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**Australian Government**  
**Department of Immigration  
and Border Protection**

# Child-related Employment

## POLICY STATEMENT

The Child-related Employment Policy outlines the required pre-employment screening to be conducted during recruitment exercises for child-related positions.

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## Introduction

To ensure suitable personnel are chosen to work with children, the Department of Immigration and Border Protection (the Department) mandates pre-employment screening of all Immigration and Border Protection (IBP) workers, and contractors or consultants in child-related positions.

## Scope

This policy statement provides policy guidance and detail for IBP workers:

- recruiting new applicants in child-related positions
- facilitating the transfer of existing APS employees to child-related positions
- engaging contracted service providers to provide services to children in immigration detention and immigration programmes.

For those service providers who are not engaged by the Department but deliver services to children in immigration detention and immigration programmes (for example, subcontractors) this policy statement must be complied with in accordance with relevant contractual obligations.

This policy statement applies to:

- all IBP workers as defined in subsection 4(1) of the *Australian Border Force Act 2015* (Cth) (ABF Act) including departmental employees, and contracted service providers and consultants determined by the Secretary to be IBP workers; and
- any other consultants and contractors (collectively known as contracted service providers) performing services for the Department

who detain a child and/or who manage a child detainee's case, or provide services to a child in immigration detention or provide services to or have contact with children as part of their role or supervise a child in an immigration programme in Australia.

## IBP workers and contracted service providers in child-related positions overseas

All IBP workers and contracted service providers working overseas in child-related roles must comply with the Child Protection Mandatory Behaviours outlined in the Child Protection Mandatory Behaviours Declaration (the Declaration) (Attachment One) and the Australian Public Service Code of Conduct. The Department expects IBP workers and contracted service providers to use common sense and must, at all times, avoid actions or behaviours that could be construed as child abuse in the course of their overseas employment or association with the Department.

IBP workers and contracted service providers in child-related positions overseas must meet any related pre-employment screening requirements relating to working with children which are articulated in that country's legislation.

## Glossary

Each state and territory has a set of unique definitions related to child protection matters. The glossary in Table 1 provides some broad definitions, consistent with the framework; however IBP workers and contracted service providers must refer to the relevant state or territory legislation to obtain the specific definition required for the state or territory in which they work.

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Table 1 – Glossary

Term	Definition
Child	Anyone under the age of 18, consistent with the CRC and the Commonwealth <i>Family Law Act 1975</i> (Cth). Noting some state/territory jurisdictions adopt different definitions of 'child' <sup>1</sup> .
Child abuse	<p>All forms of abuse including<sup>2</sup>:</p> <p><b>Physical abuse:</b> the use of physical force against a child that results in harm to the child. Physically abusive behaviour includes shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning.</p> <p><b>Emotional abuse:</b> refers to inappropriate verbal or symbolic acts toward a child or a pattern of behaviour over time that fails to provide a child with adequate nurture and emotional availability.</p> <p><b>Sexual abuse:</b> refers to 'the use of a child for sexual gratification by an adult or significantly older child/adolescent'<sup>3</sup>, or 'any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards'<sup>4</sup>.</p> <p><b>Neglect:</b> when children do not receive adequate food or shelter, medical treatment, supervision, care or nurturance to such an extent that their development is damaged or they are injured. Neglect may be acute, episodic or chronic.</p> <p><b>Exploitation:</b> child exploitation is the use of a child (usually by an adult or significantly older person), for their own personal benefit or interest. Behaviours indicative of child exploitation include the:</p> <ul style="list-style-type: none"> <li>• possession, control and distribution of child pornography material</li> <li>• coercion of a child to perform an inappropriate act</li> <li>• commission of abuse against a child</li> <li>• grooming of a child for future abuse</li> <li>• trafficking of a child for the purposes of slavery or prostitution.</li> </ul> <p><b>Exposure to family violence:</b> this term has been broadly defined as 'a child being present (hearing or seeing) while a parent or sibling is subjected to physical abuse, sexual abuse or psychological maltreatment, or is visually exposed to the damage caused to persons or property by a family member's violent behaviour'<sup>5</sup>.</p>
Child-related position	A role where usual duties of the position involve or are likely to involve direct contact with children and young people that is not incidental. These positions include IBP workers or contracted service providers who provide services, including health and social services, or those who supervise children and young people in an immigration programme or children and

<sup>1</sup> For example, in NSW, a 'child' is defined as a person under the age of 16, and a 'young person' means a person who is aged 16 years or above but who is under the age of 18 years (s3 *Children and Young Persons (Care and Protection) Act 1998*). In Victoria, a 'child' is defined as a person under the age of 17 (s3 *Children, Youth and Families Act 2005*). In the ACT, a 'child' means a person under the age of 12, and a 'young person' means a person who is 12 years old or older but not yet an adult (s2 *Children and Young people Act 2008*).

<sup>2</sup> Fact Sheet No. 12 *What is child abuse and neglect?* National Children's Clearinghouse, Australian Institute of Family Studies

<sup>3</sup> Tomison, A. M. (1995). Update on child sexual abuse (Issues Paper No. 5). Melbourne: National Child Protection Clearinghouse, page 2

<sup>4</sup> Broadbent, A., & Bentley, R. (1997). Child abuse and neglect Australia 1995-96 (Child Welfare Series No. 17). Canberra: Australian Institute of Health and Welfare, page 14

<sup>5</sup> Higgins, D. J. (1998). *Multi-type maltreatment: Relationships between familial characteristics, maltreatment and adjustment of children and adults* (Unpublished doctoral dissertation). Deakin University, Burwood, page 104.

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Term	Definition
	young people in immigration detention. In South Australia this includes IBP workers and contracted service providers who have ongoing access to children's sensitive or personal education, health, child care, disability, child protection or legal proceedings information.
Contracted service provider	Any contractor or consultant performing services for the Department who has not been determined to be IBP worker by the Secretary.
Delegated Guardian	An IGOC delegate is a person who is delegated certain guardianship powers and functions of the Minister under section 5 of the <i>Immigration (Guardianship of Children) (IGOC) Act 1946</i> (Cth). An IGOC delegate can be an officer of the Department or of a state or territory government authority, who has been delegated by the Minister in the IGOC Instrument of Delegation.
Department of Immigration and Border Protection programme (Immigration programme)	Any programme engaged in by the department involving a child either as a recipient of a service or as supervisee. Example: Unaccompanied Humanitarian Minors Programme.
Immigration and Border Protection worker (IBP worker)	An IBP worker is defined in subsection 4(1) of the <i>Australian Border Force Act 2015</i> (Cth) and the Secretary's Determination of Immigration and Border Protection Workers.
Immigration Guardianship of Children Minor (IGOC Minor)	Under policy, an IGOC minor is a minor for whom the Minister is the legally recognised guardian under the IGOC Act.
Minor	Under section 5 of the <i>Migration Act 1958</i> (Cth), a minor means a person who is less than 18 years old.
Working with Children Check (WWCC)	A state or territory mandated background screening for selected classes of people who work with children.
Working with Children Check Clearance (WWCC clearance)	Permission granted by a state or territory screening authority for a person of a selected class to work with children.

## Policy Statement

The Department aims to provide a safe environment for children in immigration detention and immigration programmes. One of the ways the Department can provide a safe environment for children is to ensure IBP workers and contracted service providers in child-related positions are appropriately screened prior to their appointment and their interactions with children are monitored during any probation period.

The Department has prescribed standards of behaviour in the Declaration for IBP workers and contracted service providers in child-related positions. These standards must be maintained during all interactions with children. Further information on the standards can be found in the [Child-related Employment Procedural Instruction](#).

## Effective pre-employment screening

Effective pre-employment screening practices and monitoring during probation assist the Department to attract suitable IBP workers and contracted service providers to work with children. Pre-employment

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screening practices establish a transparent, consistent recruiting process that emphasizes the Department's commitment to child safeguarding and wellbeing.

Child-related pre-employment screening practices described in this policy statement are in addition to the existing Employment Suitability Clearance conducted on IBP workers and contracted service providers, and the criminal background checks conducted on all Commonwealth employees.

## Department requirements

### New IBP workers, existing IBP workers or contracted service providers moving into a child-related position

All new recruits, existing IBP workers, external APS transferees or contracted service providers moving into child-related positions must complete child-related pre-employment screening prior to commencing employment. Employment or engagement for child-related positions is dependent on the successful person being able to:

- obtain and hold a Working With Children Check (WWCC); or
- if the state or territory will not process an IBP worker's WWCC application, produce a National Police Check (NPC) that indicates there is no reason not to employ the applicant in a child-related position; and
- read and sign the Child Protection Mandatory Behaviours Declaration (the Declaration) (Attachment One).

Existing IBP workers and contracted service providers who are already in a child-related positions on commencement of this policy and do not hold a WWCC must provide a statutory undertaking to demonstrate they have applied for a WWCC or a NPC and they are awaiting the outcome of a WWCC or NPC.

### New IBP workers, existing IBP workers or contracted service providers who hold a WWCC clearance or a NPC

Existing or new IBP workers and contracted service providers who hold a WWCC clearance or a NPC must provide details of the WWCC clearance or the NPC to supervisors for validation with the relevant state or territory WWCC authority.

### New IBP workers, existing IBP workers or contracted service providers maintaining a WWCC clearance or a NPC

Existing or new IBP workers and contracted service providers who are in child-related positions and hold a WWCC clearance or a NPC must ensure they keep their relevant clearance up to date. A WWCC holder must ensure their WWCC renewal is actioned prior to the expiration date of their current WWCC clearance, while a NPC holder must reapply for a new NPC in line with the WWCC clearance requirements of the relevant state or territory in which they work. Further information on renewing a WWCC or reapplying for a NPC can be found in the [Child-related Employment Procedural Instruction](#).

## Child Protection Mandatory Behaviours Declaration

The Declaration outlines the standards of behaviour that must be adhered to by IBP workers and contracted service providers who work with children and must be signed prior to commencing in a child-related position.

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The Declaration should be read in conjunction with the Department's Child Safeguarding Framework, the APS Values and Code of Conduct and, where applicable, contractual requirements and obligations.

## Contracts with service providers to deliver services to children

All departmental contracts for the provision of services to children must include the requirement for service providers and their sub-contractors to:

- hold a current WWCC or if the state or territory the IBP worker works will not process their WWCC application, produce a NPC that indicates there is no reason not to employ the applicant in a child-related position prior to commencing work with children on behalf of the Department;
- complete the departmental Child Safeguarding eLearning training; and
- read and sign the Child Protection Mandatory Behaviours Declaration.

## State or territory based requirements

In Australia, statutory child protection is the responsibility of state and territory governments. The states and territories have their own child protection legislation and related pre-employment screening requirements, which differ from jurisdiction to jurisdiction. At present, there is no national child protection framework in place.

IBP workers and contracted service providers who engage with children on behalf of the Department must meet the requirements of the relevant state or territory child protection legislation. Where a state or territory refuses to process an application for a WWCC, IBP workers must obtain a NPC.

## Transferring to a child-related position in a different state

IBP workers and contracted service providers who transfer permanently to a child-related position in a different state or territory must complete a new WWCC or NPC for that state or territory.

## Establishing an applicant's suitability to work with children prior to appointment


The Department requires new applicants and existing IBP workers transferring into child-related positions to complete a WWCC and obtain a WWCC clearance from the relevant state or territory authority prior to receiving an offer of employment. Where a state or territory refuses to process an application for a WWCC, IBP workers must obtain a NPC. Evidence of the relevant state or territory WWCC clearance or the NPC must be supplied to Employment Suitability prior to appointment to the role.

Supervisors and managers must identify child-related positions prior to the recruitment process and the requirement for the successful applicants to hold a valid WWCC clearance must be included in recruitment documentation.

## Recording WWCC clearances or NPCs on EasySAP

WWCC clearances and NPCs for IBP workers in child-related positions must be valid and (when system changes are completed) entered into personnel records on EasySAP by managers and supervisors.

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Prior to the EasySAP system changes managers and supervisors must use the WWCC/NPC template located on the Child Safeguarding Bordernet page or the Child Safeguarding Govdex page and populate it with the details of their staffs' WWCCs or NPCs. When the required changes to EasySAP are completed an all staff message will advise managers and supervisors to update their staffs' EasySAP records with the details of their WWCC or NPC.

Contract managers must ensure contracted service providers hold a valid WWCC or NPC prior to commencing work with children on behalf of the Department.

## Disqualification or cancellation of a WWCC

IBP workers and contracted service providers who are disqualified from working with children and/or who have their WWCC cancelled by the relevant state or territory in accordance with their legislation cannot occupy child-related positions within the Department.

If a WWCC is cancelled, it is the responsibility of the IBP worker or contracted service provider to notify their supervisor or manager at the earliest opportunity. It is the responsibility of the supervisor or manager to ensure, once notified, that the individual does not perform any child-related work.

Where necessary, the Department may transfer Departmental employees whose WWCC is cancelled into a role that does not involve working with children. If a transfer is not possible, the employee's employment may be terminated on the basis that the employee has lost an essential qualification for the performance of duties.

Where the WWCC of a contractor or consultant is terminated, the Department may take steps to terminate their services and request a replacement worker from the contracted service provider.

Any IBP worker or contracted service provider who holds a NPC rather than a WWCC and is convicted of an offence, which if they had held a WWCC would have seen their WWCC disqualified or cancelled, cannot occupy a child-related position with the Department.

All departmental policies, procedures and responses applicable to an IBP worker or contracted service provider who is under investigation for a child-related incident or has their WWCC cancelled or disqualified will also apply to an IBP worker or contracted service provider holding a NPC.

## Procedural Fairness

The Department uses fair and proper procedures when responding to concerns or allegations of child abuse and making decisions that affect an IBP worker's rights or interests.

The Department reserves the right to terminate a contract with a contracted service provider, or require an individual to be replaced, if there is an unacceptable risk to a child's safety or wellbeing.

For more information on procedural fairness and child-related employment please see the Child-related Employment Procedural Instruction.



## Accountability and responsibilities

**Table 2 – Policy governance roles and responsibilities**

Position	Accountability and/or responsibility
First Assistant Secretary, Children Community and Settlement Services Division	Owns the policy for child-related matters Approves this policy statement and associated documents Ensures this policy and associated documents are aligned with strategic objectives Ensures compliance with the Policy and Procedural Control Framework Delegates the development of the child-related documents to the Assistant Secretary, Child Wellbeing Branch Promotes awareness of and compliance with the Child-related Employment Policy and associated documents
Workforce Management Branch	Implements the requirements of the Child-related Employment Policy Provides support to IBP workers conducting recruitment exercises and engaging contracted service providers. Provides support to IBP workers and contracted service providers
Branch Head	Promotes awareness of and compliance with the Child-related Employment Policy and associated documents Ensures Business area documents align with the Child-related Employment Policy and associated documents
Section Head	Undertakes and participates in appropriate consultation for the Child-related Employment Policy and associated documents
IBP worker engaging contracted service providers	Ensures contracted service providers are aware of, and comply with, the requirements of the Child-related Employment Policy Includes the requirements of the Child-related Employment Policy into departmental contracts with contracted service providers

## What happens if this Policy Statement is not followed?

Policy Statements issued under the Policy and Procedure Control Framework are lawful and reasonable directions under section 13(5) of the *Public Service Act 1999* (Cth). For departmental employees and Australian Public Service employees seconded to the Department, failure to comply with this Policy Statement may be referred as a breach of the Code of Conduct and may result in disciplinary action being taken.

For other secondees, contractors and consultants, failure to comply may constitute a breach of the working agreement, contract and/or a relevant direction under the *Australian Border Force Act 2015* (Cth).

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## Related Framework documents

- Child Safeguarding Framework

## References and legislation

- *Australian Border Force Act 2015* (Cth)
- *Customs Act 1901* (Cth)
- *Family Law Act 1975* (Cth)
- *Immigration (Guardianship of Children) Act 1946* (Cth)
- *Migration Act 1958* (Cth)
- *Privacy Act 1988* (Cth)
- *Public Service Act 1999* (Cth)
- *Children's Protection Act 1993* (SA)
- *Children, Young Persons and their Families Act 1997* (Tas)
- *Child Protection Act 1999* (Qld)
- *Children, Youth and Families Act 2005* (Vic)
- *Children and Young Persons (Care and Protection Act) 1998* (NSW)
- *Children and Community Services Act 2004* (WA)
- *Care and Protection of Children Act 2007* (NT)
- *Children and Young People Act 2008* (ACT)

## Consultation

### Internal consultation

- Recruitment, Workforce Management Branch
- Overseas Workforce Management, Workforce Management Branch
- People Strategy Branch
- Detention and Compliance Operations Branch
- Employee Relations, Workforce Management Branch
- Integrity and Professional Standards Branch
- HR Systems Business Support, Shared Services Branch

## Document details

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## Document change control

Version number	Date of issue	Author(s)	Brief description of change
1.0	01/09/2016	Sharlene Hall	New policy
xxxx	xxxx	xxxx	xxxx

## Endorsement

Refer to the Endorsement and Approval requirements for Framework Documents in the Policy and Procedure Control Framework (Table 2) when determining who needs to approve this SOP.

Endorsed by:	Name and Position
Endorsed on (date):	xxxx

## Approval

Approved by:	xxxx
Approved on (date):	xxxx

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## Attachment One

## Child Protection Mandatory Behaviours Declaration

I, \_\_\_\_\_, acknowledge that I have read and understood the Child Protection Mandatory Behaviours and agree that in the course of my employment/contractual obligations, I will:


- treat children<sup>1</sup> with respect regardless of race, colour, gender, language, religion, political or other opinion, national ethnic or social origin, property, disability, age or other status;
- not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative or demeaning;
- not use physical or humiliating punishment on children;
- not engage in behaviour to shame, humiliate, belittle or degrade a child or otherwise emotionally or psychologically abuse a child;
- not act in a sexually provocative manner or engage children in any form of sexual intercourse<sup>2</sup> or sexual activity<sup>3</sup>, including paying for sexual services or acts;
- not touch a child in an abusive or unnecessary way;
- not condone or participate in behaviour with a child that is illegal or abusive;
- ensure that, whenever possible, another adult is present when I am working with children, unless it is in the context of providing a specific service (e.g. health consultation);
- not invite unaccompanied children into my home or place of residence;
- not take a child outside of a detention centre or Regional Processing Centre without permission from a guardian and relevant departmental designated authority;
- not offer any gifts, inducements or money to a child without the permission of the relevant service provider and designated departmental officer, as well as the permission of the parent or guardian;
- use any computers, mobile phones, video and digital cameras or social media to exploit or harass children, or access child exploitation material through any form of information and communication technology;
- abide by the Department's Photography and Filming Children Support Material;
- obtain the informed consent of the child and his /her parent or guardian in connection with imagery of a child before taking any photograph or film, and create only imagery that depicts children in a decent manner;
- immediately report concerns, disclosures, allegations of child abuse or exploitation in accordance with the requirements of the relevant state or territory legislation and the Department's Reporting Child-related Incidents Policy;
- immediately report any policy non-compliance in accordance with the Department's Child Protection Mandatory Behaviours and Australian Public Service (APS) Code of Conduct Policy; and
- immediately disclose all charges, convictions and outcomes of an offence, which occurred prior to or during my employment/contractual obligations with the Department that effect my ability to maintain a Working with Children Check or National Police Check to work with children.

<sup>1</sup> A child is a person under the age of 18 or treated as such by the Department (where the person's age is unknown).

<sup>2</sup> As defined under the *Criminal Code Act 1995*.

<sup>3</sup> As defined under the *Criminal Code Act 1995*.

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### Acknowledgment and undertaking

By signing this document:

- I acknowledge that I have read and understood the Child Protection Mandatory Behaviours;
- I understand that I must comply with the Child Protection Mandatory Behaviours above;
- I understand that a breach of the Child Protection Mandatory Behaviours is a violation of my obligations and may lead to disciplinary action, including termination of employment or services; and
- I understand that conduct which breaches the Child Protection Mandatory Behaviours may also result in criminal investigation and prosecution.

I understand that the responsibility is on me, as an employee, to avoid actions or behaviours that exploit or abuse children.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

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