

HR006 – Working with Children Policy

**1. POLICY CERTIFICATION**

Policy title:	<b>Working with Children Policy</b>
Policy number:	<b>HR006</b>
Category:	<b>Policy</b>
Classification:	<b>HR</b>
Status:	<b>Approved</b>

**2. PURPOSE**

A Working with Children Clearance screening is a criminal and employment record check which ensures there is nothing in the candidate’s history which may constitute a serious risk of harm to children.

The intention of this document is to define clearly the obligations of Roper Gulf Regional Council (RGRC) employees with regards to the *Care and Protection of Children Act* (the Act), and *Care and Protection of Children (Screening) Regulations* specifically, the Working with Children Clearance and associated Ochre Card.

**3. ORGANISATIONAL SCOPE**

This policy applies to all RGRC employees, volunteers, and contractors engaged to perform child-related work. Participants of the CDP are not to be considered to be volunteers for RGRC under the scope of this policy.

**4. POLICY STATEMENT**

Roper Gulf Regional Council takes seriously its obligation to ensure that all staff who work, or volunteer with children, comply with current Northern Territory Government legislation, specifically the *Care and Protection of Children Act* and the *Care and Protection of Children (Screening) Regulations*.

It is an offence under Sections 187(1)(3) of the *Care and Protection of Children Act* for a person to continue to undertake ‘child-related work’ unless they hold a valid Ochre Card or Working with Children Clearance Certificate.

**5. DEFINITIONS**

Child	as defined by the <i>Care and Protection of Children Act</i> , means a person less than 18 years of age or a person apparently less than 18 years of age if the person’s age cannot be proved.
Child-related work	means the usual duties of the work involves, or may potentially involve, contact with a child aged less than 18 years as per s185(2) of the <i>Care and Protection of Children Act</i> .
Exemption	is a period of exemption granted by the Chief Executive Officer of the Department of Children and Families in accordance with the ss187(4) – (6) provisions of the Act to a person exempting them from the requirement to hold a current Ochre Card whilst their application is processed.

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A Negative Notice or Interim Negative Notice	A “ <b>Negative Notice</b> ” or an “ <b>Interim Negative Notice</b> ” as issued by the WWC Screening Unit, indicates that the person to whom the notice issued is to be deemed unsuitable to undertake work in, and should not be offered work in, a child-related area at that time.
Identified Position	means a position which has been identified as being involved in child-related employment and as such is required by law to hold a valid Ochre Card. RGRC has determined that these identified positions are those positions defined as such in the <i>Care and Protection of Children Act</i> .
Staff	means anyone employed by, or associated with, RGRC on a permanent, casual, voluntary or contractual basis, whether full-time or part-time engaged with child related work.
Employee	means paid or voluntary staff member engaged by RGRC.
Review	for the purpose of this policy, means in internal appeal, against a decision, or an external appeal, to a court, against a decision.

**6. PRINCIPLES**

The Working with Children Clearance offers certification to engage in ‘child-related’ work for a period of time, and offers ongoing monitoring of a candidate’s suitability that is valid for two (2) years from the date of issue (unless revoked).

Employees, contractors and volunteers (including students) in relevant child-related work who are issued with a Negative Notice Check by the WWC Screening Unit are to be deemed unsuitable to undertake work with RGRC and, if already commenced, their employment should be reassessed.

To avoid inadvertent breaches of the *Care and Protection of Children Act*, RGRC shall conduct regular checks with SAFE NT to ascertain the outcome of pending WWC applications.

The decision not to issue a Working with Children Clearance is a reviewable decision. If an employee is issued with an Interim Negative Notice Check by the WWC Screening Unit they are to immediately notify RGRC. Should the employee fail to notify council of the Interim Negative Notice, RGRC shall investigate this failure to notify, to ascertain whether or not it was deliberate, negligent, or if it was inadvertent. If the employee is found to have deliberately or negligently failed to notify RCRG of the Interim Negative Notice, the failure to notify shall be regarded as employee misconduct.

Upon discovery and/or notification of an Interim Negative Notice Check, RGRC shall immediately remove the employee from child-related work. RGRC shall meet with the employee as soon as practicable to discuss the matter, and ascertain a subsequent course of action.

The purpose of the meeting is to ascertain whether or not the employee will choose to have the Interim Negative Notice decision reviewed, and the likelihood of that review being successful. In light of this, RGRC must either stand down the employee until the matter is resolved, or, depending on the employee’s position, impose restrictions so as to not allow the employee to engage in child-related work.

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For example, if child-related work forms part of the employee's core duties such as youth work or crèche, RGRC may have no alternative but to stand the employee down pending the outcome of the review process. If the employee is engaged in a position which does not have child-related work as part of its core duties, such as workshop or maintenance, the employee is to be prevented from engaging in child-related work, or having close proximity to such activities, pending the outcome of the review process.

If the employee is unable to fulfil their position's requirements without a WWC clearance, then the employee shall be stood down pending the outcome of the review process. If an employee receiving an Interim Negative Notice is stood down, they will be on leave without pay.

RGRC shall make a decision pertaining to the continuation of the employee's appointment upon the completion of that review process. If the employee has the Interim Negative Notice decision overturned, and is issued with suitable clearance (Ochre Card), the restrictions upon that employee shall be removed, and the employee shall be allowed to resume their duties.

If the original decision not to issue the employee with a clearance is upheld by the reviewer, RGRC shall, upon the completion and exhaustion of appeal processes, deem that employee to be unsuitable to their position's requirements, and subsequently terminate their employment on those grounds.

Employees are required to notify RGRC where a Clearance Notice is refused or cancelled. Upon cancellation of a *Working with Children Clearance* certification, employment with RGRC will be terminated.

Notification of *Working with Children Clearance* certification and date of expiry will be recorded on a data base managed by HR in accordance with the RGRC Confidentiality and Privacy Policy.

### **Categories of “child-related” work as defined under the *Care and Protection of Children Act***

The *Care and Protection of Children Act* (the Act) states that a person is engaged in child-related work and requires a Working With Children Clearance only if the usual duties of the work involve, or are likely to involve, contact with a child aged under 18 years. Child-related work is prescribed by Section 185(2) of the Act as the following:

#### **“Section 185 Child-related employment**

- (2) *Child-related work is any work that involves or may potentially involve contact with children in connection with any of the following:*
- (a) *child protection services provided by or for the Department;*
  - (b) *an education and care service operated under the Education and Care Services Law (NT);*
  - (c) *an educational facility for children, including a government school established under the Education Act and a school registered under Part 7 of that Act, other than a facility prescribed by regulation;*
  - (d) *juvenile detention centres;*
  - (e) *refuges or other residential facilities used by children;*
  - (f) *wards of hospitals or any other facilities for health services in which children are ordinarily patients;*

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- (g) clubs, associations or movements (including those that are of a cultural, recreational or sporting nature) with significant child membership or involvement;
- (h) religious organisations;
- (i) babysitting or childminding services;
- (j) fostering of children;
- (k) transportation services for children;
- (l) private tuition services for children;
- (m) counselling or other support services for children;
- (n) overnight camps for children;
- (o) road crossing services for school children;
- (p) any of the following services, activities or facilities that are provided or arranged for children:
  - (i) gym or play facilities;
  - (ii) photographic services;
  - (iii) talent or beauty competitions;
  - (iv) entertainment or party services;
- (q) any other services, activities or facilities prescribed by regulation.”

### **Other services requiring a Working with Children Clearance**

Members of boards, management committees and partners in businesses that perform work with children also need a Clearance e.g. members of school councils or basketball associations.

Staff employed in certain RGRC program areas will be required to hold a valid Ochre Card at all times whilst employed by Council. This requirement is based on the likelihood of ongoing supervision or proximity with children, and includes areas such as:

- Community Safety
- Youth Services
- Municipal Officers
- Media/Bracs
- Library
- Sport & Rec
- SNP
- Child Care
- Pool Attendants
- Community Services
- CDP

### **6.1 Police Criminal History Check is not an alternative to a Working with Children Clearance.**

A Police Criminal History Check examines a person’s criminal history at a fixed point in time. The Working with Children Clearance offers certification to engage in ‘child-related’ work for a period of time, and offers ongoing monitoring of a candidate’s suitability. This means if a relevant criminal offence is committed during the period of certification, SAFE NT can inform employers, impose conditions on the clearance notice or withdraw the certification. A Police Criminal History Check is not a substitute for a Working with Children Clearance and employees in identified positions are required to hold a valid Working with Children Clearance even if they have had a police check.

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### 6.2 Certain Offences will Disqualify

Only certain offences will disqualify a person from engaging in ‘child-related’ work. SAFE NT will advise persons that they will not have a Clearance Notice issued and will not be able to work in ‘child-related’ employment. If a person does not agree with the decision, they can ask for it to be reviewed in the Local Court of the Northern Territory. SAFE NT provides information on how to lodge an appeal with the Local Court. Other types of criminal histories will be considered in the context of the likelihood of risk of harm to children and will be up to the discretion of the CEO.

### 6.3 Recruitment

Recruitment advertisements will advise potential applicants that a *Working with Children Clearance* certification will be required for certain positions; for an applicant to be considered for appointment.

On accepting an offer of employment with RGRC, the new employee is required to:

- Provide a color copy of a current Ochre Card;
- Provide a copy of the receipt to prove they have applied for an Ochre Card (RGRC will then apply for a 45 day exemption through safe NT)

In liaising with new employees, HR is to ensure the appropriate paperwork is completed prior to the agreed start date.

Employees with current exemption certificates awaiting Working with Children Clearance certification must work under the direct supervision of a staff member holding a current Ochre Card.

The *Working with Children Clearance* certifications are valid for a period of two (2) years and it is the staff member’s responsibility to ensure that they have a current *Working with Children Clearance* certification with support provided by the relevant Manager and HR department.

### 6.4 CDP Participants

Participants of CDP or equivalent are jobseekers and are not to be considered to be volunteers for Roper Gulf Regional Council under the scope of this policy.

### 6.5 Cost of Working with Children Clearance

- All new employees are responsible for the cost of their *Working with Children Clearance*
- Replacement costs of lost cards will be at the employee’s own expense.
- Ochre card renewals will be paid by RGRC whilst employed by RGRC

(Please refer to SAFE NT website for updated fee schedule).

## REFERENCES

Related Forms	<ul style="list-style-type: none"><li>• <i>WWCC Exemption Form</i></li></ul>
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Related Policies	<ul style="list-style-type: none"> <li>• Employee Code of Conduct</li> <li>• Employee Formal Discipline Policy</li> <li>• Recruitment and Selection Policy</li> <li>• Volunteer Policy</li> </ul>
Related Publications	<ul style="list-style-type: none"> <li>• <i>Anti-Discrimination Act</i></li> <li>• <i>Care and Protection of Children Act</i></li> <li>• <i>Care and Protection of Children (Screening) Regulations</i></li> <li>• <i>Fair Work Act 2009 (Cth)</i></li> <li>• <i>Work Health and Safety (National Uniform Legislation) Act</i></li> </ul>

**DOCUMENT CONTROL**

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**CONTACT PERSON**

Position **Manager Governance, Corporate Planning and Compliance**

Contact number **(08) 8972 9000**