THE UNIVERSITY OF SYDNEY

Child Protection Policy

Last updated: 25 May 2010 Owner: Director, Human Resources

Overview

This policy sets out the guidelines to be followed to help ensure that the University complies with its child protection obligations under the *Commission for Children and Young People Act 1998* and The Working With Children Employer Guidelines of the NSW Commission for Children and Young People.

Scope

This policy applies to all **students**, **staff members** and **affiliates**.

Policy

The University endeavours to provide a child-safe and child-friendly working environment by adhering to The Working With Children Employer Guidelines of the Commission which require:

- the exclusion of prohibited persons from working with children (or as defined in the legislation **"child-related employment"**);
- the conducting of a ***Working With Children background check*** where required; and
- the formal and regular promotion to all students, staff members and affiliates of their obligations under Child Protection legislation.

References

- Child Protection (Offenders Registration) Act 2000
- Children and Young Persons (Care and Protection) Act 1998
- Commission for Children and Young People Act (1998)
- Freedom of Information Act 1989
- Part 3A of the Ombudsman Act 1974
- University of Sydney (Delegations of Authority – Administrative Functions) Rule 2010
- Casual Employment Policy
- Code of Conduct – Staff and Affiliates
- Code of Conduct for Students
- Conferring of all academic titles Policy
- Criminal Records Check Policy (under development)

- Policy on the Use of University Information and Communication Technology Resources (ICT Resources)
- University Recordkeeping Manual
- Recruitment and Selection Policy
- The Working With Children Employer Guidelines

Guidelines

Definitions

Affiliate means any persons other than staff members, appointed or engaged by the University to perform duties or functions on its behalf including: clinical title holders, adjunct, conjoint and honorary appointees; consultants and contractors to the University, volunteers, holders of offices in University entities, members of Boards of University Foundations, members of University Committees.

Child-related employment (also commonly referred to as "working with children") means employment (including voluntary work and practical training by students) where **all four of the criteria** below are satisfied:

(1) that **primarily involves** contact with children; **and**
(2) that involves **direct contact** with children; **and**
(3) where that contact is **not directly supervised**; **and**
(4) where the activity takes place in a **prescribed work setting,** which may include:
- in hospitals where children are patients
- in cultural, recreational or sporting bodies or other associations having a significant child involvement
- in entertainment venues where the clientele is primarily children
- the private tuition of children
- the direct provision of child health services
- the provision of counselling or other support services for children
- overnight camps for children

Universities are not included within the definition of prescribed work settings where University staff or affiliates are teaching university students. Therefore, **child protection requirements will only apply to the University in limited circumstances,** such as staff, students or affiliates in clinical placements; students on school practicum and staff supervising school practicum; staff or students involved in science education tours or residential programs; staff, students or affiliates involved in research projects with children.

As they do not satisfy all four criteria above, the following examples would not be considered child-related employment:
- staff occasionally attend careers fairs or make school visits (as this is an occasional activity rather than what their job "primarily involves");
- staff regularly attend schools but address or meet with students where a teacher or other supervisor of the children is present.

Child means a person who is under 18 years of age.[1]

Commission means the NSW Commission for Children and Young People.

Prohibited person means a person convicted of (or attempting or conspiring to commit) offences including a

[1] *It is not "child-related employment" where University staff or affiliates are teaching University students less than 18 years of age in tertiary studies.*

serious sex offence; the murder of a child or a child-related personal violence offence; indecency offences punishable by imprisonment for 12 months or more; possession, distribution or publication of child pornography as well as a Registrable Person under the Child Protection (Offenders Registration) Act 2000.

Working with Children Background check is the process of gathering and assessing relevant information about a preferred applicant for child-related employment to assist employers in making an informed decision on whether or not to employ an applicant for a position.

1. Summary of obligations for individuals in positions identified as child-related employment (working with children)

Category[2]			Applicant Declaration and Consent	Volunteer/ Student Declaration	Unit responsible for ensuring compliance
Staff Members	**Paid**	**Continuing, fixed term and casual**	✓	✗	HRSC
Affiliates	**Paid**	**Independent contractors**	✗	✓	Payroll Service Provider/ Delegated officer responsible for appointment
Affiliates	**Unpaid**	**Conferred title holders[3]**	✗	✓	Delegated officer responsible for appointment
	Unpaid	**Office holders, Board members, Committee members**	✗	✓	Delegated officer responsible for appointment
	Unpaid	**Volunteers**	✗	✓	Delegated officer responsible for appointment
Students	**Unpaid**		✗	✓	Student Centre (or Faculty/School for Research Students)

2. Exclusion of prohibited persons

- The University must exclude prohibited persons from child-related employment (working with children).
- It is an offence for prohibited persons to apply for or otherwise attempt to obtain, undertake or remain in child-related employment whether paid, volunteering, self-employed or as a student.
- All preferred applicants for child-related employment are required to declare that they are not a prohibited person by completing either an Applicant Declaration and Consent or Volunteer/Student Declaration **prior to commencing in the position**.
- A declaration is current whilst the person remains in child-related employment at the University.

[2] *Students, staff members and affiliates in clinical placements/positions should consult the NSW Health Department website for specific requirements under their Child Protection policy.*

[3] *Clinical title holders who have already completed a Prohibited Employment Declaration and other checks through the NSW Health Department are not required to complete these again and will need to declare as such on their letter of appointment/engagement.*

During child-related employment the University will not require a new declaration to be completed.

- For short-term appointments of less than 6 months a declaration is not required again if one has been completed in the previous 12 months **and** the person is being employed in the same kind of child-related employment.

3. Completion of *Working With Children background check*

- ***Working with Children background checks*** must be carried out for preferred applicants for child-related employment where these positions are **paid**. ***Working with Children background checks*** are not required for individuals who are engaged in **unpaid** child-related employment, e.g., students, volunteers and honorary appointees.

- ***Working with Children background checks*** are also not required for self-employed people, however they are required to obtain a *Certificate for Self Employed People in Child-Related Employment* from the Commission and present it for inspection.

- Where the University contracts with a Labour Hire provider for the provision of contractors, that company will be responsible for obtaining the required checks.

- ***Working with Children background checks*** may not be carried out on existing staff members unless they transfer to a different child-related position in the University or, if an existing staff member not currently in child-related employment transfers to a child-related position.

- For short-term appointments of less than 6 months the ***Working with Children background check*** is not required again if one has been completed in the previous 12 months **and** the person is being employed in the same kind of child-related employment.

4. Reporting relevant employment proceedings

The Director, HR (for staff) and the Registrar (for students) must report any relevant employment proceedings to the Commission and NSW Ombudsman as required. Relevant employment proceedings means a completed disciplinary proceeding where an employer has found reportable conduct occurred. Reportable conduct may include any sexual offence or misconduct committed against, with, or in the presence of a child; any child pornography offence or any child-related personal violence offence.

5. Working with children outside New South Wales

Where staff members, affiliates and students are engaged in child-related employment outside of NSW they may be required to comply with the relevant child protection legislation in the relevant State or Territory.

Procedures

1. Determine if the position is child-related employment (working with children)

The University must assess whether a position, duties, or a student placement constitutes child-related employment **prior** to undertaking recruitment, appointment or enrolment procedures. This may be

established by referring to the Working With Children Employer Guidelines[4]. HR Advisors may be consulted for advice.

2. Implementation procedures

2.1 Students

(a) The Registrar issues a memorandum, via the relevant Faculty, on an annual basis to all commencing students in award courses which have placements which constitute child-related employment. These students are required to complete a Volunteer/Student Declaration and submit this to the designated officer of the Student Centre on enrolment. The Student Centre is responsible for co-ordinating the collection of these Volunteer/Student Declarations.

(b) The relevant Faculty/School advises research students regarding child protection legislation requirements and will require students involved in research which has been determined to be child-related employment to complete a Volunteer/Student Declaration.

(c) A student may not undertake the placement or research which constitutes child-related employment until they have provided the Volunteer/Student Declaration.

(d) ***Working With Children background checks*** are not required for students on placements.

(e) Students completing clinical placements in NSW Health Agencies should refer to the NSW Health Department website for specific requirements under their child protection policy. They may also contact their faculty for further information.

2.2 Affiliates

(a) The Delegated Officer with the authority to approve the appointment of the affiliate is responsible for determining if the position is child-related employment.

(b) If the position is child-related employment this must be indicated on appointment or engagement documentation approved by the Delegated Officer.

(c) Independent contractors are required to provide a *Certificate for Self-employed People in Child-related Employment* issued by the Commission. Currency of the certificate will be verified by the Delegated Officer as required by the Commission.

(d) Other affiliates are required to complete a Volunteer/Student Declaration.

(e) Completed Volunteer/Student Declarations must be managed in accordance with University Recordkeeping Policy.

(f) An affiliate may not undertake the relevant duties until they have provided the Volunteer/Student Declaration.

(g) ***Working With Children background checks*** are **not** required for affiliates.

(h) Affiliates in clinical positions in NSW Health Agencies should refer to the NSW Health Department website for specific requirements under their child protection policy.

2.3 Staff members– recruiting for a position

[4] *The **Working with Children Employer Guidelines** website now contains information previously available on the **Is the Position Child Related Information** form*

(a) The Delegated Officer[5] is responsible for determining if the position being filled is child-related employment.

(b) If the position is child-related employment this should be indicated on the appropriate recruitment and appointment forms on the Human Resources forms website.

(c) Where the position is child-related employment, SydneyRecruitment will include information in position advertisements advising applicants that they will be required to declare that they are not a prohibited person and that a ***Working with Children background check*** is required. A statement that the position is child-related employment should also be included in the Duty Statement.

(d) The Human Resource Service Centre (HRSC) sends a conditional offer of employment to the preferred applicant for continuing or fixed-term positions. The Delegated Officer in the Faculty, School or Administrative Unit sends conditional offers of employment to preferred applicants for casual positions.

(e) Preferred applicants will be required to complete the Applicant Declaration and Consent.

(f) Completed Applicant Declaration and Consent forms are retained by the HRSC on the staff file. The HRSC retains these forms for casual staff on a specified electronic folder for casual staff child protection documentation. The HRSC must ensure that these documents are managed in accordance with University Recordkeeping Policy.

(g) The HRSC sends the Employer Request for Background check with the Applicant Declaration and Consent to the Employment Screening Unit of the Department of Education and Training (the University's approved screening agency) together with certified proof of identity.

(h) The person may not commence in the position until the HRSC is advised of a satisfactory outcome of the ***Working with Children background check***.

If the recruitment is urgent and there is insufficient time to complete the ***Working with Children background check***, the person may commence employment provided that their position is modified to limit access to children and/or increase supervision. The person must also have completed an Applicant Declaration and Consent and been advised that their ongoing employment is conditional upon the satisfactory outcome of the ***Working with Children background check***.

(i) Staff members in clinical positions in NSW Health Agencies should refer to the NSW Health Department website for specific requirements under their child protection policy.

3. Outcome of the *Working With Children background check*

If a relevant record exists (this includes relevant criminal records, relevant Apprehended Violence Orders and relevant employment proceedings) the Employment Screening Unit will provide an estimate of risk to the Director, HR.

It will then be the University's decision whether or not it is appropriate to employ the person in the position. The Director, HR will consult with the Office of General Counsel on a case by case basis. If it is decided not to employ the person, the University will notify the Commission. The University will also notify the Commission in the event that it offers this person another position that is not child-related employment.

[5] *Refer to the Recruitment and Selection Policy*

4. If a prohibited person applies for child-related employment

If the University becomes aware that a prohibited person has applied for child-related employment, the University will refuse them the position. If the University becomes aware that a person currently in child-related employment is a prohibited person, it will immediately move the person out of the child-related employment. The Director, HR will consult with the Office of General Counsel, on a case by case basis. In either case, this will be reported to the Employment Screening Unit by the Director, HR.

If a person who is already engaged by or enrolled in the University becomes a prohibited person, and they are engaged in child-related employment, it is their responsibility to remove themselves from the child-related employment. They should speak to their Supervisor and/or HR Advisor who will consult with the Director, HR and Office of General Counsel.

5. Investigation of complaints

It is the obligation of all students, staff and affiliates to report any allegation or conviction of child abuse involving an individual in the course of their engagement or enrolment at the University. Allegations of child abuse must, in the first instance, be reported to the Director, HR (staff and affiliates) or the Registrar (students). The University will investigate all allegations of child abuse involving staff members, affiliates and students which occur in the course of their association with the University. Action taken, as well as any information from any investigation, will be reported to the Commission and NSW Ombudsman as required by The Working With Children Employer Guidelines.

6. Recordkeeping and Freedom of Information

6.1 Recordkeeping procedures

The HRSC maintains records in relation to child protection documentation for staff members consistent with University Recordkeeping procedures and protects the confidentiality of all information relating to Working With Children Checks.

The Faculty or Administrative Unit is responsible for ensuring records in relation to child protection documentation for affiliates are managed in a way consistent with procedures issued by Archives and Records Management Services.

The Student Centre maintains records of student Volunteer/Student Declarations, except for those from the Faculty of Health Sciences which stores its own records of student Volunteer/Student Declarations. These records are maintained consistent with University Recordkeeping procedures.

6.2 Freedom of Information

Information associated with the child protection processes is subject to NSW Freedom of Information legislation.

Administration

1. Background

This policy was developed in response to a review and recommendations by the NSW Ombudsman into Child Protection policies in the NSW Higher Education Sector. The policy was developed by Human Resources and the Office of General Counsel. Widespread consultation took place within Human Resources, Office of General Counsel (OGC) including Alex Maitland regarding affiliates in Controlled Entities, Audit, Risk Management & Assurance, Archives and Records Management, Provost's Office, Faculty Manager Consultative Group, Science Marketing & Communications Unit in Faculty of Science, Faculty of Health Sciences, Faculty of Education and Social Work, Research Office, Ethics Office, Centre for Continuing Education, Alumni Relations, Museums and Cultural Engagement, Student Centre, Student University Postgraduate

Representative Association (SUPRA), Student Representative Council (SRC). Website links and forms in this policy were updated in April 2010 to reflect child protection legislative changes which took effect on 31 March 2010.

2. Management Responsibility

Vice-Chancellor

3. Implementation Responsibility

Director, Human Resources

4. Dates

Approval (version 1)	28/08/2009
Effect	28/08/2009
Review	2010
Approval (version 2)	25/05/2010
Effect	25/05/2010

5. Approval

Version 1	Dr Michael Spence, Vice-Chancellor and Principal
Version 2	Dr Michael Spence, Vice-Chancellor and Principal

6. Signatures

Approved by:

Name

Dr Michael Spence

Position

Vice-Chancellor

Date

25/05/2010