

Working with Children Policy - Clearance Requirements.

Families and their children are welcomed into the Ashram community. Accordingly, under the **Child Protection (Working with Children) Act 2012 No 51** it is mandatory that everyone working, engaged or associated with children in the Ashram receives appropriate clearance from the NSW Commission for Children and Young People.

In applying to participate in Ashram activities you must consent to provide the Ashram with the information necessary for the Ashram to verify your clearance.

Restrictions on engaging in child-related work

A person who has been convicted or found guilty of a listed serious offence against children (whether in NSW or elsewhere) is prohibited from child-related employment. Anyone registrable under the Child Protection (Offenders Registration) Act 2000 is prohibited from child-related employment.

Failure to declare

All employees and volunteers in the Ashram, for the purpose of the ACT, are said to be in child-related employment as such, you are required to declare that you are not a prohibited person, using the Applicant Declaration and Consent or, for volunteers, the Volunteer/Student Declaration.

Checks will only be completed with your consent.

Employers must require clearance or current application

An employer must not commence employing, or continue to employ, a worker in child-related work if the employer knows or has reasonable cause to believe that:

- (a) the worker is not the holder of a working with children check clearance that authorises that work and that there is no current application by the worker to the Commission for a clearance of a class applicable to that work, or
- (b) the worker is subject to an interim bar.

Prohibited Association with Children

The **Child Protection (Working with Children) Act 2012 No 51** and **Part 7 of the Commission for Children and Young People Act 1998 No 146** makes it an offence for a person convicted of a serious sex offence (a Prohibited Person) or a Registrable Person under the *Child Protection (Offenders Registration) Act 2000*, to apply for, undertake or remain in, child-related employment. It does not apply if an order, from the Industrial Relations Commission or the Administrative Decisions Tribunal or the Commission for Children and Young People, declares that the Act does not apply to a person in respect of a specific offence.

Section 33 B of the Commission for Children and Young People Act 1998 No 146 defines a serious sex offence as:

- (a) an offence involving sexual activity or acts of indecency that was committed in New South Wales and that was punishable by penal servitude or imprisonment for 12 months or more, or

- (b) 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 New South Wales, or
- (c) an offence under section 80D or 80E of the Crimes Act 1900, where the person against whom the offence is committed is a child, or
- (d) an offence under sections 91D–91G of the Crimes Act 1900 (other than if committed by a child prostitute) or a similar offence under a law other than a law of New South Wales, or
- (e) an offence under section 91H, 578B or 578C (2A) of the Crimes Act 1900 or a similar offence under a law other than a law of New South Wales, or
- (f) (an offence an element of which is an intention to commit an offence referred to in paragraph (a) or (b), or
- (g) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs, or
- (h) any other offence, whether under the law of New South Wales or elsewhere, prescribed by the regulations..

Note: A conviction for carnal knowledge is classified as a serious sex offence under this legislation.

Child-related employment means any employment, where at least one of the essential duties of the position, involves direct contact with children where that contact is not directly supervised. Child-related employment is employment:

- 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 wards of public or private hospitals in which children are patients;
- in clubs, associations or movements (including of a cultural, recreational or sporting nature) having a significant child membership;
- in any religious organisation;
- in any entertainment venues where the clientele is primarily children;
- as a babysitter or child minder that is arranged by a commercial agency;
- involving fostering or other child care;
- 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;
- at overnight camps for children;
- any other prescribed by regulation.

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 authority and consent to apply for employee employment to declare if they are a Prohibited Person or not;
- all child-related employees **must** inform their employers if they are a Prohibited Person or remove themselves from child-related employment. A Prohibited Person is someone who has been convicted of a serious sexual offence or, who has had a finding for a charge of a serious sexual offence proven in court, even if a conviction was not recorded;
- penalties are imposed for non compliance.

I am aware that I am ineligible to apply for, undertake or remain in, child-related employment if I have been convicted of a serious sex offence or if I am a Registrable Person as defined above.

I am aware that it is an offence to make a false statement on this form.

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

I understand that this information will be referred to the NSW Commission for Children and Young People in order to receive a work clearance.

Name:

Signature:

Date:

Contact telephone number:

Note: Seek legal advice if you are unsure of your status as a Prohibited Person.