



Child Protection Guidelines

Adopted (19 September 2001)

The Guidelines are in a Number of Parts:

Introduction to the Guidelines

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- B. Other considerations
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INTRODUCTION TO THE GUIDELINES

As a result of public concerns about issues of child abuse in Australia over the past several years and in response to the Wood Royal Commission, the New South Wales Government has passed a number of Acts for the optimal protection of children and young people from abuse. The welfare of the child or young person is the paramount consideration. Schools and other agencies looking after children and young people in New South Wales must comply with the legislation.

Saint Ignatius' College, Riverview is committed to the security and well being of its students. These guidelines acknowledge such continued commitment and set out information, processes and procedures to comply with the New South Wales legislation.

Having a large residential boarding school community, Saint Ignatius' College, Riverview, is acutely aware of its additional duty of care for all boarding students outside normal class teaching hours. It will institute, therefore, practices and procedures which accommodate this significant residential component in the college.

The New South Wales Child Protection legislation consists of the following Acts:

Children and Young Persons (Care and Protection) Act 1998

(This Act Aims to protect children and young people from risk of harm. It provides for the mandatory reporting to the Department of Community Services of suspected risk of harm from abuse and neglect to a child or young person, where there are reasonable grounds to suspect risk of harm).

Commission for Children and Young People Act 1998

Child Protection Guidelines

Child Protection (Prohibited Employment) Act 1998

Ombudsman Act 1974

Particularly Part 3A – Child Protection which was introduced by the Ombudsman Amendment [Child Protection and Community Services] Act 1998

(A brief summary of these last three acts can be found in Annexure 1.)

Each Act directs that ownership of responsibility for compliance be taken by the legitimate authority of the school or other agency to ensure that its provisions are carried out.

SAINT IGNATIUS' COLLEGE, RIVERVIEW

In the case of the Children and Young Persons (Care and Protection) Act 1998 the legitimate authority shall be the Rector of Saint Ignatius' College, Riverview representing the Provincial of the Society of Jesus in Australia.

- ✦ In the case of the Ombudsman Act 1974, the legitimate authority 'Head of Agency' shall be the Provincial of the Society of Jesus in Australia. The Provincial has appointed the Rector of Saint Ignatius' College, Riverview to act as his representative in any Child Protection issues which may arise in this College.
- ✦ In the case of the two acts: Commission for Children and Young People Act 1998 and Child Protection (Prohibited Employment) Act 1998, the Rector of Saint Ignatius' College, Riverview has nominated the Catholic Commission for Employment Relations (CCER) (NSW) as the screening agency for the College.

The Children and Young Persons (Care and Protection) Act 1998 requires staff who, in the course of their work, have reasonable grounds to suspect that a child enrolled in the school is at risk of harm in that current concerns exist for the safety, welfare or wellbeing of the child, to report the name, or a description, of the child and the grounds for suspecting that the child is at risk of harm. A report may be made, but is not mandatory, in respect of a young person at risk of harm.

The Ombudsman Act 1974 relates to allegations or convictions of child abuse against an employee. The Act mandates notification to the Ombudsman of any allegation/conviction of child abuse against an employee (whether in the course of their employment or outside working hours) of which an employer becomes aware.

The Child Protection (Prohibited Employment) Act and Commission for Children and Young People Act 1998 prohibits employment in child related employment of persons found guilty of committing certain serious sex offences. The legislation requires employers to ascertain initially from employees or applicants whether they are a prohibited person. Further, preferred applicants seeking employment in child related employment, and this includes paid volunteers, contractors and ministers of religion, must undergo a criminal record check.



Unpaid volunteers will be required to sign a declaration that they are not prohibited from child related employment. The mandatory screening extends to probity checks relating to previous employment and other activities, Apprehended Violence Orders and relevant completed disciplinary procedures.

The aim is to put in place agreed consistent procedures which provide optimal protection for children and young persons in school.

Processes and procedures put in place must also ensure that the legitimate rights of employees are maintained and protected, together with those of parents and employers.

The Provincial of the Society of Jesus has issued guidelines for the development by each Jesuit School of a policy which takes into account the requirements of State law and which ensures:

- ✦ that Jesuit schools are and remain institutions in which the security and total well being of students committed to the care of the Society and its lay collaborators are safeguarded by all prudent means;
- ✦ that collaborators in the works of a Jesuit school continue to perform their vocation in the confidence that they will be appropriately safeguarded against allegations that may be false or injurious.

It is the responsibility of the Provincial and the Rector to ensure that child protection procedures within the school are consistent with the policy and procedures as laid down in these guidelines and in accordance with the laws of the State.

Some Definitions

Annexure 2 contains some, although not all, of the definitions used in the legislation and the Interagency Guidelines (2000 Edition).

GUIDELINE A: PROCEDURES FOR REPORTING REASONABLY HELD CONCERNS UNDER THE CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) ACT 1998

It is the responsibility of the Rector to ensure that all issues of notification are channelled through him and to notify the appropriate authorities as designated by the legislation.

A1.1 Although the Act does not make reporting mandatory between 16 and 18, at Riverview a report must be made where a person has reasonable grounds based on current concerns to suspect that a child or young person or a class of children or young persons are at risk of harm because of the presence of any one or more of the following circumstances:

- a The child's or young person's basic physical or psychological needs are not being met or are risk of not being met;
- b The parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive the necessary medical care;

- c The child or young person has been, or is at risk of being physically or sexually abused or ill-treated;
- d The child or young person is living in a household where there have been incidents of domestic violence and as a consequence the child or young person is at risk of serious physical or psychological harm; or
- e A parent or other caregiver has behaved in such a way towards a child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm.

A1.2 Notification on reasonable grounds that a child or young person under the age of 18 years is at risk of harm is, at Riverview, mandatory for a person who in the course of his or her professional work or other paid employment delivers health care welfare, education, children's services, residential services or law enforcement wholly or partly to children. In the case of a child or young person enrolled at Saint Ignatius' College, Riverview the teacher or other person employed or engaged at the College must as soon as practicable notify the Rector of the name or a description of the child and the grounds for suspecting that the child is at risk of harm.

A1.3 The Rector, Head of School, teachers or other staff who *have reasonable grounds* based on current concerns to suspect that a child enrolled at the school is at risk of harm are required through the person of the mandatory notifier (the Rector) to notify the appropriate authorities (i.e. the Department of Community Services, and the Police). If there are reasonable grounds based on current concerns to suspect risk of harm to a student 16 years and over (a young person) notification should be made to the Police at the nearest Police station, preferably the Detectives' office if there is such a service at that station. Such notification may only take place with the student's permission. The person responsible for any notification is the Rector or his delegate.

A1.4 Establishing reasonable grounds
Reasonable grounds based on current concerns may be found when:

- ✦ A child speaks about being abused;
- ✦ Someone else (perhaps a relative, friend, acquaintance or sibling of the child) informs a member of staff;
- ✦ A child tells a member of staff that he/she knows someone who has been abused (often a child is referring to her/himself);
- ✦ A member of staff observes a particular child's behaviour or his/her knowledge of children generally leads to suspicion of child abuse.

If there is concern about a child but the potential notifier does not feel confident enough that the suspicions constitute *reasonable grounds* based on current concerns it is advised that the matter be talked over in private with the Rector or his delegate.



Employees must not undertake any investigation of suspected child abuse. Responsibility for the proper conduct of child protection issues lies with the Rector.

A1.5 Protection for Notifier

The legislation provides protection for the notifier as follows:

- ✦ the notification does not constitute a breach of professional etiquette or ethics or departure from accepted standards of professional conduct;
- ✦ no liability for defamation is incurred for making the notification;
- ✦ the notification does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy;
- ✦ the notification or evidence of its contents, is not admissible in any proceedings (other than care proceedings in the Children's Court, or any appeal arising from those proceedings);
- ✦ a person cannot be compelled in any proceedings to produce the notification or a copy or extract thereof or to disclose or give evidence of its contents;
- ✦ the identity of the person who made the notification or gave the information, from which the identity of that person could be deduced, must not be disclosed by any person, except with:
 - i the consent of the notifier, or
 - ii the leave of the court or other body before which proceedings relating to the report are conducted;
- ✦ a party or witness in proceedings must not be asked, and, if asked, cannot be required to answer, any questions that cannot be answered without disclosing the identity or leading to the identification of the notifier, except with the consent of the notifier or the leave of the court.

A1.6 Structure of Notification Process

- 1.1 The Rector or his delegate must be informed of the allegation, complaint or concern as soon as possible whether they relate to the layperson, a clergyman or a member of a religious congregation.
- 1.2 If the allegation, complaint or concern relates to the Rector, the Chairman of the College Council must be informed direct.
- 2.1 The Rector or his delegate must inform the person making allegation or complaint or raising the concern (the reporting persons) of the procedures which must be followed under the law and under these Guidelines.
- 3.1 The Rector or his delegate must notify the appropriate authority.
- 4.1 The Rector or his delegate must inform the reporting person whether he has notified the appropriate authority.
 - 4.1.1 If the Rector or his delegate has not notified the appropriate authority and the reporting person still believes that such notification should be made, the reporting person may directly notify the appropriate authority.
 - 4.1.2 The reporting person must inform the Rector or his delegate that he or she has notified the appropriate authority.

All notifications should occur within 24 hours.

At all stages it is essential that

- i) The student is protected;
- ii) The Provincial of the Society of Jesus and the Rector are kept informed;
- iii) The anonymity of the notifier is maintained
- iv) The rights of any alleged offender are respected.

GUIDELINE B:

OTHER CONSIDERATIONS

B1.1 If the complaint is from an ex-student or otherwise relates to conduct alleged to have involved a former student and a teacher at the College (whether current or past), the same processes will be followed as for a current student.

B1.2 In following these procedures the prime concern at all times must be the safety and care of all students in the College. It is not the intention of the guidelines to be punitive towards a staff member or to pre-judge the outcome of any legal processes. Confidentiality must be maintained and information must be confined to appropriate personnel to protect the identity and reputation of those involved.

GUIDELINE C:

CHILD ABUSE ALLEGATION AGAINST EMPLOYEES UNDER THE OMBUDSMAN ACT 1974

C1.1 Saint Ignatius' College, Riverview is a designated non-government agency under the Ombudsman Act 1974. Designated agencies must report any allegation/conviction of child abuse against an employee regardless of where the alleged abuse occurred.

In the case of any allegation/conviction of child abuse against a person employed or engaged by Saint Ignatius' College, Riverview, such allegation/conviction must be notified to the Ombudsman whether or not there are reasonable grounds to believe abuse has taken place. Under the Ombudsman Act 1974, the element of 'reasonable grounds' does not apply to the notification requirements which are against a person employed or engaged by the College. The Ombudsman must be notified of any allegation/conviction of child abuse against a person employed by the College whether or not there are 'reasonable grounds' to believe that abuse has taken place.

C1.2 Notification to the Ombudsman must be made by the Rector or his delegate within 30 days of becoming aware of the allegation/conviction.

For an allegation to be notified to the Ombudsman the following components are necessary:

- a) The person who is the subject of the allegation must be a current employee of the College or have been an employee at the time to which the allegation or the time when the allegation was made and must be identifiable. This does not necessarily mean identified by name, as a person may be identifiable by other information including their description and work schedules.
- b) The allegation must describe behaviour that may constitute child abuse.



- c) The alleged victim must have been under 18 years at the time of the alleged offence or behaviour.
- C1.3 In the case of any allegation/conviction of child abuse against an employee it will be the responsibility of the Rector or his delegate to assess and monitor the risk of continued access of the employee to children in the care of the College. Depending on the nature of the allegation and all other relevant factors, the Rector or his delegate may take such action as is considered necessary to minimise such risk.
- C1.4 An employee is defined in the Ombudsman Act 1974 as:
- ✦ any employee of the agency, whether or not employed in connection with any work or activities of the agency that relates to children, and
 - ✦ any individual engaged by the agency to provide services to children (including in the capacity of a volunteer).
 - ✦ Clergy and a religious are employees for the purpose of the relevant legislation where they provide services to children in designated non-government agencies).
- C1.5 Complaints made against employees may prove baseless and may be prompted by malice or vindictiveness. This possibility is to be kept in mind.
- C1.6 Administrative steps may be necessary to remove some or all of the responsibilities of an employee who is accused of wrong-doing. Any such action should be limited to the minimum considered necessary, should be private and temporary and must not be understood or depicted as implying guilt. Such measures are intended for the protection of the member of staff as well as the student and to facilitate a prompt resolution.
- C1.7 All practicable measures should be taken to preserve the good name of the employee affected and to maintain his or her professional standing and self-esteem.
- C1.8 Employees should be informed that the school will regard false allegations against employees as a grave wrong.
- C1.9 When an allegation of child abuse is made against an employee, certain principles must be observed:
- ✦ The well-being of the child/children is of paramount concern;
 - ✦ Such an allegation is a statement which is, at that point, unproven;
 - ✦ The dignity and privacy of all those involved, directly or indirectly, must be maintained;
 - ✦ Care must be given to ensuring the continuing trust and confidence of the school community.
- C1.10 Where such an allegation is made, therefore, the following procedures will be followed:
1. The Rector or his delegate must be informed of the allegation, complaint or concern as soon as possible whether they relate to the layperson, a clergyman or a member of a religious congregation. If the allegation, complaint or concern relates to the Rector, the Chairman of the College Council must be informed directly.
 2. The Rector or his delegate must inform the person making the allegation or complaint or raising the concern (the reporting persons) of the procedures which must be followed under the law and under these Guidelines.
 3. The Rector or his delegate must notify the appropriate authority (including the Ombudsman), the Chairman of the College Council and the Provincial of the allegation, complaint or concern and of the action taken by the Rector or his delegate in response to it.
 4. The Rector or his delegate must inform any employee to whom the allegation, complaint or concern relates of:
 - i. the nature of the allegation (but nothing which may identify the person making the allegation or the victim);
 - ii. his or her right to obtain advice or assistance from his or her Union, a lawyer or other support person of his or her choice.
 5. The Rector or his delegate must inform the reporting person whether he has notified the appropriate authority.
 - 5.1 If the Rector or his delegate has not notified the appropriate authority and the reporting person still believes on reasonable grounds that such a notification should be made, the reporting person may directly inform the Chairman of the College Council who may notify the appropriate authority (including the Ombudsman) and the Provincial.
 - 5.2 The Chairman of the College Council must inform the Rector or his delegate and the reporting person whether he or she has notified the appropriate authority.
 - 5.3 If the Chairman of the College Council has not notified the appropriate authority and the reporting person still believes on reasonable grounds that such notification should be made, the reporting person may directly inform the Provincial who may notify the appropriate authority (including the Ombudsman).
 - 5.3.1 The Provincial must inform the Chairman of the College Council, the Rector or his delegate and the reporting person whether he has notified the appropriate authority.
 - 5.3.2 If the Provincial has not notified the appropriate authority and the reporting person still believes that such notification should be made, the reporting person may directly notify the appropriate authority (including the Ombudsman).
 - 5.3.3 The reporting person must inform the Provincial, the Chairman of the College Council and the Rector or his delegate that he or she has notified the appropriate authority.
- GUIDELINE D:**
ENGAGEMENT OF EMPLOYEES
- Placement of Religious within the College**
- D1.1 Under the provisions of the Child Protection (Prohibited Employment) Act 1998 and the Commission for Children and Young People Act 1998, ministers of religion and members of religious organisations are subject to the screening processes required of all teaching and general staff.
- D1.2 The referees for the purposes of child protection must include the person's last employer.



Recruiting of Teaching and General Staff

- D2.1 Applications for appointment as members of the teaching or general staff must be accompanied by:
- two references, as to character, by people who have direct, recent experience of the applicant's work must be sought and recorded;
 - a written statement by the applicant that he or she has not been charged with or convicted of any relevant criminal offence, such an offence being one that would reasonably be considered to render the person considered unsuitable for employment in a school (in the form set out in Annexure 3);
- D2.2 In the case of short-listed applicants, the information supplied must be verified by
- enquiry of the referees and
 - the full employment screening process of the Children's Commission including the mandatory police criminal record check, a check of relevant apprehended violence orders and a review of relevant completed disciplinary proceedings that the applicant may have had in previous employment as required under the Commission on Children and Young Persons Act.

Recruiting of Volunteers (Paid)

- D3.1 Under the Commission on Children and Young Persons Act the definition of employment has been extended to include volunteer work. For the purposes of this legislation 'volunteers' who are paid for services to child related activities are subject to the same screening requirements.
- D3.2 Any prospective applicant for paid, primarily child related, employment as listed in Section 33 of the Commission on Children and Young Persons Act which involves direct contact with children where the contact is not directly supervised must undergo the full employment screening process of the Children's Commission including the mandatory police criminal record check a check of relevant apprehended violence orders and a review of relevant completed disciplinary proceedings that the applicant may have had in previous employment as required under the Commission on Children and Young Persons Act.

Recruiting of Volunteers (Unpaid)

- D4.1 Under the Child Protection (Prohibited Employment) Act and the Commission for Children and Young Persons Act, the definition of employment has been expanded to include volunteer work. At Riverview unpaid volunteers who are involved in direct contact with children where that contact is not directly supervised are required to sign a declaration that they are not a person prohibited by the Child Protection (Prohibited Employment) Act from seeking, undertaking, or remaining in child related employment.

Engagement of Sub-Contractors

- D5. Under the Commission on Children and Young Persons Act the definition of employment has been expanded to include sub-contractor work in child related areas.

- D5.2 The principal of the sub-contracting agency must ensure that the requisite screening as required by the Commission on Children and Young Persons Act has been carried out. The principal should furnish the College with proof of the checks. Such proof might include the subcontractor's police check number in respect of the particular employee.

GUIDELINE E:

INDUCTION OF EMPLOYEES AND IN-SERVICE OF EXISTING EMPLOYEES

- E1.1 Applicants for appointment as members of the teaching or general staff will be provided, before taking up their appointment, with a copy of these Guidelines and a statement defining standards of decorum and prudential conduct in force at Saint Ignatius' College, Riverview. Each applicant should sign an acknowledgment of having read, understood and accepted these Guidelines for Child Protection and accepted the Code of Conduct for Saint Ignatius' College, Riverview. In-service instruction will be provided from time to time, to all employees on any statutory obligations binding on them and on in-house procedures for acting on reasonable concerns.
- E1.2 Other persons defined as employees under the relevant legislation should be provided with the appropriate statements and protocols.

GUIDELINE F:

GENERAL PRINCIPLES

The procedures to be followed, at Saint Ignatius' College, Riverview, are based on the following principles:

- All adults have the responsibility to care for children and to protect them from any kind of abuse.
- In every preventative and/or protective action related to child abuse, the total well being of the child is the primary concern.
- The value of the family unit is respected but not to the detriment of the well-being of the child.
- All persons involved in situations where abuse is disclosed or suspected are to be treated with sensitivity, dignity and respect.
- As the Rector or his delegate is responsible for compliance with the terms of the legislation, he is to be informed of all matters concerning the welfare of students, including suspected or disclosed incidents of child abuse.
- Employees who have access to information regarding suspected or disclosed child abuse have the obligation to observe confidentiality in relation to the entire matter.
- Employees must avoid any false, exaggerated or unjustified assertions that may infringe the good name of, or honour due to, another person.
- The Rector is to ensure that the College's pastoral care structures address issues of child abuse making appropriate provision for the support of children, families and employees directly involved.



GUIDELINE G:

ACKNOWLEDGEMENT

These guidelines are based in the large part on guidelines developed by St Aloysius College, Milson's Point, which is also a work of the Australian Province of the Society of Jesus, with the assistance of the Office of the Ombudsman of New South Wales. Saint Ignatius' College, Riverview acknowledges with gratitude the generosity of St Aloysius College in sharing with it the result of its consideration of these complex issues in their common pursuit of care for and the formation of those in its care in accordance with Ignatian principles.

These Guidelines are to be read in conjunction with the NSW Interagency Guidelines for Child Protection Intervention, 2000 edition, published by the NSW Government

This statement has been revised: (a) Approved by School Council on 2001; (b) Approved by the Provincial on 2001 (c) Approved by the Ombudsman on 2001

ANNEXURE 1 & 2

DEFINITION OF TERMS	
Act	Unless otherwise specified refers to the Commission for Children and Young People Act 1998.
Apprehended violence order, relevant	Any type of Apprehended Violence Order (other than an interim order) made by a court under Part 15A of the Crimes Act 1900, or an interstate restraint order (within the meaning of Part 15A of the Crimes Act 1900), and made on the application of a police officer or other public official for the protection of a child (or a child and others). (Section 33).
Approved screening agency	An employer or employer-related body approved by the Minister to carry out all or any of the relevant procedures of employment screening for itself or on behalf of another employer: (Section 37(4))
Avo	Apprehended Violence Order:
Child	Child means a person under the age of 18 years under each of Commission for Children and Young People Act 1998, Child Protection (Prohibited Employment) Act 1998 and Ombudsman Act 1974 but, under the Children and Young Persons. Care and Protection Act 1998 child means a person under the age of 16 years.
Child abuse	Child abuse covers: <ul style="list-style-type: none"> ⊕ assault (including physical and sexual assault) of a child; ⊕ exposing or subjecting a child to behaviour that psychologically harms the child. ⊕ ill treatment or neglect of a child whether or not, in any case, with the consent of the child

DEFINITION OF TERMS	
Child abuse (continued)	In the 2000 Interagency Guidelines for Child Protection Intervention, physical abuse is stated to be 'assault, non-accidental injury and/or physical harm to a child by a parent, caregiver, another person responsible for the child or young person, or other child or young person. It includes injuries or harm which are caused by excessive discipline, beating or shaking, bruising, lacerations or welts, burns fractures or dislocations, female genital mutilation, and attempted suffocation or strangulation'.
Child sexual abuse or ill treatment	Is stated to be 'any sexual act or sexual threat imposed on a child or young person. Adults, adolescents or older children who sexually abuse children or young people exploit their dependency and immaturity. Coercion, which may be physical or psychological is intrinsic to sexual abuse and differentiates from consensual peer sexual activity.' <i>Page 38 Interagency Guidelines 2000 edition</i>
Child abuse allegation	An allegation of child abuse against a person or an allegation of misconduct that may involve child abuse.
Child abuse conviction	Any conviction of a person, in this State or elsewhere, of an offence involving child abuse, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction. The definition of child-related employment differs slightly between the Child Protection (Prohibited Employment) Act and the Commission for Children & Young People Act. Under the Child Protection (Prohibited Employment) Act child-related employment means any employment of a kind listed in the legislation that primarily involves direct contact with children where that contact is not directly supervised (Section 3). Under the Commission for Children and Young People Act child-related employment means any employment that involves direct contact with children where that contact is not directly supervised (Section 33).
'Child related' employment	Means employment that primarily involves direct, unsupervised contact with children and includes performance of work: <ul style="list-style-type: none"> ⊕ under a contract of employment; ⊕ as a sub-contractor; ⊕ as a volunteer; ⊕ as a minister of religion; ⊕ as a trainee undertaking training as part of an educational or vocational course; ⊕ as a member of a religious organisation.



DEFINITION OF TERMS	
CCYP:	Commission for Children and Young People
Conviction	A charge proven in court and recorded as such and includes a finding that the charge for an offence is proven even though the court does not proceed to a conviction. (Child Protection (Prohibited Employment) Act, Section 3).
Criminal record, relevant	A criminal record of a person with respect to an offence involving sexual activity; acts of indecency; child abuse or child pornography that was: <ul style="list-style-type: none"> + committed in New South Wales and was punishable by penal servitude or imprisonment for 12 months or more, or + committed elsewhere and would have been an offence punishable by penal servitude or imprisonment for 12 months or more if it had been committed in New South Wales (Commission for Children and Young People Act Section 33).
Current concern	This expression is used in the Children and Young Persons (Care and Protection) Act in the context of a child or young person being at risk of harm if a <u>current concern</u> exists for the safety, welfare or wellbeing of the child. The expression 'current concern' is most defined and must be a question of balance on each occasion when a risk of harm is being considered.
Designated parties:	Government bodies including Commission for Children and Young People, Ombudsman, DOCS, Police; support for systemic organisations including CEO/CSO, CCER.
Direct supervision	Occurs when a person is present at all times during, and is observing and is capable of directing, if required, the contact by the person under supervision with any child. Such contact is part of the duties to be performed by the person under supervision or can reasonably be expected to occur during the performance of those duties.
Disciplinary proceedings. Relevant:	Completed disciplinary proceedings against an employee by the employer or by a professional or other body that supervises the professional conduct of the employee. These proceedings include completed proceedings involving child abuse, sexual misconduct or acts of violence committed by the employee in the course of employment where these acts: <i>(Continued at the top of the next column)</i>

DEFINITION OF TERMS	
Disciplinary proceedings. Relevant: (continued)	<ul style="list-style-type: none"> + involve children; + are directed at children; or + take place in the presence of children; + relevant disciplinary proceedings do not include those when there is a finding that the allegations are false, vexatious or misconceived.
Employee:	is defined in the Commission for the Children and Young People Act, 1998 as any person who is engaged in a child-related employment role in any of the following capacities in any of the following ways: <ul style="list-style-type: none"> + paid employment; + sub-contractors; + volunteers; + ministers of religion; + members of religious organisations; or + undertaking training as part of an educational or vocational course.
Employer:	For the purposes of the Child Protection (Prohibited Employment) Act the definition of employer includes: <ul style="list-style-type: none"> + a person who, in the course of business, arranges for the placement of a person in employment with others; or + a person who engages a person under a contract to perform work (Child Protection (Prohibited Employment) Act 1998 Section 3). For the purposes of the Commission for Children and Young People Act the definition of employer includes: <ul style="list-style-type: none"> + any person who engages the person in employment and includes a person who, in the course of business, arranges for the placement of a person in employment with others (Commission for Children and Young People Act Section 33).
Employment	<ul style="list-style-type: none"> + performance of work under a contract of employment; or + performance of work as a subcontractor; or + performance of work as a volunteer for an organisation; or + undertaking practical training as part of an educational or vocational course; or + performance of work as a minister of religion or other member of a religious organisation (Commission for Children and Young People Act Section 33). The definition of employment in relation to prohibited employment also covers performance of work as a self-employed person. (Child Protection (Prohibited Employment) Act, Section 3).



DEFINITION OF TERMS	
Information package	Documents that are provided to potential applicants by the employing organisation. These documents provide advice regarding the organisation and any particular instruction regarding the method of applying for work with the organisation.
Local manager	A person with responsibility for supervising employees at local level (eg school principal or head of branch office).
Paid	For the purpose of these procedures a reference to 'paid' includes any person who receives a salary or similar remuneration (such as cash, fee or stipend) for the performance of work, under other like arrangements, but does not include reimbursement of 'out-of-pocket' expenses, receipt of 'in kind' or similar benefits.
Professional body	An entity, which has the power to supervise the professional conduct of a person or organisation, including conducting relevant disciplinary proceedings.
Prohibited person	A person is a prohibited person if that person has been convicted of a serious sex offence.
Psychological abuse	Is not defined in any of the Acts but 'child abuse' includes behaviour that psychologically harms a child.
Relevant authority	An employer or delegated employer.
Screening	The process of gathering relevant information about an applicant for employment by an organisation in order to enable an informed decision to be made on whether to employ the applicant, or not. Screening includes structured referee checks, criminal history checks, checks of certain enforceable apprehended violence orders, and checks with past or current employers for any completed disciplinary records.
Serious sex offence:	This is defined in Section 5(3) of the Child Protection (Prohibited Employment) Act, subject to subsections (4) and (5), as: a an offence, involving sexual activity or acts of indecency that was committed in New South Wales and that was punishable by penal servitude or imprisonment for 12 months or more; or <i>(continued in the next column)</i>

DEFINITION OF TERMS	
Serious sex offence: <i>(continued)</i>	b an offence, involving sexual activity or acts of indecency that was committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more, if it had been committed in New South Wales; or c an offence under Sections 91D-91G of the Crimes Act 1900 (relating to child prostitution and child pornography) (other than if committed by a child prostitute) or a similar offence under a law other than a law of New South Wales; or d an offence under Section 578B or 578C of the Crimes Act 1900 (relating to the possession and distribution of child pornography) or a similar offence under a law other than a law of New South Wales; or e an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs; or any other offence, whether under the law of New South Wales or elsewhere, prescribed by the regulations.
Serious sex offence:	Subsection (4) excludes offences that have now ceased to be offences in New South Wales. Subsection (5) excludes offences involving sexual activity or an act of indecency if the conduct constituting the offence occurred in a public place and would not have constituted an offence in New South Wales if the place were not a public place.
Spent conviction:	Those offences included on a person's criminal record which, because of the passage of time, are no longer to be considered in any administrative decision making.
Unpaid:	Where it is used in relation to the nature of work undertaken refers to a person undertaking work for which payment is not made, eg: a volunteer
Young person:	Is used only in the Children and Young Persons (Care and Protection) Act 1998 and means a person over the age of 16 years but under the age of 18 years.



ANNEXURE 3

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 particular person, the Child Protection (Prohibited Employment) Act 1998 makes it an offence for a person convicted of a serious sex offence (a prohibited person) to apply for; undertake or remain in, child-related employment.

Section 5 of the Child Protection (Prohibited Employment) Act 1998 defines a serious sex offence as an offence involving sexual activity or acts of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment for 12 months or more, or, an offence involving sexual activity or acts of indecency that was committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more if it had been committed in NSW:

Child-related employment means any employment that primarily involves direct contact with children where that contact is not directly supervised. Section 3 of the Child Protection (Prohibited Employment) Act 1998 specifies that child-related employment is 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 including 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, undertake, or remain in child-related employment;
- ✦ employers must ask existing employees, both paid and unpaid, and preferred applicants for employment to declare whether they are a prohibited person or not;
- ✦ all child-related employees must inform their employers if they are a 'prohibited person' (someone who has been convicted of a serious sex offence) or remove themselves from child-related employment;
- ✦ penalties are imposed for non compliance.

