

Employment, Working with Children
 2013-14



Private and Confidential

ARH

REDACTED

Dear ARH

Notice of final decision refusing Working with Children Check clearance

- Application number: **REDACTED**
- Date of application: 20 August 2013

Following your application for a Working with Children Check clearance, a risk assessment was undertaken pursuant to section 14 of the *Child Protection (Working with Children) Act 2012* (the Act). The risk assessment was conducted in accordance with section 15 of the Act. A copy of this section is attached for your reference.

In reviewing your application, the Office of the Children's Guardian (OCG) has decided to refuse to grant you a Working with Children Check clearance, as the OCG has determined that you pose a risk to the safety of children.

In making our decision, the OCG considered the following information:

1. Relevant employment proceeding provided by **School 1** on 6 September 2010
2. Information provided by **School 2** dated 22 November 2013
3. Information provided Knox Grammar School on 18 November 2013
4. Letter from Patricia Jenman, Jenman Lawyers, dated 28 June 2014
5. Employer reference from **ASB** Headmaster, **School 1** dated 29/10/2013
6. Employer reference from **REDACTED** a friend who is also the mother of a student whom you have tutored, dated 10/09/2013
7. Employer reference from **REDACTED** former Headmaster of **School 2** dated, 21 June 2014
8. Employer reference from Mark McCrossin, Deputy Principal of Kincoppal, Rose Bay and former Yearmaster at Knox Grammar School, dated 27 June 2014
9. Employer reference from **REDACTED** principal/owner of **REDACTED** dated 30 June 2014
10. Professional reference from **REDACTED** EAP counsellor, dated 12 September 2013
11. Two statutory declarations made by you, dated 12 September 2013 and 8 July 2014
12. A copy of your Certificate Child Protection Awareness Training, dated 10 September 2013
13. Relevant file notes recorded by the OCG which relate to your application



During the course of the risk assessment, the OCG provided you with details of your criminal history and information obtained from the aforementioned government agencies.

In September 2013 the OCG received your Statutory Declaration and references. The information provided by you was considered insufficient for the OCG to grant you a Working with Children Check clearance.

On 19 June 2014 the OCG forwarded a 'Notice of Proposed Refusal of Application', dated 18 June 2014, under section 19 of the Act. You were given the opportunity to submit further supporting material (courses and/ or programs undertaken, counselling and / or psychologist reports, additional references from past or present employers) to assist in your risk assessment. In July 2014 the OCG received your Statutory Declaration, references and a letter from your solicitor.

In reviewing all of the information provided by you, the information is considered to be insufficient for the OCG to grant you a Working with Children Check clearance due to:

- The inconsistency of your Statutory Declarations with the information held by the OCG and your failure to provide an explanation for this inconsistency
- The lack of (or limited scope of) remedial action undertaken by you to address the factors that contributed to your relevant record

In reviewing your application and the information provided by you, the OCG has decided to refuse to grant you a Working with Children Check clearance, as the OCG has determined that you pose a risk to the safety of children. This decision has been made by reference to the guidelines set out in section 15(4) of the Act, in particular:

- the seriousness of the matters
- the period of time is considered to be insufficient for the OCG to be satisfied that you do not pose a risk to the safety of children
- the difference in age between you and the victims
- your relationship with the victims
- you knew, or could reasonably have known, that the victims were children

You are now deemed a disqualified person and you are not entitled to make a further application for a clearance until 5 years after the date of this notice. If you work in a child-related role during this time (paid or voluntary), you will be committing a criminal offence and penalties may apply. The OCG will advise the NSW Police Force if it becomes aware that you are engaged in child-related work.

Pursuant to Part 4 of the Act, a person who has been refused a working with children check clearance by the OCG may apply to the NSW Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997*.


The NSW Civil and Administrative Tribunal must receive an application to review the OCG's decision within 28 days after receipt of this notice.

For information about commencing an application for a review of decision, please visit the NSW Civil and Administrative Tribunal's website www.ncat.nsw.gov.au or telephone the Tribunal on 1300 006 228.

For free legal assistance contact Law Access 1300 888 529.

If you require further information please contact Andrew Mills Risk Assessor, by telephone on (02) 9286 7283.

Yours sincerely



Louise Coe
Director
Working With Children Check Operations
Office of the Children's Guardian

15/8/2014