

PO-7

10

Warwick Bateman OAM  
BRANCH COMMISSIONER (SPECIAL PROJECTS)

TO: Regional Commissioners  
COPY: Branch Commissioners

RE: Scout Prohibited Employment Declarations. (PED)

I have prepared the attached information in an endeavour to assist you to deal with PED questions. A booklet on child protection issues will be produced in the near future, in addition our own web-site is due on stream later this year with this and other relevant information.

Yes, it has been a time in coming but we have been involved in a great deal of lobbying and interaction with the various Government Departments and Ministers of the Crown. One of our main concerns was early advice that we would not be able to continue to use the police check aspect of our existing screening procedures. This was of concern, not only has our screening been very successful over the years, but we believe it to be more suited to our needs than the one that legislation has put in place. As a result of several approaches our own screening process has now been secured, and in a more formal way than before however it must be run in addition to the Kids Check requirements.

The attached flow chart is not meant for general distribution, at least at this stage. There are concerns that it will provide a vehicle for the bush lawyers who would like to circumvent the system. It is more a guide for those at Branch and Region HQ.

I have adapted a sample set of guidelines for contracts and a sample 'Code of Conduct' for you to adapt to suit your own situations. They are adapted from the even stricter ones used for contractors and workers at child care centres, schools and at all Dept of Sport & Recreation facilities.

Companies, contractors and tradespeople, working in schools and other facilities dealing with youth, and who receive payment for such work, should have already been screened through their own authorised screening agency. Regardless it would still be a wise precaution to have those working on site sign a PED as well as a 'Code of Conduct'. Self employed tradesmen don't have to go through employment screening, but again it would be wise to have them sign a PED and a 'Code of Conduct'.

Tradespeople and other workers can use wash and toilet facilities that are not currently available for use by youth members who are at the centre. If youth members use the wash and toilet facilities a staff member must accompany the tradesperson or worker when working or using them, unless the worker has been through the full screening. (If the person holds a current 'Leader Appointment' with our Branch then the escort is not essential).

The frequency of the PED reporting from Groups to Regions and who has the responsibility for ensuring the security of the actual forms themselves, is a matter for the Regional Commissioner to vary as suits the Region.

I am happy to answer questions that arise, for the seeming unsolvable I have direct access to our authorised screening agencies senior manager. However I would prefer that those at Group level didn't start telephoning me. I believe we can all profit if, wherever possible, the queries go via Region HQ where the office staff, or one of the Regional Team, can then telephone me. In this way you will know what's happening in your Region in regard to this issue, it will ensure we all speak with the same voice and you and your staff gather greater knowledge and experience.

I appreciate the effort of the RCs and GLs I have plagued to death over the last months. Using them as a sounding board, imaging the types of problems we might encounter and getting them to read the various drafts. The end product is both too short and too long but we have reached the conclusion that it is just enough to get over most hurdles without too much heartburn.

Warwick

4.6 - distributed to RCs / Bcs

Copies of the legislation and other details are on the Kids website. ([www.kids.nsw.gov.au/check](http://www.kids.nsw.gov.au/check))

REDACTED



## SCOUTS AUSTRALIA (NSW)

### PROHIBITED EMPLOYMENT DECLARATIONS (PED) INFORMATION

Our Association, like all organisations, associations and employers whose adult staff, volunteers and members are primarily in direct contact with youth have a legal responsibility under three Acts of the NSW Parliament. Part of that responsibility is that all unpaid employees and volunteers who are primarily in direct contact with youth and where the 'contact is not directly supervised' must have signed a Prohibited Employment Declaration (PED). Paid employees are subject to more stringent screening requirements. The supervisor of any contact must be a member/ owner/employee of the association, organisation or firm involved.

*( Direct supervision is defined by the authorities as " when a person is present at all times during, and observing and is capable of directing, if required, the contact by the person under supervision with any child." Child Protection (Prohibited Employment) Act 1988 & The Commission for Children and Young People Act 1998 coming into a transition phase July 2000 and fully January 2001)*

Any person who has not signed a PED must be supervised at all time and not exposed to any opportunity to have unsupervised contact with our youth members.

These Acts are meant to increase the protection offered to our youth. The Association fully endorses their intent, demonstrated by the fact that we have had our own successful screening process, which also included police checks, for many years.

Those who come under the Legislation are all those 18 years and over who are volunteers, unpaid and paid employees of youth clubs and organisations, hospitals, health care professionals in fact any organisation or firm primarily dealing with children. The Association together with our Leaders and supporters are indeed primarily in direct contact with youth.

Despite the proven success of our own screening, the fact that we believe ours exceeded the requirements set in place by legislation, and full representation to the authorities, we have been unable to gain any concession and hence we will adhere fully to the legal requirements of these Acts.

Penalties for allowing a person who has exercised their right not to sign a Prohibited Employment Declarations (PED), to continue to have ' direct unsupervised contact with youth' is severe. If the Association is taken to court, by the authorities for such non-compliance, the Magistrate can impose fines of up to \$2200 for each individual offence. If a person chooses not to sign a Prohibited Employment Declarations (PED) and continues to be involved in any organisation involving ' direct unsupervised contact with youth' , they too leave themselves vulnerable to Court action, in which case the Magistrate can impose a maximum fine of \$1100.

**NB.** It should be noted that if a person declines to sign, this doesn't mean they may have committed an offence. Like those who refuse to wear a seat belt, because they believe it infringes their right of choice, there are some who might choose not to sign. Again if that is their choice we are left with no option but refuse them ' direct unsupervised contact with youth' . In the case of a Leader there are serious legal barriers to the Association allowing them to continue to hold an appointment.

#### Attached find:

- A 'PED information outline' (For Group Leaders ,Activity Centres and Regional Commissioners. )
- The responsibilities tree for different levels within the Branch. (For Group Leaders ,Activity Centres and Regional Commissioners. )
- A series of answers to help understand the requirements . (For Group Leaders ,Activity Centres and Regional Commissioners. )
- A flow chart to assist in deciding when a Scout PED is need. (For Regional Commissioners)
- A draft of a suggested 'Code of Conduct' and Contract requirements for tradespeople, contractors etc. (For Regional Commissioners and Activity Centres only).



## SCOUTS AUSTRALIA (NSW)

### RESPONSIBILITIES FOR OVERSEEING SCOUT PROHIBITED EMPLOYMENT DECLARATIONS (PED)

**BRANCH HEADQUARTERS** will have the responsibility of ensuring the Scout PED status of those persons listed below, whose role involves them being in direct contact with young people:

- All those leaders holding appointments within the Movement.
- All paid staff, together with their screening, and custody of the Scout PED and referees checks.
- All activity bases personnel attached to Branch.

**REGIONS** will have the responsibility of ensuring the Scout PED status of those person listed below, whose role involves them being in direct contact with young people:

- All lay people connected to Region
- That all paid staff are appropriately screened. (via Branch HQ)
- That all Groups and Activity bases, Camps etc are ensuring the Scout PED status of its layside.

**ACTIVITY CENTRES, CAMPS, GANG SHOW** etc. The 'person in charge' have the responsibility of ensuring the Scout PED status of those person listed below, whose role involves them being in direct contact with young people:

- All lay people connected with their facility/operations.
- That contractors, have in their own right, conform to the requirements for firms or sign the 'Code of Conduct' (see attachment.)
- That paid staff are screened (via Branch HQ).

A list of those who have signed the Scout PED should be retained and PEDs forwarded to the either Region HQ or Branch HQ, depending who they are directly responsible to. At a time interval set by their Region/Branch HQ, but not exceeding three months.

**GROUPS** The Group Leader, Manager or Scouter in Charge have the responsibility of ensuring the Scout PED status of those person listed below, whose role involves them being in direct contact with young people:

- All lay people including parents, supporters, and instructors associated with their Group.

A list of those who have signed the Scout PED should be retained and PEDs forwarded to Region HQ at a time interval set by their Region, but not exceeding three months.

It is the policy of the Association that :

1. Any layperson, volunteer or Rover, who are age 18 or older, staying overnight at a 'scout' activity/function **must** have completed a Scout PED.
2. That wherever practical all persons involved with a 'scout' activity/function should have completed a Scout PED. It is mandatory to have one if they are acting as a result of an actual or implied request from a member of the Association.
3. PED forms must remain on file, and they remain valid, until the person ceases to have contact with the Association, or withdraws it.
4. The PED signed, as an unpaid employee or volunteer, for other organisations is not valid for use within the Association. There is no way of confirming that such a PED has been signed or is still held by that body. We are required to hold one during the persons involvement with the Association.



## SCOUTS AUSTRALIA (NSW)

### SCOUT PROHIBITED EMPLOYMENT DECLARATION SOME ANSWERS

Will people object to signing these forms?

No. Already school canteens, soccer, cricket, swimming clubs report virtually no objection. Most parents see it for what it is, something to ensure greater protection for their children and most already signed several through school or sporting bodies.

Have I got to keep running around with forms?

Most Group Leaders, who have been invited to comment, see no problem. They intend to ask all their parents (both mum & dad) to sign Scout PEDs at the next few functions, and then ask the new ones to sign when the child enrolls. They believe it will be easier to remember who has declined to sign.

What about the kids being driven to cubs etc?

Travel to the hall is not a 'scout activity' its something that two or three parents have organised between themselves for their own convenience. Travel to camps is the same, something that two or three parents have organised between themselves for their own convenience again not really our responsibility. However if the Leaders are organising it a Scout PED is required

What about the sound and lighting chaps at our Gang Show, do they have to sign?

If it is their occupation and is contracted or if they are employees of the company contracted to provide the service, they have to have been fully screened by their companies approved Screening Agency. The firm should check with their own legal advisor as the fines for contractors and firms are quite high. Picture theatres, theme and adventure parks, in fact all children entertainment centres are required to have their employees screened through their own 'Screening Authority'.

**However.**

The payment of 'out of pocket expenses' is not deemed as a wage. Our Screening Authority have given an example: The position of umpires at local children's sports matches. They get a payment (about \$40) and only have to sign a Scout PED. The Tax Dept has ruled that it is a hobby payment and/or expenses re-imburement, and therefore they are considered as unpaid employment/volunteer so a Scout PED is all that is necessary.

Do all youth organisation have parents and supporters sign PEDs.

Yes legally they **MUST** and like us they must remove those who haven't signed from any unsupervised youth contact.

(Direct supervision is defined by the authorities as "when a person is present at all times during, and observing and is capable of directing, if required, the contact by the person under supervision with any child." *Child Protection (Prohibited Employment) Act 1988 & The Commission for Children and Young People Act 1998 to be fully implemented from January 2001*)

**NO SIGNED SCOUT 'PED'**

**MEANS**

**NO UNSUPERVISED CONTACT**

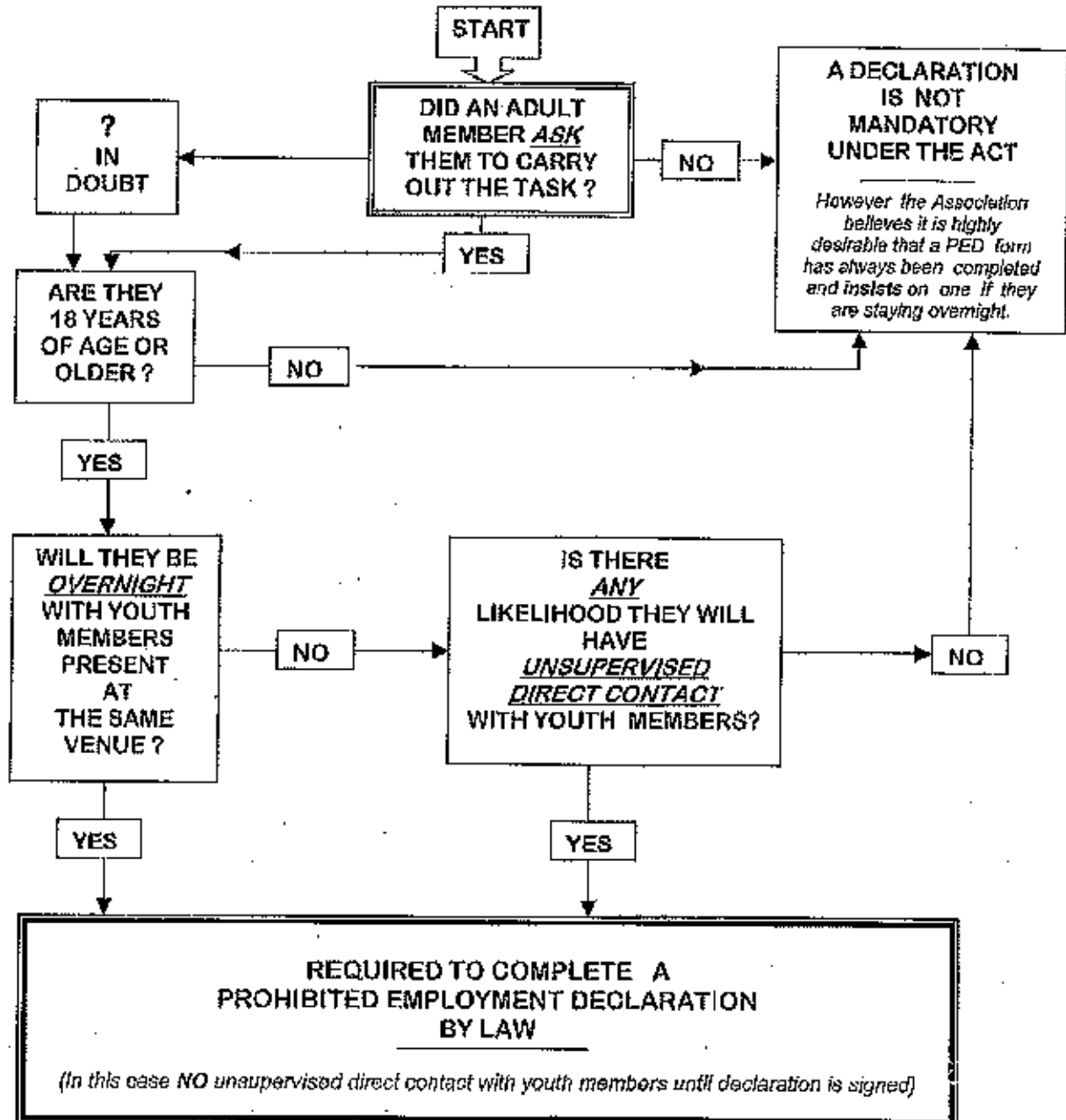
**WITH OUR YOUTH MEMBERS**

Non-compliance can be costly and leaves the Association liable to an appearance before a Magistrate and fines as high as \$2200 per offence (per person).

People who decline to sign and remain in 'direct unsupervised contact' with our youth members could be liable to a court appearance and a fine as high as \$1100.



**DO YOU NEED TO HAVE A  
PROHIBITED EMPLOYMENT DECLARATION (PED)  
SIGNED BY A LAYSIDE PERSON IN CONNECTION WITH A SCOUT ACTIVITY?**



- Being asked, by a Leader or some other Association member, to do something that might involve direct unsupervised contact with youth members puts them within the Acts jurisdiction.
- If in doubt ask to have the PED form signed.
- Most people are becoming accustomed to completing these declarations.
- Applies to everyone 18 years and over, even Rovers and instructors.
- No one can be compelled to complete a declaration, only requested.
- Each organisation/association must have its own declarations signed
- A declaration signed for the soccer club is of no value to us.
- Can be signed at any time, even on the spot, and continues to remain valid for all future activities.

05/01

**The Scout PED must be retained whilst ever the person is involved in Scouting,  
or until found guilty of a 'serious sex offence'.**



## SCOUTS AUSTRALIA (NSW)

**PROHIBITED EMPLOYMENT DECLARATION**

A requirement of the NSW Government under the  
Child Protection (Prohibited Employment) Act 1998

With the exception of cases 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 whether paid or unpaid (this includes volunteers, who for the purposes of the Act are classed as unpaid employees).

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 1 of the Child Protection (Prohibited Employment) Act 1998 specifies that child-related employment is employment (including volunteers):

- in clubs, associations or movements (including those of a cultural, recreational or sporting nature) having a significant child membership
- at overnight camps for children
- 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 any religious organisation
- in wards of public or private hospitals in which children are patients
- 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 childcare
- 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

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.

I am aware that I am ineligible to apply for, undertake or remain in, child-related employment, either paid and unpaid, if I have been convicted of a "serious sex offence" as defined in the Child Protection (Prohibited Employment) Act 1998. I have read and understood the above information in relation to the Child Protection (Prohibited Employment) Act 1998 and understand my responsibilities and obligations under this Act.

I declare that I am not a person prohibited by the Act from seeking, undertaking, or remaining in child related employment.

Full name: \_\_\_\_\_  
(block letters)

Membership number: \_\_\_\_\_  
(current Scouting Members)

Signature: \_\_\_\_\_

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

Seek legal advice if you are unsure of your status as a prohibited person



## SCOUTS AUSTRALIA (NSW)

### Sample Code of Conduct for Contractors and Tradespeople etc Working Near Children

The Scout Association (NSW Branch) is firmly committed to the protection of children and young people. In accordance with NSW Government legislation and principles for child protection and intervention, the Association aims to promote a safe environment for all children and to assist all persons associated with the Association in recognising and reporting child abuse.

The Child Protection (Prohibited Employment) Act 1998 prohibits convicted sex offenders from working with children and requires a comprehensive screening process to be undertaken on all recommended applicants for child related employment. The Commission for Children and Young People Act 1998 enables the Association to make these checks.

Accordingly, we recommend tenderers and their staff undergo the Working with Children check and must prove compliance with the requirements of the legislation OR if not have all employees sign a Prohibited Employment Declaration (PED), sign and adhere to this code of conduct.

This code applies to all tradespeople, contractors (and their subcontractors) suppliers and consultants.

All persons must read and certify that they have read and understood this Code before commencing work, and report to the person in charge before commencing work each day.

Generally following arrangements will apply, unless the senior person at the centre/facility gives written authority to use alternative arrangements

All persons must follow the following rules:

- No talking with, touching or interacting with any children or resident except in a serious emergency or safety situation.
- The work area must not be able to be used/accessed by children. Clear signs and barricades (wherever possible) must be use to prevent any inadvertent and/or unauthorised access
- No use of toilets or amenities -- toilets, canteens or other facilities of the facility/centre without prior approval of the senior person at the centre/facility
- Where maintenance and/or cleaning of toilets and similar facilities are necessary, two persons must always be present. Wherever possible of least one male should be present when the male toilets are being maintained/repainted/cleaned and at least one female should be present when similar work is being done in the female toilets.
- Any concerns about children's behaviour must be immediately reported to a senior member of staff.
- An identity card must be kept at all times when on or near the site.
- Tidy clothing or overalls must be worn at all times, including a shirt, shorts or trousers and must be in good condition,

---

signed

---

date



## SCOUTS AUSTRALIA (NSW)

### Sample Child Protection Clause for Tenders, Contracts and Agreements

The Scout Association (NSW Branch) is firmly committed to the protection of children and young people. In accordance with NSW Government legislation and principles for child protection and intervention, the Association aims to promote a safe environment for all children and to assist all persons associated with the Association in recognising and reporting child abuse.

The Child Protection (Prohibited Employment) Act 1998 prohibits convicted sex offenders from working with children and requires a comprehensive screening process to be undertaken on all recommended applicants for child related employment. The Commission for Children and Young People Act 1998 enables the Association to make these checks.

Accordingly, recommended tenderers and their staff will be required to undergo the Working with Children check and must prove compliance with the requirements of the legislation:

- ❖ Registering their organisation through the relevant Approved Screening Agency to obtain a CCYP Employer ID number for the purposes of conducting the Working with Children check
- ❖ Ensuring all staff responsible under the conditions of this tender for delivering a service to the Association meet their responsibilities under the new legislation.

For new paid child related employees this involves the Working with Children Check and includes:

1. Signed Working with Children Check Consent forms for employees
2. Signed Prohibited Employment Declarations for employees
3. Referee Checks for employees
4. Cleared status from the Approved Screening Agency following a national criminal record check, a check on all apprehended violence orders and a check on disciplinary proceedings initiated by an employer. These disciplinary proceedings cover incidents in the workplace that involve child abuse, sexual misconduct or acts of violence that involve children, are directed at children or occur in the presence of children.