

Notification from the Ombudsman under Ch16A

Obj Doc Ref: _____

Issue: The Ombudsman has notified concerns in relation to a person they believe to be in child-related work without a valid Working with Children Check (WWCC) clearance.

Background: The Ombudsman has written to notify concerns in relation to Mr ARH [REDACTED], born [REDACTED], under Ch16A of the *Children and Young Person's (Care and Protection) Act 1998*. Mr ARH [REDACTED] was formerly a teacher at School 1 [REDACTED] and School 2 [REDACTED] schools. An investigation was conducted by School 1 [REDACTED] into sexual misconduct by Mr ARH [REDACTED] involving students of School 1 [REDACTED] and the School 2 [REDACTED] schools. School 1 [REDACTED] believed that they had notified the matter to the CCYP as a category 1 Relevant Employment Proceeding in 2010. No criminal charges were raised in relation to these matters.

This year concerns were raised that Mr ARH [REDACTED] was privately tutoring students of the School 2 [REDACTED]. In light of the previous concerns about Mr ARH [REDACTED]'s conduct, the Ombudsman contacted the CCYP to confirm under Ch16A whether Mr ARH [REDACTED] had a current WWCC clearance, or a Certificate for Self Employed People in child-related employment (CSEP).

The advice provided by this office in May was that Mr ARH [REDACTED] was previously issued a WWCC clearance for his work at the School 2 [REDACTED] in 2001. This clearance was valid for the term of his work at the School 2 [REDACTED]. However, the CCYP held no record of any other information in relation to Mr ARH [REDACTED], including any subsequent WWCC request, a CSEP or the REP notification from School 1 [REDACTED] which the Ombudsman believed we held. While School 1 [REDACTED] believed the notification had been sent, it was not received by CCYP at the time. The notification was subsequently re-sent and has now been migrated to the new WWCC system.

Current Situation/Analysis: It appears that Mr ARH [REDACTED] has continued to work with children as a private tutor and without a valid WWCC since his termination from School 1 [REDACTED]. Schedule 1, clause 5 (1) of the *Child Protection (Working with Children) Regulation 2013* allows for the Children's Guardian to direct an existing worker to apply for a WWCC clearance prior to the date otherwise specified in the Regulation for their area of work.

In light of the concerns raised in relation to Mr ARH [REDACTED] it is recommended that he be issued with a notice in this regard so that an assessment of risk to children can be undertaken. However, while the 2010 REP notification provides an address, but we have no way to verify that this is still his current home address.

Section 31 of the *Child Protection (Working with Children) Act 2012* allows for the issuing of a notice requiring a government agency to produce information that is pertinent to a Risk Assessment. However, there are no specific powers to compel information for this purpose. Therefore it is suggested that an application be made to the NSW Electoral Roll to access Mr ARH [REDACTED]'s current home address.

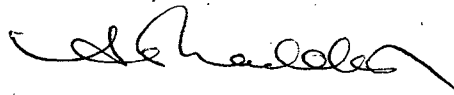
File number: _____

Date attached to file: _____

Signature: _____

Alternatively, in the first instance a notice could be issued to his last known home address via registered post, with ID to be sighted on delivery.

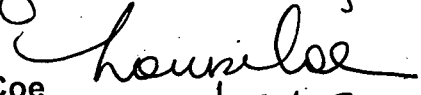
Recommendation: The Children's Guardian and A/Commissioner for Children and Young People issues a notice under Schedule 1, clause 5 (1) of the *Child Protection (Working with Children) Regulation 2013*, requiring Mr to apply for a Working with Children Check clearance.

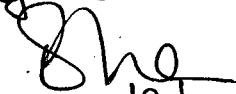


Sarah Maddox
A/ Manager, Assessment and Review
Working With Children Operations
11/7/2013

for legal review please

Louise Coe
Director
Working With Children Operations


23/7/13.

I agree

1/8/2013

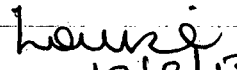
Kerryn Boland
Children's Guardian and
A/Commissioner for Children and Young People
Date 8/8/2013



David R
for compliance
action please as per
Kerryn's instruction
file path for notice is:

Could we please do
both

- 1) Application to Electoral Roll
- +
- 2) Issue notice to last address.


12/8/13.

also will need to change compliance date of 26 August in the letter, please make changes to letter & issue with my signature or if I am not available David Rees can sign on my behalf