

From: THE SCHOOL
To: Audrey Jackson; Audrey Jackson; REDAC WM; REDACTED WM
Subject: WM THE Statutory Declarations
Date: Thursday, 18 November 2010 9:39:00 AM
Attachments: THE PROTOCOLS FOR STAFF 16NOV10.docx
 Allegation of Misconduct Policy 2010.docx

Good morning,

Please see below the response to Audrey from the School lawyer, Mr Ian Curlewis, regarding the proposal of seeking a statutory declaration from previous employers. You will also find attached draft Staff protocols from Audrey and the amended Allegations of Misconduct policy from Kate.

I will forward the agenda for Sunday's meeting, along with notes from the last meeting tomorrow.

Kind regards,

THE SCHOOL Office Manager - Administration |
 THE SCHOOL
 [Redacted Signature]

From: audrey jackson [mailto:jacaudrey@gmail.com]
Sent: Wednesday, 17 November 2010 9:44 AM
To: THE SCHOOL
Subject: Fwd: Guildford G S - Statutory Declarations

----- Forwarded message -----

From: Ian Curlewis <Ian.Curlewis@lavanlegal.com.au>
Date: 15 November 2010 17:41
Subject: YJ - Statutory Declarations
To: audrey jackson <jacaudrey@gmail.com>

Dear Audrey,

My advice is sought as to the implications of THE SCH seeking from the prior employer of a prospective employee, a declaration to the effect that the employer knows of no reason 'why the person should not be employed to work with children' at TH I make the following comments about the proposition.

Whilst it might give THE as prospective employers some re-assurance to have a stat. dec. stating essentially that the employee is fit and proper, I consider that there are some practical difficulties which do not support the process. Here are just a few reasons for my saying this.

Firstly, I think very few employers, if properly advised, would provide a stat dec as it could subject them to some sort of scrutiny or Court action thereafter if what they represent in the stat dec proves not to be correct. By providing the stat dec, the employer is effectively warranting the integrity of the employee. I think very few employers would want to get involved in that process especially if the employee is leaving the employment without the employer's best wishes so to speak.

Secondly , the quality / correctness of the stat dec will only be as good as the quality of the deponent to the stat dec. Hence , whilst in good faith a deputy head of a school could make the stat dec deposing to what he or she genuinely knows , that knowledge may not be the same as the principal or head of school who may have other information about the employee but is not the deponent .

Another concern a school might have about providing a stat dec , is to what use **THE** would put the stat dec once in their possession. No prior school would want to to get dragged into litigation between **THE** and a third party because the prior school provided a stat dec at some time in the past .

In short , I would expect very little co-operation , if any at all , from any prior employer to provide a stat dec . Many employers don't give testimonials or references these days and provision of a stat dec would in my view be regularly declined . I would certainly advise any school from which a sta dec is sought , to politely decline the request.

I appreciate that you are looking for ways for **THE SCH** as prospective employer to satisfy itself better than it may have in the past , as to the integrity of its personnel working with children . As beneficial as other checks may be , the more they are , is a double edged sword in that if another check is required but not obtained and the employee is nevertheless employed , **THE** could then be criticised for not complying with its own policy or guidelines. Obviously , the fundamental and primary checks are comprehensive police clearances and a working with children card. For those employees coming from other States or from overseas , secondary police clearances should perhaps be a requirement .

Hopefully , this email has not been too negative ! Let me know however if you require any further comment about the issue .

Regards

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