

### Related Policy and Legislation

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Working with Vulnerable People Policy (ACT)  
*Child Protection (Working with Children) Act 2012 (NSW)*

### Purpose

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Catholic Education, Archdiocese of Canberra and Goulburn (Catholic Education) is committed to providing a safe and supportive environment to all students by ensuring that all Catholic Education Office **workers** and all Catholic systemic school **workers** in NSW are appropriately screened and suitable to be engaged in the provision of education services and child related work.

This commitment is consistent with national standards to increase the stringency of background checking of people working and volunteering with children, and with the objectives of the *Child Protection (Working with Children) Act 2012* (the Act). The Act set up a Working with Children Check (WWCC) scheme administered by the NSW Office of the Children's Guardian ('OCG') and applies to all child related work, paid and unpaid, supervised and unsupervised. The Act requires those who work and volunteer in child-related work to have a verified WWCC clearance before they engage in child-related work.

The WWCC scheme has been fully implemented in Catholic Education high schools and colleges in NSW and, due to the transitional arrangements for primary schools, will be fully implemented by 31 March 2018.

The purpose of this policy is to outline the framework and responsibility structure implemented by Catholic Education to meet its obligations under the WWCC scheme.

### Definitions

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**Adult** means a person who is 18 years of age or older.

**Child-related work** is work that involves **direct contact** by a **worker** with **children**, or where a worker is engaged in work in a child-related role as defined in the Act. Among others, it includes the following:

- mentoring and counseling services for children;
- clubs, associations, movements, societies or other bodies providing programs or services for children;
- education and care services, child care centres, nanny and other child care;
- schools and other educational institutions (except universities) and private coaching/tuition of children;
- sporting, cultural or entertainment venues used primarily by children and entertainment services for children;
- any religious organisation;
- residential services, overnight camps and transport services for children including school bus and taxi services for children with a disability and supervision of school road crossings.

**Children** are persons under the age of 18 years.

**Close relative** includes: a spouse or de facto partner, a child, step-child, sibling, step-sibling, parent, step-parent, grandparent, step-grandparent, aunt, uncle, niece or nephew of the person. In the case of an Aboriginal or a Torres Strait Islander person, it includes persons who are part of the extended family or kin of the person according to the indigenous kinship system of the person's culture.

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**Direct contact** with children means physical contact and face-to-face contact.

**Interim bar** is a bar that may be imposed by the Children's Guardian to prevent a person from engaging in child-related work due to concerns about the safety of children pending the determination of the application or assessment.

**Parent** of a child means the person having, in relation to the child, all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children.

**Worker** means any person who is engaged in work in any of the following capacities:

- an employee
- a self-employed person or as 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)
- a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of a religion or other member of a religious organisation.

**Working with Children Check (WWCC) Clearance** or **WWCC Clearance** means an authorisation that is in force under the Act to engage in child-related work.

### Background

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Catholic Education's core business is the provision of child education. Catholic Education has therefore adopted a policy view that all **workers** engaged to work in schools in NSW, for reward or otherwise, are **engaged in child-related work**, contact with children being an integral element of this work.

Subject to the below exemptions or determinations in relation to specified workers, the following policy applies:

#### Catholic Education employees

1. It is a pre-condition of any offer of employment from Catholic Education that persons working in NSW schools have a verified WWCC clearance, with their employment being conditional on their continued WWCC clearance status.
2. Existing Catholic Education employees who apply for new positions involving child-related work in NSW must hold a WWCC clearance at the time of their appointment to the new position, their appointment being conditional on WWCC clearance and its verification. This includes appointments to promotional positions.
3. Catholic Education employees based in ACT who have a current Working with Vulnerable People (WWVP) registration are not required to have a verified WWCC clearance provided their engagement in child-related work in NSW does not exceed 30 days in a year.
4. Catholic Education employees based in ACT who do or may engage in child-related work in NSW in excess of 30 days in a year must have a verified WWCC clearance.
5. It is the employee's responsibility to ensure they have a verified WWCC clearance and renew their WWCC clearance prior to its expiry.

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6. Principals, Heads of Service and the Human Resource Services (HRS) all have specific responsibilities for ensuring and monitoring compliance with the WWCC legislation.
7. HRS have the overall responsibility for monitoring Catholic Education's compliance, including taking or recommending any disciplinary action such as suspension or termination of the contract of employment.
8. If there is any change to the employee's WWCC clearance status, including an interim or a final bar, the employee must immediately notify their Principal or Head of Service, who will inform HRS as soon as possible. Catholic Education may suspend the employee immediately, with or without pay or notice.
9. If an employee's WWCC clearance is subject to an interim or a final bar that is inconsistent with the employee's employment with children or their ability to perform the inherent requirements of their job, the employee's contract may be terminated.

### **Contractors and subcontractors, external service providers and self-employed persons**

10. Cleaners, sporting coaches and staff in maintenance roles engaged by Catholic Education must have a verified WWCC clearance prior to their engagement.
11. Contractors, subcontractors, external service providers and self-employed persons must, where possible, complete all work on premises outside of school hours. If this is not possible and access is required to the school premises during school hours, a verified WWCC clearance is required except in circumstances where contact with children is incidental to the worker's presence at the school.

### **Parents and volunteers**

12. Parents and close relative volunteers of students in NSW Catholic systemic schools who engage in child-related work are not required to have WWCC clearance, except where the work is part of a formal mentoring program or involves intimate, personal care of children with a disability.
13. Parents and volunteers engaged by Catholic Education to participate in an overnight camp for children must have a verified WWCC clearance prior to their engagement.
14. All sporting coaches must have a verified WWCC clearance regardless of the length, frequency or the nature of their engagement.
15. Parents and volunteers engaged by Catholic Education in NSW for more than a total of five (5) working days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present, do not need to have WWCC clearance.
16. Persons working only with close relatives are not required to have WWCC clearance.

### **Children and students**

17. Children under 18 years of age and all students enrolled in Catholic systemic schools are not required to have WWCC clearance.
18. Co-workers and supervisors where a child works, including those supervising school students undertaking work experience placement or practical training are not required to have WWCC clearance.

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### Other persons

19. Workers engaged by Catholic Education in NSW for more than a total of five (5) working days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present, do not need to have WWCC clearance
20. Visiting speakers, adjudicators, performers, assessors or other similar visitors for a one off occasion, in the presence of one or more other adults are not required to have WWCC clearance.
21. Persons registered under a corresponding law, including Catholic Education employees based in ACT who have a current WWVP Registration do not require WWCC clearance if their child-related work does not exceed 30 days in a calendar year.
22. Catholic Education workers who do or may engage in child-related activity in NSW in excess of 30 days in a calendar year must have a verified WWCC clearance prior to their engagement.
23. NSW Police and Australian Federal Police officers in their role as police officers are not required to have WWCC if their engagement is in professional capacity.
24. NSW Police and Australian Federal Police officers must have a verified WWCC clearance if their attendance or engagement is in non-professional capacity, such as a parent-volunteer involved in intimate, personal care of children with a disability.
25. Private practice health practitioners who do not ordinarily treat children without other adults present are not required to have WWCC clearance.

### Determinations in relation to specified workers

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The Head of HRS or another person as may be delegated from time to time by the Director of Catholic Education, may decide that a specified **worker** or a class of workers are not required to have a verified WWCC clearance, subject to legislative requirements. Such decisions are discretionary in nature and may be made on a case-by-case basis in circumstances where:

- the role does not involve child-related work
- the role involves administrative, clerical, maintenance or ancillary work where work does not ordinarily involve contact with children for an extended period
- the work is performed out of school hours, and
- other circumstances as appropriate.

### Parents and volunteers who must provide a Declaration

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In the spirit of striving towards the highest standard in the protection of children from harm and abuse, Catholic Education adopts additional safeguarding measures. These include a requirement that all parents and volunteers who are not required to have WWCC clearance due to a **short-term activity** engagement in child-related work (such as occasional volunteering in their child's school), must complete and sign a **Declaration** (attached to this policy) prior to their engagement.

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The **Declaration** confirms that its signatory is:

- aware of the requirements of the Act and the requirement for a person to have WWCC Clearance to engage in a child-related work;
- aware that engaging in child-related work without WWCC Clearance is an offence punishable by a fine proscribed by the Act and/or imprisonment;
- not required or exempt from the requirement to hold have a WWCC clearance;
- has not been refused a WWCC or had the Clearance cancelled under the Act;
- not subject to an interim bar on engaging in child-related work under the Act;
- has not been convicted of an offence, or subject to a finding of guilt for an offence or a finding that the charge for an offence is proven, where the offence was committed as an adult in NSW or elsewhere; the offence being a Schedule 1 or Schedule 2 offence under the Act;
- not aware of any other information which would disqualify the person from obtaining a WWCC Clearance under the Act or under a corresponding law in other jurisdictions;

### Responsibility for ensuring and monitoring compliance

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The Head of HRS has the responsibility for ensuring and monitoring overall compliance with the Act; ensuring that appropriate systems are in place and appropriate records are maintained by Catholic Education; and for taking and recommending any disciplinary action or termination of employment. HRS have also the responsibility for ensuring and monitoring compliance by Heads of Service and Principals.

NSW Principals have the responsibility for ensuring and monitoring compliance by **workers** engaged by their schools in child-related work. This includes persons mandated to have verified WWCC clearance and persons required by Catholic Education to provide a **Declaration** prior to engaging in child-related work. They must also ensure that appropriate systems are in place and appropriate records are maintained; and report to and consult with, in a timely manner, School Services and HRS in matters involving WWCC.

The Heads of Service have the responsibility for ensuring and monitoring compliance by **workers** required to have verified WWCC clearance within their Service Area; ensuring that appropriate systems are in place and appropriate records are maintained; and reporting, in a timely manner, and consulting with HRS in matters involving WWCC.

The responsibility for ensuring and monitoring compliance is integral to ensuring Catholic Education's legislative compliance. Failure to meet these obligations may lead to disciplinary consequences or termination of employment. For more information, please refer to the *Monitoring Compliance* diagram attached to this policy.

### **Exchange of Information with the Office of Children’s Guardian, the NSW Ombudsman and other prescribed bodies pursuant to the *Children and Young Persons (Care and Protection) Act 1998***

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In complying with the requirements of the WWCC scheme, Catholic Education will comply with the relevant privacy legislation, subject to reporting requirements and as otherwise proscribed by law.

Pursuant to the *Children and Young Persons (Care and Protection) Act 1998* (NSW), Catholic Education may request from and share information with certain prescribed bodies including NSW Police, NSW Government departments and public authorities, providers of out-of-home care, schools, public health organisations, hospitals, child care centres and other organisations that engage in provision of services to children.

#### **Forms**

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**Declaration** (template)

#### **Contact Person**

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Questions regarding this policy should be directed in the first instance to the appropriate Principal, Head of Service or HRS.

#### **General**

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This Policy summarises some of the rights and obligations created by the relevant legislation, and may be varied from time to time by Catholic Education.

Approved by:	Service Area Leadership Team
Issuing Group	Human Resource Services
Implementation Date:	August 2017
Policy last updated:	August 2017
CEO Contact Officers:	Head, Human Resource Services
TRIM Record Number:	R395015

### Declaration Form

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### Working with Children Check

Thank you for volunteering at a Catholic Education, Archdiocese of Canberra & Goulburn School, your assistance is greatly valued and will provide significant support to the students and staff.

In NSW the *Child Protection (Working with Children) Act 2012* commenced in 2012 with the aim to reduce the risk of harm or neglect to children in NSW. Under the legislation most people who work or volunteer with children in school activities must complete a Working with Children Check.

If you have a Working with Children check, thank you for taking the time to register and for your efforts to keep all children safe. If you do not have the check, there are a number of circumstances when a volunteer does not need to have the check to work with children in a school setting.

**You are not required to hold a Working with Children check to volunteer if:**

- you are under 18 years old;
- you are a parent or a close relative of a student and are volunteering for activities at their school;
- you have not worked or volunteered with children for more than five days in the last 12 months (**Short Term Exemption**);
- you are registered under a similar law in another State or Territory (for example ACT – Working with Vulnerable People), as long as you do not work or volunteer for more than 30 days in 12 months;
- you are a visiting speaker, performer, assessor or other similar visitor at a school for a one-off occasion in the presence of one or more other adults.

It is your responsibility to be able to show that you meet the requirements around any of the exemptions listed above, for example that you meet the time limitations for the Short Term Exemption. The school you wish to assist will ask you to sign a declaration confirming you understand your obligations and responsibilities under the legislation.

If you have any questions about whether you meet the requirements, please contact a member of the Leadership Team at the school to confirm you meet the requirement of an exemption and do not need to have a Working with children check to assist.

A Working with Children Check for volunteers is free and if you would like to register as a volunteer, please go to the Office of the Children's Guardian website and complete the application:

<https://www.kidsguardian.nsw.gov.au/child-safe-organisations/working-with-children-check/apply>.

**Declaration**

I,

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*(insert full name, address and occupation of person making the declaration)*

**Declare as follows:**

1. I am aware of the requirements of the Act and the requirement for a person to have WWCC Clearance to engage in a child-related work.
2. I am aware that engaging in child-related work without WWCC Clearance is an offence punishable by a fine proscribed by the Act and/or imprisonment.
3. I am exempt from the requirement to hold or not required to hold a WWCC clearance.
4. I have not in NSW or under a corresponding law in other jurisdictions been refused a WWCC or had the Clearance suspended (barred) or cancelled under the Act.
5. I am not aware of any criminal investigations, convictions and non-convictions relevant to me in NSW or other jurisdictions which may restrict me being granted a WWCC Clearance.
6. I am not aware of any other information which would disqualify the person from obtaining a WWCC Clearance under the Act or under a corresponding law in other jurisdictions.

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Signature

Declared at ..... (School/Place) on ..... (date)