

CIRCULAR

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Contact	Mr J Greville (02) 9219 7484 Staff Records Management Unit

**POLICY AND PROCEDURE FOR EMPLOYMENT SCREENING
OF STAFF AND OTHER PERSONS IN CHILD RELATED AREAS
- AMENDMENT TO ATTACHMENTS**

Circular 00/55 issued on 7 July 2000 incorporated as part of the declaration form Annexure A a statement indicating that the declaration was only to be signed by a person if they were not a prohibited person. This has now been amended so that the person is required to nominate whether they are or are not a prohibited person. The attached amended Annexure A is now to be utilised.

Other than the abovementioned amendment this circular does not rescind Circular 00/55.

Michael Reid
Director-General

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73 Miller Street North Sydney NSW 2060
Locked Mail Bag 961 North Sydney NSW 2059
Telephone (02) 9391 9000 Facsimile (02) 9391 9101

PROHIBITED EMPLOYMENT DECLARATION**CHILD PROTECTION (PROHIBITED EMPLOYMENT) ACT 1998**

With the exception of where an order, from the Industrial Relations Commission or the Administrative Decisions Tribunal, declares that the Act does not apply to a serious sex offence committed by an individual, the Child Protection (Prohibited Employment) Act 1998 makes it an offence for convicted of a serious sex offence (a prohibited person) to apply for, or remain in, child-related employment.

A serious sex offence is defined in Section 5 of the Child Protection (Prohibited Employment) Act 1998 as an offence involving sexual activity or acts of indecency which is or was punishable by penal servitude or imprisonment for 12 months or more in New South Wales, or, an offence committed elsewhere, that would have been punishable by penal servitude or imprisonment for 12 months or more if it had been committed in New South Wales.

Child-related employment is any employment that involves direct contact with children where that contact is not directly supervised. Section 1 of the Child Protection (Prohibited Employment) Act 1998 specifies that child-related employment can include employment:

- involving the provision of child protection services
- in pre-schools, kindergartens and child care centres (including residential child care centres)
- in schools or other educational institutions (not being universities)
- in detention centres (within the meaning of the Children (Detention Centres) Act 1987)
- in refuges used by children
- in wards of public or private hospitals in which children are patients
- in clubs, associations or movements (including of a cultural, recreational or sporting nature) having a significant child membership
- in any religious organisation
- in any entertainment venues where the clientele is primarily children
- as a babysitter or childminder that is arranged by a commercial agency
- involving fostering or other child care
- involving regular provision of taxi services for the transport of children with a disability
- involving the private tuition of children
- involving the direct provision of health services
- involving the provision of counselling or other support services for children
- on school buses
- at overnight camps for children

Under this Act:

- it is an offence for a prohibited person to **apply for**, or **remain in** child related employment.
- all employees **must** inform their employers if they are a "prohibited person" (someone who has been convicted of a serious sex offence).
- employers **must** ask existing employees and preferred applicants for employment whether they are a prohibited person or not.
- penalties are imposed for non compliance.

I am aware that I am ineligible to apply for, or remain in, child related employment if I have been convicted of a "serious sex offence" as defined in the Child Protection (Prohibited Employment) Act 1998.

I have read and understood the above information in relation to the Child Protection (Prohibited Employment) Act 1998 and understand my responsibilities and obligations under this Act.

I declare that I am / am not* a person prohibited by the Act from seeking, or remaining in child related employment. *(delete whichever is not applicable)

Name	Signature	Date
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Note: This form should be returned to your employer / potential employer

ANNEXURE B

REJECTED APPLICANTS NOTIFICATION FORM

Section 40 of the Commission for Children and Young People Act 1998 requires employers to notify the Commission for Children and Young People of the name and details of any individual whose application for child-related employment with that employer has been rejected as a result of information obtained in the employment screening process ie – criminal records, apprehended violence orders or relevant disciplinary proceedings.

Information in relation to “rejected applicants” shall be retained by the Commission for Children and Young People for the purposes of auditing and monitoring the employment screening process only. The information will not be released to any person and shall not be utilised in determining a prospective employee’s suitability for future employment opportunities.

REJECTED APPLICANT DETAILS

First Name: _____

Middle Name: _____

Surname: _____

Previous Names / Aliases: _____

Date of Birth: _____

Gender: Male Female

Date employment was denied: _____

Title of position applied for: _____

EMPLOYER DETAILS

EMPLOYER / ORGANISATION NAME:

Employer / Organisation number:

Address: _____

Phone: _____

Fax: _____

Relevant contact person: _____

Position of relevant contact person: _____

I certify that the above details are correct and that I am providing this information in accordance with Section 40 of the Commission for Children and Young People Act 1998. I have the authority as the head of the organisation to submit these details to the Commission for Children and Young People for employment screening purposes.

Name

Position

Signature

Date

Note: This form should be forwarded directly to the Commission for Children and Young People by employers

ANNEXURE C

RELEVANT DISCIPLINARY PROCEEDINGS

Under Section 39 of the Commission for Children and Young People Act 1998 employers are required to provide details to the Commission for Children and Young People (CCYP) of any employee (either paid or unpaid) who has been the subject of completed relevant disciplinary proceedings, irrespective of the findings.

The disciplinary proceedings which are considered relevant are all matters involving child abuse, sexual misconduct and acts of violence which involve children, are directed at children, or take place in the presence of children and are committed by the employee in the course of their employment.

Completed disciplinary proceedings also include processes that have resulted in completion at the instigation of the employee ie a decision by the employee to resign prior to finalisation of the disciplinary process.

It is not a requirement for the Commission to be informed of completed disciplinary proceedings through which it was proven that the allegations were false, vexatious or misconceived.

Full details of disciplinary matters are not required by CCYP, only identification details of the individual and the organisation where the proceedings were conducted.

EMPLOYEE DETAILS:

First Name: _____

Middle Name: _____

Surname: _____

Previous names / aliases: _____

Gender: _____

Date of Birth: _____

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

EMPLOYER DETAILS:

Employer / Organisation name: _____

Address: _____

Phone: _____

Fax: _____

Name of Relevant contact person: _____

DISCIPLINARY DETAILS:

Nature of allegation investigated: _____

Was the allegation Proven: Yes/No

Result of disciplinary action: _____

ANNEXURE C

Position of relevant contact person: _____

Date of completion of disciplinary proceedings: _____

Is the above individual currently an employee of your organisation? Yes No

I certify that the above mentioned individual has been the subject of disciplinary proceedings relating to child abuse, sexual misconduct or acts of violence in the course of employment and that I have the authority, as the head of the organisation, to submit these details to the Commission for Children and Young People for employment screening purposes.

Name

Position

Signature

Date

Note: This form should be forwarded directly to the Commission for Children and Young People by employers.

ANNEXURE D

RELEVANT DISCIPLINARY PROCEEDINGS
(EMPLOYEE NOTIFICATION ADVICE)

Dear.....

Section 39 of the Commission for Children and Young People Act 1998 requires employers to provide details to the Commission for Children and Young People (CCYP) of any employee (either **paid** or **unpaid**) who has been the subject of completed disciplinary proceedings.

For the purposes of this legislation, a relevant disciplinary proceeding means *disciplinary proceedings against an employee that involve:*

- child abuse
- sexual misconduct or,
- acts of violence which involve children, are directed at children, or take place in the presence of children and are committed by the employee in the course of their employment.

Details of the allegation and outcome of the disciplinary proceedings are not required to be forwarded to the Commission for Children and Young People, but will remain with this organisation.

Consequently, your name has been registered with the Commission for Children and Young People in relation to the disciplinary proceeding involving _____

Under the Freedom of Information Act 1989 you are entitled to access information held by the organisation relating to disciplinary proceeding(s) reported to the Commission for Children and Young People.

Should you seek child-related employment in the future, with this or any other organisation, the nature of this disciplinary matter will be taken into consideration during the employment screening process to determine your suitability for such employment.

Yours sincerely,

Name:

Position: