCC of any worker who is exempt (see section 3 above).
- c) If the Parish Priest (or administrator) or agency head has concerns about whether a particular person needs to be screened, they should contact:
 - i) the Safeguarding and Ministerial Integrity Office; or Chancellor
 - ii) the Parish Advisory Service.
- d) If a prospective worker does not have an existing WWCC, they are able to be engaged or employed if they can provide an application number that shows they have a pending application with the Children's Guardian. They cannot be engaged or employed until they provide a valid application number.

6.2 Verifying a worker's WWCC

- a) The process of verifying a worker is as follows:
 - i) register as an employer on the Children's Guardian's website at <http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check>;
 - ii) ask each prospective worker for their:
 - A) family name;
 - B) date of birth; and
 - C) WWCC number or application number;
 - iii) verify the worker's WWCC through the Children's Guardian's website above, which will display one of the following 5 results:
 - A) application in progress: the worker has a pending application for a WWCC and can be engaged or employed in the interim;
 - B) cleared: the worker is cleared to work with children until their WWCC expires;
 - C) barred: the worker has been barred and cannot work with children;

- D) interim bar: the worker has been barred and cannot work with children in any capacity pending the outcome of the Children's Guardian's risk assessment; or
 - E) not found: the database cannot find a matching result.
- b) If the result is:
- i) barred;
 - ii) interim bar; or
 - iii) not found,

it is an offence for the Parish Priest (or administrator) or agency head to employ or engage that person.

6.3 Notification by the Children's Guardian

- a) The Children's Guardian will immediately notify the relevant Parish Priest (or administrator) or agency head:
 - i) of the results of a worker's pending application;
 - ii) of the results of a worker's risk assessment; and
 - iii) if a previously cleared worker becomes barred.
- b) The Children's Guardian will also notify each worker 3 months prior to the expiration of their WWCC, to enable them to renew them.
- c) The Parish Priest (or administrator) or agency head should keep a record of each worker's WWCC expiry date for the parish or agency's own records and seek confirmation the worker has renewed their WWCC following that date.

6.4 Delegation

- a) The mechanics of verifying WWCC checks can be undertaken by another person within the relevant parish or agency, as delegated by the Parish Priest (or administrator) or agency head.
- b) Delegations should be recorded in writing (see section 6.5 below).

6.5 Record-keeping and audits

- a) Under the WWC Act, each Parish Priest (or administrator) or agency head must keep up to date records of each worker's:
 - i) full name;
 - ii) WWCC number;
 - iii) date of verification; and
 - iv) WWCC expiry date.
- b) The Children's Guardian may request to see this information at any time as part of an audit.

- c) Any delegations made by Parish Priests (or administrators) or agency heads to other person's to undertake the process of verifying WWCC checks should be recorded in writing (see section 6.4 above).