

POLICY NUMBER: SSCPOL004:3**POLICY TITLE: Working with Children Check Policy**

Supersedes: SSCPOL004:2

Release Date: January 2020

Review Date: January 2021

1.0 PURPOSE AND SCOPE

The purpose of this policy is to ensure all reasonable administrative and procedural measures are taken to ensure Skillset Senior College Limited (SSC) students are kept safe from potential prohibited people.

Appendix 1 of this Policy defines the Procedures to be followed.

Background and Context

The NSW [Child Protection \(Prohibited Employment\) Act 1998 \(NSW\)](#), prohibits the employment in child-related employment of persons found guilty of committing certain serious sex offences. SSC has an obligation to ensure that children and young people enrolled at the College are protected from harm.

SSC expects all staff, including volunteers, to be mindful of their position of authority with respect to children and young people to ensure that their interactions with children and young adults are ethical and do not amount to an abuse of that position. SSC also expects that staff are informed of their responsibilities in relation to mandatory reporting of any child that is at risk of significant harm under:

[Child Protection \(Prohibited Employment\) Act 1998 \(NSW\)](http://www.legislation.nsw.gov.au/acts/1998-147.pdf)

[Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)

[Commission for Children and Young People Act 1998 \(NSW\)](#)

[Ombudsman Act 1974 \(NSW\)](#)

This policy utilises resources developed and provided by:

- a. The **NSW Government** via their <http://www.kids.nsw.gov.au/> website.
- b. Hyperlinks to the various forms are available from the <http://www.acyp.nsw.gov.au/info> resources for employer's page. For ease of access references to forms in this document have been hyperlinked to the resources page.
- c. The Government's website also provides other information and resources and employees are encouraged to refer to this site for information.

This policy is applicable to:

- All SSC staff, including volunteers working in NSW,
- Skillset Ltd staff who provide professional services to the College are required to abide by the requirements of this Policy, and comply with the directions of the SSC Head of College whenever they attend the school premises.
- Contractors and visitors who may come in to contact with students of SSC

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2.0. DEFINITIONS

- 2.1 A **“prohibited person”** means a person convicted of a serious sex offence or a registrable person within the meaning of the [Child Protection \(Offenders Registration\) Act 2000 \(NSW\)](#).
- 2.2 **“Child-related employment”** means any employment that involves direct contact with children where that contact may be not directly supervised.
- 2.3 **“Children or young adults”** mean persons under the age of 18 years.
- 2.4 **“Risk of significant harm”**– A child or young person is at risk of significant harm if current concern exists for the safety, welfare and wellbeing of the child or young person because of the presence of one of more of the following circumstances:

- (a) the child’s or the young person’s basic physical or psychological needs are not being met or are at risk of not being met;
- (b) the parent or other carers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
- (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;
- (e) a parent or other carer has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm. (Section 23 [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)); and/or
- (f) the child or young person is at immediate risk of seriously harming themselves, including suicide.

In addition, a child or young person is at risk of significant harm if the circumstances that are causing concern for safety, welfare or well-being of the child, or young person are present to a significant extent. A child may be at risk of significant harm if the following occurs:

- Parents or carers have not made proper arrangements and are unable or unwilling to arrange for the child to receive an education.
- A serious of acts or omissions that when viewed together may establish a pattern of significant harm (cumulative impact)

- 2.5 **“Mandatory Reporting”**- applies to a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care,

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welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children".
(Also refer SSCPOL003-Mandatory Reporting Requirements of SSC staff).

3.0 REFERENCES

3.1 Part 3A to the [Ombudsman Act 1974 \(NSW\)](#)

3.2 the Commission for [Commission for Children and Young People Act 1998 \(NSW\)](#) which established the Commission for Young People and made the Commission responsible for employment screening for people in child-related employment

3.3 the [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#) which sets out the responsibilities of Community Services with regard to child protection

3.4 Keep Them Safe: A Shared Approach to Child Well-Being (2010)

3.5 Skillset Senior College [SSCPOL002](#) Child Protection Policy

4.0 POLICY

SSC has an obligation to ensure that it does not employ a prohibited person in work that has foreseeable or could reasonably be anticipated to involve direct contact with children where that contact is not directly supervised. In circumstances where children are placed in its care, it must ensure that the children are protected from harm. All people looking after children and young people have a responsibility to provide a safe environment for them. No prohibited person will be retained in or appointed to work in child related employment within the organisation, whether on a continuing, fixed-term or casual mode of employment.

SSC staff must **not** transport a child by themselves.

Exception

- SSC employees must obtain written parent/guardian consent to transport a child.
- SSC has a duty of care to ensure that staff and volunteers are aware of their responsibilities to report any child at risk of significant harm to the child protection helpline.
- SSC verifies the status of employees working with children via their Working with Children Check reference number online at www.kidsguardian.nsw.gov.au to ensure they have clearance to work with children.

Note: Please refer to Appendix 1 of this policy for Procedures to be followed.

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APPENDIX 1-PROCEDURES

The procedure will be as follows:

Part - A

- a. All SSC staff members will be asked to complete a Working with Children Check through the Office of the Children’s Guardian before starting in any child related position within the organisation.
- b. If any employee identifies as a “prohibited person”, the SSC Head of College or Deputy Head of College, in consultation with appropriate Skillset Ltd senior staff, usually the HR Manager, will take immediate appropriate action to ensure that the employee does not remain in child-related employment.
- c. If an employee in child-related employment becomes a prohibited person during the course of their employment after they have filled out the declaration, they must notify the SSC Head of College or Deputy Head of College immediately and the action in (b) above will be effected.

Part B - Recruitment of New Employees (continuing and fixed-term)

SSC requires that all persons commencing employment in child-related employment will complete a Working with Children Check which may include a check against any relevant criminal record, any relevant apprehended violence order or any relevant disciplinary proceeding.

All job advertisements will state “all applicants will be required to undergo a Working with Children Check, and:

- a. will undertake a reference check for all applicants considered for appointment to the position. It is recommended that references be obtained orally.
- b. arrange for verification of clearance through www.kidsguardian.nsw.gov.au/check or the equivalent Victorian or South Australian report and may arrange for the person to undergo a Federal Police Check through a nominated screening agency.
- c. advise the new employee that the ongoing employment is conditional upon the satisfactory outcome of the screening

Part C - Employment of casual staff and arrangements for contractors on school premises

A SSC staff member who intends to engage a casual employee for work that has foreseeable or could reasonably be anticipated to involve direct contact with children, must inform the prospective employee that a “prohibited person” cannot be engaged for this type of work and must undergo a Working with Children Check before employment can be authorised. This must go through the Skillset Ltd HR or Safety Manager, who will verify the Working with Children Check and notify the staff member of the result.

In the case of contractors and visitors to SSC, it is the policy of the College to ensure the following

- casual contractors are to be accompanied by SSC staff for the duration of their engagement
- for longer term building or maintenance work, this will ideally be scheduled outside school hours or outside school term
- an online induction must be completed before entering the school premises
- sign-in must be completed before entering the school premises

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- the need for casual contractors is minimised with the inclusion of a General Assistant to the SSC staffing profile from 2018.

Part D - "Working with Children Check"

The "Working with Children Check" includes a check for any:

- relevant national criminal records;
- relevant apprehended violence orders;
- relevant disciplinary proceedings.

Relevant criminal records means any criminal record relating to offences involving sexual activity, acts of indecency, child abuse or child pornography, that was punishable by penal servitude or imprisonment for 12 months or more. Registrable offences under the [Child Protection \(Offenders Registration\) Act 2000 \(NSW\)](#) are also classed as relevant criminal records.

Relevant apprehended violence orders means any Apprehended Violence Order (other than an interim order); made by a court under Part 15A of the [Crimes Act 1900 \(NSW\)](#); and taken out in NSW; and made on the application of a police officer or other public official for the protection of a child (or a child and others); and includes those taken out from a date 5 years prior to the commencement of the legislation.

For the purposes of child protection employment legislation, relevant disciplinary proceedings include actions where a person, who has the authority to do so, enquires into an allegation of: child abuse; sexual misconduct; or an act of violence committed by an employee in the course of employment and a finding is reached, regardless of whether the matter is sustained or not sustained. It is only a requirement to notify the Commission of sexual misconduct or acts of violence in the workplace where these acts involve children, are directed at children, or take place in the presence of children. It is not a requirement to notify the Commission where completed disciplinary proceedings have proven the allegations to be false, vexatious, or misconceived.

Part E – Governmental Jurisdiction

NSW

The Department of Family and Community Services (FaCS) is the state government department responsible for the care and protection of children and young adults in NSW. FaCS is the agency authorised to undertake investigations into alleged child protection breaches.

Part F – Mandatory Reporting

SSC staff members whose work brings them in direct contact with children and young people are called mandatory reporters. This means that they are legally obliged to report any suspicions of child neglect or abuse in consultation with a senior staff member.

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SSC staff members are required to obtain permission from young person aged 16-17 to make a report to the Child Protection Help Line. It is important to provide young person with the reasons why the abuse should be reported. Let the young person know they are not in trouble and you want to make a report to protect their safety. Be sure to have as much information as possible prior to contacting The Child Protection Help Line.

It is required by NSW Law for mandatory reporters to contact the appropriate Child Protection Line if they suspect that a child is at risk of significant harm. As mandatory reporters it is NOT your role to investigate and/or follow up child abuse allegations. Strict confidentiality procedures are in place for all reporters of child abuse.

The relevant Child Protection contact details are:

Keep Them Safe: <http://www.KeepThemSafe.nsw.gov.au/home> or the Child Protection Helpline 132 111 (24hr, 7 days)

Part G – Reporting

SSC staff members have statutory responsibilities for protecting children and young adults.

To suspect that a child or young person is at risk of significant harm one or more of the following circumstances may be taking place:

- The child's basic physical or psychological needs are not being met
- The parents or carers have not arranged for the child to get medical care when they need it
- The child has been physically or sexually abused
- The child is living in a house where there is domestic violence and as a result they are at risk of serious physical or psychological harm
- The parent or carer is behaving in such a way that the child has suffered serious psychological harm
- The child is homeless
- Unborn child is at risk of harm
- You may form this view through listening to the child, observing their behaviour or the behaviour of their parents or carers.

Part H – Skillset Senior College commitment to NSW Government initiatives

NSW [Child Protection \(Prohibited Employment\) Act 1998 \(NSW\)](#), encourages Government departments, non-government and community organisations to work together with the community to look after children and young people.

Skillset Ltd and SSC actively supports and adopts:

- The Families First Strategy is a government-sponsored strategy, which focuses on the early years.
- The Working with Children Check for all employees and volunteers in child related work to determine their suitability – any person convicted of a serious sex offence is prohibited from working with children.
- 2000 Interagency Guidelines for Child Protection Intervention that outline the responsibilities of Government agencies in protecting children

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- The [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#), which sees the caring for children and young people as a responsibility shared by families, agencies and communities.
- Child Employment in NSW: Code of Practice setting out employers' duties to meet child protection concerns is met in the workplace.

Part I- Risk of significant harm related to the actions of a staff member or volunteer

In the event that there are concerns or allegations in relation to a Skillset Senior College paid staff or volunteer behaving inappropriately or there is abuse of power over a young person, the SSC Head of College or Deputy Head of College must be notified and may be investigated with the assistance of Skillset Ltd HR Manager.

In the event that the investigation confirms inappropriate behaviour or an abuse of power which constitutes a Notification, the SSC Head of College with the assistance of Skillset Ltd HR Manager would then complete this as detailed **Part J** below.

Part J - Notification of Adverse Reports

The SSC Head of College, in consultation with the Skillset Ltd HR Manager, will notify the Commission for Children and Young People of any:

- a. decision not to engage a person as a result of the findings of the employment screening process, and;
- b. completed disciplinary proceedings against an employee involving child abuse, sexual misconduct or acts of violence in employment where these acts involve children, are directed at children, or take place in the presence of children (Refer to Completed Relevant Disciplinary Proceedings).

Relevant disciplinary proceedings do not include those where there has been a finding that allegations were false, vexatious or misconceived.

Part K – Contact details

Child Protection Help Line

To report suspected abuse or neglect of children or young people call: **133 627**

For more information please visit: NSW Keep Them Safe website:

http://www.keepthemsafe.nsw.gov.au/reporting_concerns/mandatory_reporter_guide

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