

## Procedure Category:

Council     Academic     Management

## Context

The *Management of Prescribed Positions Procedure* (the Procedure) provides guidance in support of the management of prescribed positions and Working with Children Checks (WWCC) in accordance with the [Child Safety \(Prohibited Persons\) Act 2016 \(SA\) \(CSPP Act\)](#); and the [Child Safety Prohibited Persons Regulations 2019 \(SA\) \(CSPP Regulations\)](#). The Procedure supports our legal obligations as set out in the *Children and Young People (Safety) Act 2017 (CYPs Act)* and all associated Regulations and the University's *Children and Young People Safety Policy*.

## Scope

The Procedure applies to all University staff, volunteers, adjunct appointments, honorary appointments and contractors, in physical and online environments. It should be read in conjunction with the University's *Children and Young People Safety Policy*.

## Definitions

### *Children and Young People*

Children and Young People, for the purpose of this Procedure, means persons who are under 18 years of age.

### *Prescribed position*

Prescribed position is a paid or non-paid role in which a person works, or is likely to work with children, or any other position prescribed by the *Child Safety (Prohibited Persons) Regulations 2019* in accordance with Section 5 (1) of the *Child Safety (Prohibited Persons) Act 2016*.

### *Staff*

Staff, for the purpose of this Procedure, refers to an individual employed by the University under our Enterprise Agreements, non- paid staff including adjuncts, visiting academics and guest lecturers, higher degree by research students and persons performing work for UniSA under a contract for services.

### *Student*

Student refers to an enrolled student at the University.

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## Procedure

### 1. Working with Children Checks

- 1.1 People who are working or volunteering with children, or are likely to do so, in a prescribed position must by law in South Australia have a valid Working with Children Check (**WWCC**). A valid WWCC must be current.
- 1.2 A WWCC is an assessment of whether a person poses an unacceptable risk to children and whether the person should be prohibited from working with children. These checks are administered by the Government of South Australia, through the [Department of Human Services \(DHS\) Screening Unit](#).

### 2. Assessment of prescribed positions

- 2.1 The University will review all current and future positions to determine if they are prescribed positions, in accordance with the legislative requirements of the CSPP Act and associated Regulations.
- 2.2 To determine if a position is prescribed the University will:
  - 2.2.1 assess the position's duties to determine if it will, or is likely to, work with children;
  - 2.2.2 have regard to the deeming provisions of section 6 of the CSPP Act and section 7 of CSPP Regulations 2019, noting that certain types of services or activities are deemed to work with children; and
  - 2.2.3 have regard to the positions already identified as deemed prescribed within this Procedure.
- 2.3 Where a position is identified as a prescribed position it will be:
  - 2.3.1 recorded as such on the Human Resources Information System; and
  - 2.3.2 clearly stated as an essential requirement in the associated position description.
  - 2.3.3 monitored for compliance to ensure all occupants hold a valid WWCC.
- 2.4 The hiring manager/supervisor is responsible for determining whether a position is prescribed, in consultation with their local People, Talent and Culture (PTC) Business Partner.
- 2.5 If a third party, external to the University, performs duties of a prescribed position, it is the responsibility of the University's nominated contract manager to ensure that the relevant service providers hold a valid WWCC. The costs of obtaining the WWCC are the responsibility of the third party not the University.

### 3. Working with Children Checks requirements

- 3.1 The University requires:
  - 3.1.1 all staff occupying a prescribed position, to hold and maintain a valid WWCC; and
  - 3.1.2 prospective employees of the University who will occupy a prescribed position to hold a valid WWCC prior to appointment to the position.
- 3.2 The University may at its discretion:

- 3.2.1 direct staff members to perform duties that require a WWCC or modify a staff member's existing position description to require a WWCC.
  - 3.2.2 require any staff member to hold a WWCC, whether, or not, they are performing a prescribed position.
- 3.3 The University will:
- 3.3.1 monitor all prescribed positions to ensure occupants of prescribed positions hold a valid WWCC; and
  - 3.3.2 manage confidentially all WWCC information held by the University in accordance with legislative requirements and relevant policies and procedures.
- 3.4 A staff member occupying a prescribed position:
- 3.4.1 must monitor the expiry date, and obtain a renewal prior to expiry (noting that renewal is required every 5 years). It is recommended that this process is initiated at least three months prior to expiry to ensure a valid WWCC is retained. It can be initiated with DHS up to 6 months prior to expiry;
  - 3.4.2 may apply for a WWCC personally. They will be notified of the outcome of a check by DHS via email and must provide details of their check to their PTC Business Partner. Where the University initiates an application on behalf of a person, the individual and the University will be notified of the outcome of a check by email;
  - 3.4.3 may rely on a valid DHS child-related employment check at the time the CSPP Act 2016 commenced as meeting the WWCC requirements until it expires. Prior to expiry of the check, individuals requiring a WWCC must apply for a new Working with Children Check.
- 3.5 Managers of prescribed positions must:
- 3.5.1 ensure that persons engaged in a prescribed position have a valid WWCC.
  - 3.5.2 provide the information below to their PTC Business Partner immediately if they employ someone directly into a prescribed position, to enable appropriate reporting to the DHS Screening Unit:
    - 3.5.2.1 the name, address, telephone number and email address of the business at which the person is to be employed; and
    - 3.5.2.2 the name and contact details of the person who verified the person's identity and the currency of the WWCC as above.

#### **4. Notification to the Department of Human Services**

- 4.1 Before engaging a person to undertake a prescribed position, the PTC Business Partner or Recruitment Central must notify the DHS of:
- 4.1.1 the name, address, telephone number and email address of the business at which the person is to be employed; and
  - 4.1.2 the name and contact details of the person who verified the WWCC validity.
- 4.2 The University is required by law to notify the DHS Screening Unit as soon as reasonably practicable after it becomes aware of any of the following information with respect to a person employed (paid or non-paid) in a prescribed position:

- 4.2.1 disciplinary proceedings in which the person was a defendant or respondent;
  - 4.2.2 disciplinary action taken against the person;
  - 4.2.3 findings of misconduct against the person;
  - 4.2.4 a notification made pursuant to reporting obligations of chapter 5 part 1 of the CYPS Act;
  - 4.2.5 offences of which the person has been charged and/or found guilty;
  - 4.2.6 a prohibition of the person from working with children under a law of the Commonwealth or of another state or territory;
  - 4.2.7 the person becoming, or is, a registrable offender under the Child Sex Offenders Registration Act 2006;
  - 4.2.8 the person making a disclosure to the University under section 66 of the Child Sex Offenders Registration Act 2006; and
  - 4.2.9 certain further categories of information outlined in the CSPP Act and related Regulations.
- 4.3 Any staff member with information related to the circumstances set out above, must notify the Executive Director: People Talent and Culture immediately to enable compliant and appropriate reporting to occur to the DHS Screening Unit.

## **5. Obtaining a Working with Children Check**

- 5.1 All applicants for a WWCC are required to have their identification verified by the production of documentary evidence to the minimum standard of the 100 Point Check as part of the application process. Where the University is initiating the WWCC check, identification can be verified by a PTC Business Partner, PTC Administrator or PTC Recruitment Consultant; a Justice of the Peace or Commissioner for taking Affidavits (Solicitor, Barrister or Proclaimed Police Officer).
- 5.2 Recruitment Central and managers recruiting directly to prescribed positions must verify that the person to be employed holds a valid WWCC prior to appointment. This verification will include that the WWCC has been conducted within the preceding 5 years; and ensure that the person is not a prohibited person.

## **6. Non clearance for a WWCC**

- 6.1 A staff member or student requiring a WWCC in order to fulfil the requirements of their prescribed position, must notify their manager immediately, in the event they:
- 6.1.1 have not received a WWCC;
  - 6.1.2 are prohibited from working with children;
  - 6.1.3 have their WWCC revoked; or
  - 6.1.4 their WWCC has expired.
- 6.2 In the event of being notified of circumstances set out in 6.1 above:
- 6.2.1 the manager must take steps to ensure the staff member is not engaged in duties that have contact with children or young people or is working in a prescribed position, and they must inform their local PTC Business Partner immediately;

- 6.2.2 PTC will inform the Executive Director: People, Talent and Culture who will take immediate action to ensure that the individual does not work in a prescribed position;
  - 6.2.3 action taken will be in accordance with the University's legislative, industrial and policy obligations.
- 6.3 Where a prospective employee is unable to obtain, or no longer holds a valid WWCC, or they are the subject of a prohibition notice, the University will not engage them to perform work in a prescribed position.

## **7. Administration of costs for WWCC**

- 7.1 Existing staff who apply for a prescribed position via secondment or merit selection and require a WWCC are required to meet the costs of the initial WWCC check to be eligible for appointment to the position.
- 7.2 Where a staff member is required by the University to undertake duties in a prescribed position in an acting capacity, and not through a selection or secondment arrangement, the requirement to meet the costs of the initial WWCC will be determined in consultation with the PTC Business Partner.
- 7.3 Current staff who occupy a prescribed position may seek reimbursement from the University for the cost of renewing an existing WWCC.
- 7.4 Students are required to meet the costs of their WWCC where this is required for the purposes of their tuition or engagement with the University.
- 7.5 Higher Degree by Research (HDR) Students are required to meet the costs of their WWCC where this is required for the purposes of their research. Where an HDR or student is engaged as a staff member in a prescribed position, the costs will be met by the University.
- 7.6 The Government has determined that a WWCC used solely for volunteering will be processed free of charge by the DHS Screening Unit.
- 7.7 Costs will not be met by the University in the following circumstances:
- 7.7.1 where a WWCC is required as a condition of a person's professional registration, and the individual does not occupy a prescribed position;
  - 7.7.2 where a WWCC is required for participation in a training opportunity, where the training is not required or mandated by the University; and
  - 7.7.3 the costs of a WWCC for a prospective employee prior to their employment with the University.

## **8. Other screening checks**

- 8.1 The DHS Screening Unit also undertakes employment related screening for work with vulnerable persons and work with people with a disability or for general employment probity. There may be a requirement for staff to obtain specific screening in these areas

in order to work/research with industry, professional disciplinary requirements or to manage student placements.

- 8.2 Where the employment checks listed below are a mandatory requirement of a staff member's position with the University, reimbursement arrangements consistent with those applying for a WWCC will apply:
- 8.2.1 Disability Services Employment Screening;
  - 8.2.2 Vulnerable Person-Related Employment Screening; and
  - 8.2.3 General Employment Probity Checks.
- 8.3 Staff should check with the requirements of any organisation that they are engaging with outside the University to ascertain their requirements for employment screening.

## **9. University positions identified as prescribed**

- 9.1 The CSPP Regulations exclude tertiary education as child related work. While in practice this means that most academic positions will not be prescribed, the University will assess all positions to determine if they are prescribed or not.
- 9.2 The University has pre-determined that positions in the areas listed in section 9 of this Procedure are considered "child-related work" in accordance with section 6 of the CPSS Act, and as such are prescribed positions. Staff appointed in these positions will require a valid WWCC.
- 9.3 The list of positions and areas set out in the Procedure is not intended to be exhaustive, however the list will be reviewed annually. The University may also determine individual positions to be prescribed on an ad-hoc basis. Staff should refer to their position description to determine if their position is prescribed or not. A PTC Business Partner can also advise on the assessment of the role for a WWCC.
- 9.4 In addition to the positions in the areas listed below, where any program administered by the University involves the provision of overnight excursions or camps where children or young people are attending, or mentoring activities within school outreach programs, it will be the responsibility of the program leader to ensure that the relevant staff attending the overnight excursion, field trip or camp or delivering the mentoring have a valid WWCC.

## **9.5 Cultural or Artistic Services**

- 9.5.1 Staff engaged by the University in coaching or tuition services or services and activities involved in the operation of in UniSA sporting clubs and associations require a valid WWCC. This includes staff employed in UniSA Sport and in the University's gymnasium facilities.
- 9.5.2 All staff and volunteers who are directly engaging with children or young people in MOD. (Museum of Discovery) and the Samstag Museum each require a valid WWCC.

## **9.6 Chaplains**

- 9.6.1 Chaplains are not engaged to deliver religious services by the University however, they are required to provide evidence of a valid WWCC to provide services at the University. The cost of the WWCC is the responsibility of the Chaplain.

## **9.7 Health Clinics, Nursing and Health Services, UniSA High Performance Sport Centre**

- 9.7.1 UniSA staff working in our Health Clinics providing services to children will require a valid WWCC.
- 9.7.2 UniSA staff working in the UniSA High Performance Sport Centre working with children will require a valid WWCC.
- 9.7.3 Staff or students providing a health service for children will be required to hold a valid WWCC. This includes any health service where a person will have physical contact with a child; be in close proximity to the child; or communicates with the child.
- 9.7.4 Staff providing services to children through a third party as a mandatory requirement of their core duties for the University may be required to have a valid WWCC. Staff should check the requirements of the Department for Health and Wellbeing or other health service providers regarding a WWCC to ensure the relevant requirements are met to deliver on agreements between the University and the third party, administer partnership agreements and fulfil supervision of placement arrangements.

## **9.8 SMART School; UniSA College; UniSA Connect; Aboriginal Tutorial Program (ATP), Wurringka Student Services**

The following positions all require a valid WWCC:

- 9.8.1 positions engaged in the delivery of services to children and young people in the SMART School.
- 9.8.2 UniSA College positions providing services to children and young people.
- 9.8.3 UniSA Connect positions delivering services to children and young people who are not supervised by a registered teacher.
- 9.8.4 Aboriginal Tutor Program and Wurringka Student Services' positions engaged in the delivery of services to children.

## **9.9 Student Counselling; Student Advisory Positions; Communications and Marketing Student Recruitment Staff**

The following positions all require a valid WWCC:

- 9.9.1 Student Counsellors.
- 9.9.2 Future Student Enquiries; Student Services Adviser; Student Adviser; and Student Liaison Officer; and Recruitment and Events staff who coordinate events for prospective high school students and where their roles require the provision of services to children.
- 9.9.3 Degree Adviser positions that provide services to children and young people.



## 9.10 Working with Government and other relevant industry partners

- 9.10.1 UniSA staff working in child protection services or with Government Departments; or child service providers e.g. childcare centres; schools etc. must check the requirements of the relevant agencies to determine if they require a valid WWCC. If this work is a requirement of their core duties for the University, and a valid WWCC is required, the University will reimburse the costs of renewing a WWCC while these prescribed duties remain a requirement of their employment with UniSA.
- 9.10.2 Staff must check with relevant industry partners before commencing work with them to determine if a valid WWCC is required. The University will fund the WWCC for current staff members if it is a requirement of their core duties in working with the relevant industry partner to hold a WWCC. In the recruitment of any staff to these child-related duties, the prospective employee will be required to hold a valid WWCC prior to appointment.
- 9.10.3 The Innovation and Collaboration Centre holds public and industry events and activities that may involve working with children. The relevant positions in this Centre will be prescribed.

## 10. Reports of reasonable suspicion of at risk

- 10.1 Under the Children and Young People (Safety) Act 2017 the University is required to make a mandatory report to the Child Abuse Report Line on 131 748 in relation to reasonable suspicions that a child or young person is at risk.
- 10.2 For the purposes of the Children and Young People (Safety) Act 2017, Section 18 states a child or young person will be taken to be **at risk** if—
- (a) the child or young person has suffered harm (being harm of a kind against which a child or young person is ordinarily protected); or
  - (b) there is a likelihood that the child or young person will suffer harm (being harm of a kind against which a child or young person is ordinarily protected); or
  - (c) there is a likelihood that the child or young person will be removed from the State (whether by their parent or guardian or by some other person) for the purpose of—
    - (i) being subjected to a medical or other procedure that would be unlawful if performed in this State (including, to avoid doubt, female genital mutilation); or
    - (ii) taking part in a marriage ceremony (however described) that would be a void marriage, or would otherwise be an invalid marriage, under the Marriage Act 1961 of the Commonwealth; or
    - (iii) enabling the child or young person to take part in an activity, or an action to be taken in respect of the child or young person, that would, if it occurred in this State, constitute an offence against the Criminal Law Consolidation Act 1935 or the Criminal Code of the Commonwealth; or
  - (d) the parents or guardians of the child or young person—
    - (i) are unable or unwilling to care for the child or young person; or



- (ii) have abandoned the child or young person, or cannot, after reasonable inquiry, be found; or
  - (iii) are dead; or
  - (e) the child or young person is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence; or
  - (f) the child or young person is of no fixed address; or
  - (g) any other circumstances of a kind prescribed by the regulations exist in relation to the child or young person.
- 10.3 Responsibility for investigating notifications of reasonable suspicion of a child or young person being at risk rest with the Department of Child Protection.
- 10.4 To enable the University to ensure a safe environment is provided for our students, staff and students are advised to:
- 10.4.1 notify the Executive Director: People, Talent and Culture in the event of reasonable suspicions of a child or young person being at risk as a result of the behaviour of a staff member or third party engaged by the University.
  - 10.4.2 notify the Chief Academic Services Officer in the event of reasonable suspicions of a child or young person being at risk relate to a student.

Confidential notification to the Executive Director: People, Talent and Culture or Chief Academic Services Officer can be made via email or personal contact.

## Further assistance

Management and staff may seek further advice from:

- Their immediate supervisor
- The designated PTC Business Partner for their area
- People, Talent and Culture team
- People, Talent and Culture website

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## Related Documentation:

- Children and Young People Safety Policy
- Children and Young People (Safety) Act 2017
- Child Safety (Prohibited Persons) Act 2016
- Child Safety (Prohibited Persons) Regulations 2019
- UniSA Enterprise Agreements
- Code of Ethical Conduct
- Code of Good Practice: Relationships between Staff and Students
- Code of Conduct for Students
- C-22: Acceptable Use of Information Technology

- A-46. Confidentiality of Students' Personal Information
- C- 36 Management of Conflict of Interest Policy
- C-12: Sexual Assault and Sexual Harassment Policy
- C-17: Student Complaints Resolution Policy
- C-24: Risk Management Policy
- RES-2: Human Research Ethics
- C-13 Hire of University Facilities
- Discrimination and harassment grievance procedures: staff
- Guidelines for Hire of University Facilities
- C12.4 Sexual Assault and Sexual Harassment Policy and Procedures

**Officer Responsible for Update and Review:** Executive Director: People, Talent & Culture

**Approved by:** Council, delegated to Executive Director: People Talent and Culture

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