

## **PART B: [SO's ] CHILD PROTECTION REQUIREMENTS**

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### **Background**

Child Protection is about keeping children safe from abuse and protecting them from people who are unsuitable to work with children. Child abuse is illegal in all states and territories of Australia, with each having their own child protection laws that cover the reporting and investigation of cases of child abuse.

In New South Wales, Queensland and Western Australia child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation. The Victorian, South Australian, Northern Territory and Tasmania governments are currently developing child protection legislation that will also impact upon sport. We will add these new requirements or any amendments to existing requirements to *[our Member Protection Policy]* as they are introduced.

Please be aware that state and territory child protection requirements also apply to individuals and organisations originating outside of the states with the legislation in place. For example, if one of our state associations or affiliated clubs takes junior players into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with the NSW legislative requirements.

As part of [SO]'s commitment to protecting the safety and welfare of children and young people involved in [SO] activities, [SO] requires the following measures to be met.

- *Provide opportunities for juniors to contribute to and provide feedback on program development;*
- *Provide education and/or information on child abuse and child protection to those involved in our sport such as coaches, juniors, parents and officials; and*
- *Meet the requirements outlined in*
  - [if QLD association/club, insert attachment B1]*
  - [if NSW association/club, insert attachment B2]*
  - [if WA association/club, insert attachment B3]*
  - [other state/territories, insert attachment B4 – until new child protection legislation relevant to that state/territory is introduced ]*

## **Attachment B1: QUEENSLAND CHILD PROTECTION REQUIREMENTS**

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*This information is subject to change at any time. Refer to the Queensland Commission for Children and Young People and Child Guardian's website: [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au) or contact 1800 113611. This information was updated on 1 June 2005.*

In Queensland the *Commission for Children and Young People and Child Guardian Act 2000* requires people who work with children under 18 years of age in certain categories of paid or voluntary employment or those who operate child-related businesses, to undergo a Working with Children Check. The Working with Children Check is a comprehensive assessment of a person's suitability to work with children based on their criminal history and certain professional disciplinary information, if any. Those found suitable to work with children and young people are issued with a suitability card, or blue card. **The blue card must be renewed every two years.**

### **Association/club requirements**

*[QLD State Association and affiliated clubs]* are responsible for applying to the Queensland Commission for Children and Young People and Child Guardian (CCYPCG) for Working With Children Checks on employees and volunteers who work with children or young people. People carrying on a regulated business are responsible for applying for their own Working with Children Check. **These requirements apply despite the existence or absence of our member protection policy.**

All our volunteers and certain paid employees that work with children or young people in the following categories of employment must apply for a blue card:

- \*schools - employees other than teachers including non-teaching staff
- private teaching, coaching or tutoring
- \*education programs conducted outside of schools
- sport and active recreation

(Note that categories of employment not relevant to the activities of *[SO]* have not been listed above.)

Categories marked with \* are retrospectively screened. This means all people who work in these categories of employment must hold a blue card regardless of when they started work.

Application forms for us to apply for a suitability notice for a paid employee, volunteer or person carrying on a regulated business can be downloaded from [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au). Screening for volunteers is free and for paid employees and people carrying on a regulated business is \$40.00. The fee is to be paid by *[insert relevant information e.g. individual or organisation]*.

1. **Employees** who work, or are likely to work, with children and young people for at least:

- eight consecutive days, or
- once a week, each week, over four weeks, or
- once a fortnight, each fortnight, over eight weeks, or
- once a month, each month over six months

must undergo a criminal history check.

Paid employees can begin or continue to work in regulated employment while waiting for the outcome of their blue card application.

People working in regulated employment, which is 'one-off' or on a short-term basis (where the duration of their employment is less than that listed above) are not required to undergo a criminal history check.

If *[SO]* knows or reasonably suspects that an employee who is not retrospectively checked has a criminal history relevant to the working with children or young people, the *[SO]* can apply for a blue card for that person. The application form for this is a 'Current Employee blue card application form'.

Recent amendments to the Act require *[name of SO]* to develop and implement a risk management strategy to promote the well-being of children in their care and protect them from harm.

The strategy caters for the following types of employees:

- A person who has started work pending the outcome of their blue card application
  - A blue card holder
  - A person in regulated employment who is not required to hold a blue card, and
  - A person who the Commissioner is reassessing.
2. **Volunteers** working with children in our association/club must have a criminal history check. Application forms for us to apply for a suitability notice for a volunteer can also be downloaded from [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au). Screening for volunteers is free.

### Exemptions

The following people are exempt from the Working with Children Check:

- children under 18 who are volunteers (except students required to work in regulated employment as part of their studies with *[SO]*)
- parents who volunteer their services or conduct activities through *[SO]* or are involved in sport and active recreation activities where their child is also a member of *[SO]*.

(Only exemptions relevant to the activities of *[name of SO]* have been listed above.)

3. **Businesses:** A person carrying on the following regulated businesses within *[SO]* must also apply for a blue card:

- private teaching, coaching or tutoring
- education programs conducted outside of schools
- providers of recreational activities such as sporting camps and programs (excluding amusement parks)

(Only the regulated business which conduct activities of relevance to *[SO]* have been listed above.)

## Attachment B2: NEW SOUTH WALES REQUIREMENTS FOR CHECKING PEOPLE TO WORK WITH CHILDREN

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*This information is subject to change at any time. Refer to the NSW Commission for Children and Young People website: [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au) or contact 02 9286 7219.*

All NSW clubs and associations who engage/employ people in child-related activities (in a paid or voluntary capacity) must meet the requirements of the Working With Children Check. This is a legal requirement. We are required to:

1. Register with the NSW Department of Sport and Recreation Employment Screening Unit;
2. Identify positions (paid and voluntary) which are **child-related positions**;
3. Obtain a Prohibited Employment Declaration (PED) from all existing employees in child-related positions. PED forms can be downloaded from [www.kids.nsw.gov.au/check/resources.html](http://www.kids.nsw.gov.au/check/resources.html). If the person is a **prohibited person** we must remove him/her from the child-related employment;
4. Keep the PED in a secure place for as long as the person is employed;
5. Ask preferred applicants for paid child-related positions to sign a Consent Form for a background check;
6. Include advice about the Working With Children Check in information being provided about child-related positions (e.g. coach of junior team);
7. Request a background check for preferred applicants for paid child-related employment before they start work;
8. Decide whether to offer the applicant the position, taking into account the result of the Working With Children Check and any other information we have available;
9. Where it is not practical to complete the background check prior to employment commencing, we must still complete the check as soon as possible. We must advise employees that their ongoing employment is conditional upon the satisfactory outcome of the check;
10. Notify the NSW Commission for Children and Young People of any person whose application for child-related employment has been rejected primarily because of a risk assessment in the Working With Children Check. We must do this even if we offer the person an alternative position;
11. Advise the person if their application was rejected primarily because of an adverse risk assessment in the Working With Children Check;
12. Notify the NSW Commission for Children and Young People of any person against whom **relevant employment proceedings** have been completed; and
13. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process.

**Child-related employment** is any work (paid or unpaid) that involves direct and unsupervised contact with children in several types of areas such as sporting clubs and associations that have a significant child membership or involvement.

**Employment** includes work done:

- under a contract of employment;
- as a sub-contractor;
- as a volunteer for an organisation;
- as a minister of religion (whether or not ordained); and
- undertaking practical training as part of an educational or vocational course

**Prohibited person** is a person convicted of committing a serious sex offence or a registrable person.

**Registrable person** is someone who has been found guilty of the following offences against children:

- murder
- sexual offences
- indecency offences
- kidnapping
- child prostitution
- child pornography

**Relevant employment proceedings** are disciplinary proceedings completed in NSW, or elsewhere, where an employer or professional body that supervises the conduct of the employee has found that '**reportable conduct**' or an act of violence occurred, or there is some evidence that it occurred. An act of violence will be relevant only if it was committed by an employee in the course of employment and in the presence of a child.

**Reportable conduct** is:

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence);
- any assault, ill treatment or neglect of a child; or
- any behaviour that causes psychological harm to a child.

## Attachment B3: WESTERN AUSTRALIA CHILD PROTECTION REQUIREMENTS

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*This information is subject to change at any time. Refer to the Department of Community Development Website: <http://community.wa.gov.au/> or contact 08 9476 2000. This information will need to be regularly updated. The following is based on information available as at June 2005.*

*Details of the phasing-in arrangements for different types of child-related work and information regarding what is required and the process for applications will be posted on the Department of Community Services website <http://community.wa.gov.au/Resources/Child+Protection/> in the future. **Until this time [SO] will follow the screening process set out in Attachment B4: Child Protection Requirements***

From 1 January 2006, certain people working with children in Western Australia will be required to have a national criminal history check – a Working with Children Check. The Working with Children Check will be compulsory under the Working With Children (Criminal Record Checking) Act 2004 which was passed by State Parliament in November 2004.

The Check proposes to screen employees, self-employed persons and volunteers in defined categories of employment. The Check will take into account convictions and charges for serious sexual and violent offences. Assessment will be by a new screening unit within the Office for Children and Youth, of the Department for Community Development. Applicants will be issued with either an 'assessment notice' in the form of an ID card which allows that person to work or volunteer with children, or a negative notice. Assessment notices will be valid for three years.

The following groups will not need to have a Working With Children Check:

- volunteers under 18 years
- employers of children, or adult employees who have contact with a child-employee in the workplace (unless they are carrying-out child-related work)
- registered teachers, who require a national criminal record check as part of their registration under the *Western Australian College of Teaching Act 2004*
- parents who volunteer in activities in which their children are also involved.

Working with Children Checks will be phased in over a five year period according to the type of work being carried out. Once the checks begin for particular groups, employees, employers, self-employed people and volunteers working with children will have certain obligations to fulfill.

## Attachment B4: CHILD PROTECTION REQUIREMENTS

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This attachment sets out the screening process for people who currently occupy or who apply for any work (paid or voluntary) in our *[association/club]* that *[\*insert preferred wording or insert alternative wording]*

*[\*involves direct and unsupervised contact with people under the age of 18 years]*

*[\* involves working with people under the age of 18 years]*

*[\*involves regular contact with people under the age of 18 years]*

Screening under this policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, the requirement to screen people under the process outlined below need not be followed.

### Association/club requirements

Under *[SO's Member Protection Policy]*, our *[association/club etc]* is required to:

1. Identify positions (paid and voluntary) that involve working with people under the age of 18 years.
2. Obtain a completed *Member Protection Declaration* or MPD (Attachment B5) from all people who are bound by this policy if they occupy or apply for a position that involves working with people under the age of 18 years. The MPD will be kept in a secure place.

If a MPD is not provided, or it reveals that a person does not satisfactorily meet with one or more of the clauses in the MPD (e.g. has a relevant criminal conviction), *[insert relevant organisation – NSO, association, club]* will:

- provide an opportunity for the person to respond/provide an explanation, and
- make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years.

If unsatisfied, then the *[insert relevant organisation – NSO, association, club]* will:

- *[in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.***
- *in the case of a someone applying for the position/role, not appoint them.]*

3. Check a person's referees (verbal or written) and interview a person about his/her suitability for the role and his/her suitability for working with children for both paid and voluntary positions.
4. Ask people applying for *[and people who currently occupy]* a position that *[\*insert preferred wording or insert alternative wording]* to **sign a consent form** for a national police check. (Information on police checks and forms can be found at [www.ausport.gov.au/ethics/policechecks.asp](http://www.ausport.gov.au/ethics/policechecks.asp)).
  - [\*involves direct and unsupervised contact with people under the age of 18 years]*
  - [\* involves working with people under the age of 18 years]*
  - [\*involves regular contact with people under the age of 18 years]*
5. Request a national police check from our relevant police jurisdiction for people applying for *[and people who currently occupy]* *[paid or paid and voluntary – decide which]* positions that *[\*insert preferred wording or insert alternative wording]*
  - [\*involves direct and unsupervised contact with people under the age of 18 years]*
  - [\* involves working with people under the age of 18 years]*
  - [\*involves regular contact with people under the age of 18 years]*

In most police jurisdictions a 'Part Exclusion' check for people working with children can be requested. This check excludes irrelevant records.

If the police check indicates a relevant offence, the *[insert relevant organisation – NSO, association, club]* will:

- provide an opportunity for the person to respond/provide an explanation, and
- make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years.

If unsatisfied, then the *[insert relevant organisation – NSO, association, club]* will:

- *[in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.***
- *in the case of a someone applying for the position/role, not appoint them.]*

If the person does not agree to a national police check after explaining why it is a requirement, the *[insert relevant organisation – NSO, association, club]* shall make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years. If unsatisfied, the *[insert relevant organisation – NSO, association, club]* will:

- *[in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.***
- *in the case of a someone applying for the position/role, not appoint them.]*

6. Decide whether to offer the person the position *[or retain the person in the position]*, taking into account the result of the police check and any other information *[SO]* has available. Where it is not practical to complete the police check prior to employment commencing, *[SO]* must still complete the check as soon as possible. *[SO]* will advise the person that their ongoing employment is conditional upon the satisfactory outcome of the check.
7. Where a national police check is obtained under this member protection policy, another organisation which is also required to screen may obtain a copy of the national police check provided that the consent of the relevant person is obtained and the national police check was performed in the immediately preceding two years.
8. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process. Information collected during screening (such as a completed MPD form, police records and referee reports) will be returned to the relevant person if that person is not appointed to/will not remain in the position, or otherwise be destroyed with the consent of the person concerned.

## Attachment B5: MEMBER PROTECTION DECLARATION

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The [SO] has a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with [SO] activities. As part of this duty of care and as a requirement of the [SO]'s Member Protection Policy, the [SO] must enquire into the background of those applying for, undertaking or remaining in any work (paid or voluntary) that *[\*insert preferred wording or insert alternative wording]*

*[\*involves direct and unsupervised contact with people under the age of 18 years]*

*[\* involves working with people under the age of 18 years]*

*[\*involves regular contact with people under the age of 18 years]*

I .....(name) of .....

.....(address) born ...../...../.....

sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence *[you may choose to add other crimes you consider relevant e.g. narcotics, driving offences].*
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, acts of violence, intimidation or other forms of harassment *[you may choose to add other crimes you consider relevant e.g. narcotics, driving offences].*
4. *[I have never been sanctioned for an anti-doping rule violation under any anti-doping policy applicable to me.]*
5. *[I have never participated in, facilitated or encouraged any practice prohibited by the World Anti-Doping Agency Code or any other anti-doping policy applicable to me.]*
6. To my knowledge there is no other matter that the [SO] may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the *[President or CEO]* of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses *[1 to 6]* above has changed for whatever reason.

Declared in the State/Territory of .....

on ...../...../.....(date) Signature .....

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### Parent/Guardian Consent (in respect of person under the age of 18 years)

I have read and understood the declaration provided by my child. I confirm and warrant that the contents of the declaration provided by my child are true and correct in every particular.

Name:.....

Signature:.....

Date: .....