

Policy Redesign Project

All policies and procedures are being reviewed as part of this project. This document is pending review, but remains in effect until the review is carried out.

Child Safe Environment Procedures

Establishment: Vice-Chancellor, 17 August 2016

Last Amended:

Nature of Amendment:

Date Last Reviewed:

Responsible Officer: Director, People and Culture

1. Legislation/Policy Supported by these Procedures

These procedures support the Child Safe Environment Policy.

[Appendix A](#) sets out the relevant children's protection legislation.

2. Definitions

See [Appendix B](#).

3. Scope, application and transition

3.1 These procedures do not provide detailed instructions about how to obtain a clearance to work with children. The Employment Screening web page provides such instructions.

3.2 These procedures apply to University staff in the specific context of their actual (or potential) interaction with children in the course of their university duties. They provide the framework for:

- the examination of all existing (and any new) staff positions/roles to determine their status as prescribed positions in accordance with the Act, in the context of the University's operations;
- the operation of screening processes (consistent with the Act, Regulations and Standards and the University's industrial instruments) integrated within the University's recruitment and employment processes; and
- the progressive implementation targeting: prescribed positions at the pre-employment/recruitment stage first; and then existing staff in prescribed positions;

in accordance with the Child Safe Environment Policy and relevant legislation as in Appendix A.

3.3 These procedures build on and extend the University's existing provisions concerning suitability of staff to work with children.

3.4 They recognise that staff working in the Northern Territory will be required to obtain and maintain a valid working with children clearance (Ochre Card).

3.5 The University will monitor the implementation of child-related employment screening as part of an ongoing commitment to maintaining child safe environments.

4. Identifying prescribed functions and prescribed positions

4.1 The key steps in ascertaining whether a position or function is prescribed involve a consideration of:

- whether the inherent requirements of a person's role involves, or has the potential to involve, one or more of the prescribed functions; and
- whether an exemption applies.

[Appendix C](#) – provides a flow chart to assist in determining whether a position performs one or more prescribed function and is therefore prescribed. Prescribed positions are recorded in the HR Information System.

4.2 Executive Deans and Portfolio Heads are responsible for determining the key responsibilities of a position.

At this time an initial assessment should be conducted as to whether a person or position performs a prescribed function(s) as guided by the flow chart in Attachment C. Where one or more prescribed function(s) are to be performed, and no exemption is applicable, that person or position will be subject to the relevant history assessment requirement for prescribed positions.

4.3 People and Culture will take appropriate steps to verify the initial assessment of whether a person or position performs prescribed function(s) and to record those positions that are identified as prescribed.

4.4 Where an Executive Dean / Portfolio Head forms the view that a position that has been deemed prescribed does not perform prescribed function(s), a case may be made to the Director, People and Culture for consideration.

The Director, People and Culture, will make a determination based on, as appropriate: the case provided, university-wide factors, any other relevant information and further discussion with the relevant Executive Dean / Portfolio Head.

5. Child-related employment screening

5.1 Where screening is required because a position or function is prescribed:

- the University will require the individual to obtain a Child-Related Employment Screening by a Screening Unit; or
- in lieu of this, the University may accept other evidence of suitability to work with children, as described in 5.3 and 5.4.

5.2 The Screening Unit may use information obtained during the screening process to notify the University of a person's suitability for child-related employment. Consistent with its prevailing protocols, the Screening Unit may liaise with the applicant prior to notifying the University.

5.3 In lieu of undergoing child-related employment screening, the University will accept:

- a current certificate or letter obtained from the Screening Unit within the last three years with greater than six months validity remaining, which pertains to a relevant history assessment obtained for the purpose of working with children; or
- a current registration document as issued by the Teachers Registration Board of South Australia ; or
- a current clearance document as provided within another jurisdiction, such as the *Working With Children Clearance Notice (Ochre Card)* provided under Northern Territory legislation.

5.4 In the case of an international applicant or a person who has been a citizen or resident of a country other than Australia since turning 18 years of age, the University may request the person to provide an original or certified copy of their overseas criminal history record check.

If it is not practicable to obtain the overseas criminal history record check, the University may request a declaration in accordance with the Standards.

Where the person has resided in Australia for any period, screening as conducted by the Screening Unit will be required.

5.5 Where University staff are/or will be physically located at premises that are not owned by the University, the staff member may be required to obtain a Child-Related Employment Screening as required by the external organisation.

5.6 Where University staff are/or will be located at University premises outside of South Australia, they must abide by relevant children's protection legislation. (See Appendix A.)

5.7 For contractors, sub-contractors or agents undertaking a prescribed function in the University, the organisation/individual concerned must provide evidence that screening has been conducted for relevant personnel as part of the process of entering into a contract with the University.

6. Recruitment

6.1 It may be a condition of appointment to a position at the University for a person to undergo child-related employment screening and obtain a letter of clearance to work with children.

Any such requirement to undergo a relevant history assessment will be clearly stated in the position description, in any advertisement, as part of the selection process, and/or incorporated into the employment contract.

6.2 When deciding whether to appoint a person to an available position, the University will take into account whether or not a position is prescribed and consider the level of risk of harm to children posed by an adverse relevant history assessment. The University will also take into account personal, contextual, and situational factors when determining the risk of harm.

6.3 In order to balance the need for timely recruitment with the need to prevent unnecessary intrusion, any relevant history assessment that is required will be undertaken at the final stage of the recruitment process and will normally only be conducted in respect of the preferred applicant.

6.4 International applicants must comply with any directions given by the University for providing evidence that demonstrates their suitability to work with children.

6.5 If a relevant history assessment cannot be obtained prior to making an offer to appoint, the preferred applicant may be required to make a declaration relating to their suitability to work with children as part of formal acceptance of their contract of employment.

Where an acceptable declaration is provided, the applicant may then be appointed subject to receiving a clearance satisfactory to the University, but will not be permitted to carry out any prescribed functions in the course of their work unless under direct supervision, as a temporary arrangement, until the relevant history assessment process has concluded and they have a clearance to work with children.

6.6 Where a relevant history assessment cannot be obtained prior to making an offer to appoint and where temporary changes to duties are not practical, the University may delay the start date pending completion of the relevant history assessment.

6.7 Where a relevant history assessment is adverse to the applicant, and following careful consideration, the appointment may be terminated immediately without notice, in accordance with the University's relevant industrial instrument, on the basis that the applicant provided false or misleading information under their declaration as accepted and signed as part of the contract of employment.

6.8 Any decision based on receipt of an adverse relevant history assessment will be subject to the principles of natural justice as set out in Appendix B.

6.9 At any time before or after appointing a person to a prescribed position, the Director, People and Culture may request further information about the person's relevant history assessment from the person or the organisation that provided the assessment. If this further information alters the University's perceptions about risk of harm to children and following careful consideration, the University may terminate the appointment.

6.10 While evidence of criminal history unrelated to a risk of harm to children will not automatically preclude a person from obtaining or maintaining employment at the University, the University reserves the right to

decide whether or not to engage or retain an individual to work in a prescribed position or undertake prescribed functions.

7. Existing staff in prescribed positions

7.1 In accordance with Clauses 4 and 5, where an existing position is deemed to be a prescribed position or to involve prescribed functions, the University may require the occupant of the position to provide a letter of clearance from the Screening Unit as a condition of continuing to carry out the prescribed duties.

7.2 Staff must ensure that they undertake screening in a timely manner so that they maintain the currency of their clearance to work with children and must comply with the University's requirements for providing evidence of the clearance.

The University will monitor compliance with this requirement.

7.3 Staff members must notify their supervisors about any changes to their relevant history as soon as practicable for consideration in relation to their current position in the University. The Director People and Culture may also request the staff member to obtain an updated child-related employment screening. The information received will be used to carry out a risk assessment in relation to the staff member's position and working with children.

7.4 Where the results of a relevant history assessment are adverse to the staff member, the staff member will be provided with an opportunity to respond, in accordance with the principles of natural justice as set out in Appendix B.

7.5 If the Director, People and Culture in partnership with the Executive Dean/Portfolio Head determines that the adverse assessment means that the staff member cannot perform prescribed functions of their position within the University, the Director, People and Culture will determine the appropriate action to take, in accordance with any applicable procedures under the relevant industrial agreement.

Such actions may include (but are not limited to): redeployment; restrictions to duties; or termination of employment.

7.6 Existing staff who refuse to undergo a relevant history assessment may not continue in a prescribed position and may not move to a different prescribed position. The Director, People and Culture will manage any refusal to undergo a relevant history assessment in accordance with any applicable procedures under the relevant industrial agreement.

8. Changes in compliance obligations – existing staff

8.1 Where the duties or functions of a staff member's position changes, Executive Deans/Portfolio Heads must give consideration as to whether the change impacts on the "prescribed" status of the position.

8.2 A position that is not prescribed may attract new compliance obligations under the Act, for example where the duties/functions change. In such circumstances, supervisors should notify People and Culture if staff occupying such positions are involved in any work (or supervision of any work) that may require proximity to, contact with, or access to information about children. Staff must comply with any directions subsequently given.

8.3 Staff required to undertake work in other jurisdictions involving compliance with the child protection laws of that other state must adhere to any additional compliance requirements.

9. Costs of screening

9.1 The following screening costs must be met by the person concerned, and will not be met by the University:

- screening required for successful appointment of a prospective staff member to a prescribed position at the University;
- screening for existing staff in prescribed positions;
- screening required as a condition of a person's professional registration;

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- screening required for participation in a secondment, placement, or training opportunity; and
 - screening required for research activities.

9.2 Notwithstanding 9.1, as a transitional arrangement for existing staff in prescribed positions, the University may decide to meet the cost of initial screening for an existing staff member (excluding casual staff) as a once only arrangement.

10. Record Keeping and Privacy

10.1 The University is required to retain the following information:

- confirmation that screening has been obtained in the case of prescribed positions;
- where details from an individual's relevant history assessment have been provided to the University by the Screening Unit for consideration, information about how this has affected decision-making processes within the University about that person's suitability to work with children; and
- declarations (where applicable).

10.2 In order to preserve the privacy of individuals and the confidentiality of any criminal history information provided in the course of undertaking a relevant history assessment, the University will store the information separately under secure and confidential arrangements. Restricted access provisions will apply to authorised staff under such arrangements, until a risk assessment in relation to working with children has been conducted.

10.3 Once a decision is made regarding whether the person may pose a risk to children, the criminal history information will be destroyed. This will normally occur within 3 months of receiving the criminal history information.

10.4 All staff have a duty to not disclose confidential information held by the University, in accordance with their contract of employment. The University will take action in respect of any unlawful disclosure of criminal history information.

11. Training and Awareness

11.1 The University will provide ongoing support and information to promote and maintain the University as a child safe environment. Information may be provided in various ways, including by a general induction program, internal communication, online or face-to-face programs, external providers, or within a topic curriculum.

11.2 Staff in prescribed positions may be directed to attend training as required. This may include the Child-safe environments: Reporting Child Abuse and Neglect training.

11.3 All staff are expected to actively participate in training that is relevant to their role.

11.4 Staff who are required to undergo a relevant history assessment as a condition of professional registration must undertake any other training also required by their professional registration body.

12. Notification of abuse or neglect

12.1 If a person suspects, on reasonable grounds, that a child or young person is being abused or neglected, that person should report it to the Families SA Child Abuse Report Line (13 14 78) or submit an online report.

12.2 The report must include a statement of observations, information and opinions on which the person's suspicion is based.

12.3 Persons who are mandated notifiers, as defined by the Act, have a legal obligation to make such reports.

12.4 If the suspicions relate to a University staff member or student, the person must also report their suspicions to the Director, People and Culture. The University may take action in accordance with relevant policies or instruments as applicable in the circumstances.

13. Research involving children

Researchers who intend to conduct research involving children or vulnerable adults will be required to undergo screening through the Screening Unit in addition to obtaining human ethics approval, in accordance with the University's Ethics, Biosafety and Integrity Framework.

14. Children on University Premises

The University's *Children on University Premises* guidelines:

- recognise the University's responsibilities for protecting visitors, including children, from exposure to risks to their health and safety on University premises; and
- provide information about activities, areas and supervision arrangements to ensure the safety of children.

15. Appendices

Appendix A: Legislation and related documents

South Australia

- Children's Protection Act 1993 (SA)
- Children's Protection Regulations 2010
- *Child Safe Environment Standards for dealing with information obtained about a person's criminal history as part of a relevant history assessment* (as issued by the Chief Executive, Department for Education and Child Development, pursuant to Section 8A, of the Children's Protection Act 1993 (SA))
- *Child Safe Environment Standards Principles of Good Practice* (as issued by the Chief Executive, Department for Education and Child Development, pursuant to Section 8A, of the Children's Protection Act 1993 (SA))
- *Child-safe Environments: Reporting Child Abuse and Neglect - Guidelines for mandated notifiers and information for organisations*. Department for Education and Child Development.

Northern Territory

Care and Protection of Children Act 2007 (NT)

Victoria

Working With Children Act 2005 (Vic)

Appendix B: Definitions

Abuse/neglect means sexual, physical or emotional abuse, or neglect, which causes or puts a child at risk of serious physical, psychological or emotional harm.

Act means the Children's Protection Act 1993 (SA).

Child means a person aged under 18 years of age.

Child-related employment screening means the combined process of background checking (see Relevant History), risk assessment and decision-making concerning acceptance/exclusion of persons in areas of child-related employment/volunteering.

Clearance documentation means a certificate or letter (or other form of "clearance product") from a screening unit that confirms that a person has been assessed as suitable to work or volunteer with children.

Close proximity implies that a child or children are within sight of the person performing a prescribed function and/or the person has the capacity to engage in dialogue with children.

Criminal history assessment has the same meaning as Relevant History Assessment.

Director, People and Culture means the University's Director, People and Culture or delegate.

Direct supervision means supervision whereby the supervisor has an ongoing and physical presence.

Executive Dean/Portfolio Head means an Executive Dean of a Faculty or a Head of Portfolio (such as Deputy Vice-Chancellor (Academic), Deputy Vice-Chancellor (Research), Deputy Vice-Chancellor (Students), Pro Vice-Chancellor (International) and Senior Vice-President (Services and Resources) and/or successor senior executive positions. Executive Dean/Portfolio Head may also mean a delegate of the Executive Dean/Portfolio Head or relevant supervisor.

Exempt parties or activities means exemptions with regard to organisations, persons and positions, as specified in the Act and Regulations that limit applicability of the Act, including (but not restricted to):

- "...a person who undertakes work in the course of, or for the purposes of, an event or activity that takes place over a period of not more than 10 consecutive days or not more than one day in any month..." (clause 14 (1) (d) of the Regulations);
- "...a person who is a registered teacher (within the meaning of the Teachers Registration and Standards Act 2004)..." (ibid. cl. 14 (1) (f));
- "...a person who undertakes, or a position that only involves, work that is not for the exclusive benefit of children and is not provided to any child on an individual basis..." (ibid. cl. 14 (1) (g)); and
- "...a position in which all work involving children is undertaken in the presence of the children's parents or guardians and in which there is ordinarily no physical contact with the children (ibid. cl. 14 (1) (i)).

Harm to children means serious harm to the physical, psychological or emotional wellbeing and development of children as a result of abuse or neglect.

Mandated notifier means a staff member or volunteer who is engaged in the delivery of education services wholly or partly for children or who holds a management position with duties that include the direct supervision or responsibility for those services, as defined in section 11(2) of the Act.

Mandatory notification, also known as mandatory reporting, refers to the process of reporting suspected abuse/neglect of a child, supported by reasonable suspicions, as required of mandated notifiers.

Natural Justice means principles that support the application of procedural fairness. In the case of a person who is the subject of a decision that arises from an adverse relevant history assessment, the principles of natural justice include:

- the person being advised that factors of concern exist that may influence the decision-making process;
- the person being given the opportunity, within a reasonable timeframe, to provide information to respond to factors of concern;
- the information being given due consideration in the assessment and decision-making process;
- the person being informed about the decision proposed to be made about them, including the rationale for the decision;
- the decision-maker acting fairly and without bias;
- the person having access to a review of the decision, where applicable, by an internal or external review process or body.

Prescribed function means:

- regular contact with children or working in close proximity to children on a regular basis unless that contact or work is directly supervised at all times; or
- supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis; or
- access to records that are prescribed by regulation relating to children; or
- functions of a type prescribed by regulation (currently only the provision of overnight care and a prescribed passenger transport service are prescribed).

Prescribed position means a position, the duties of which include one or more prescribed functions.

Reasonable suspicion means a judgement that a child is being or has been abused or neglected, based on personal observations, information, and opinions formed while carrying out official work duties.

Records prescribed by Regulation means the following kinds of records, where such records relate to a child or children:

- records of an educational or child care service;
- records of a health service (within the meaning of the Health Care Act 2008);
- records of a disability service (within the meaning of the Disability Services Act 1993);
- records made or kept in connection with the administration of the Act, the Family and Community Services Act 1972, the Young Offenders Act 1993 or the Youth court Act 1993;
- records relating to legal proceedings.

Regular contact implies contact that has a constant or definite pattern, or which recurs at short uniform intervals or on several occasions during short periods of time such as a week.

Regulations means the Children's Protection Regulations 2010.

Relevant History means the information that is released as part of a national criminal history record check, following a request for Child-Related Employment Screening. Where an assessment of Relevant History is conducted by a screening unit, this also includes information relating to findings of guilt and charges, expanded information obtained through the *Exchange of Criminal History Information for People Working With Children Intergovernmental Agreement* and information held by Government agencies (such as child protection information, and outcomes of disciplinary matters and special investigations conducted by some government departments).

Risk assessment means a process of identifying and assessing potential risks of harm to children or an individual child.

Screening Unit means the Department for Communities and Social Inclusion (DCSI) Screening Unit in South Australia, which is authorised to undertake Child-Related Employment Screening. This term may refer to a screening unit in another jurisdiction, as appropriate.

Standards means the *Child Safe Environment Standards for dealing with information obtained about a person's criminal history as part of a relevant history assessment* that are issued by the Chief Executive, Department for Education and Child Development, pursuant to Section 8A, of the Children's Protection Act 1993 (SA).

Staff member means a person employed by the University. May also be referred to as "employee(s)" or "staff".

Student means a person who is enrolled in an award course of the University.

Title holders means persons who are not employees and who have been awarded titles by the University, including Full Academic Status, Adjunct Academic Status, Emeritus Professor, Honorary Fellow and Professorial Fellow.

Volunteer means persons who are not employees and provide time willingly to the University without financial gain.

Appendix C