

Working with Children and National Police Check Procedure

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Authorised Officer:	Chief Executive Officer	Due for review	Biennial (28/10/2023)

Purpose

This procedure has been developed to ensure GOTAFE meets the requirements contained within the *Worker Screening Act 2020 (Vic)* (*the WS Act*).

This procedure also sets out the requirement for a National Police Check (NPC) for all employees.

Roles and Responsibilities

This procedure applies to all GOTAFE's existing, new and prospective employees, contractors and volunteers and applies across all areas and activities of GOTAFE.

Definitions

Term	Definition
Child/Children	A person/s under 18 years of age.
Child related work	Means work where there is direct contact with children, and that contact is part of a person's duties. However, work is not child-related work by reason only of occasional direct contact with children that is incidental to the work. i.e. a Contractor being engaged to fix a leaky tap does not require a WWC clearance, as their work is incidental to, not primarily related to child-related work.
Contractor	Means any individual engaged by GOTAFE or a third-party to perform work for GOTAFE, who is engaged in child-related work, as defined. If the Contract work does not involve child-related work or is within areas of GOTAFE where interaction with students is incidental to performing that work, then they will not require a WWC clearance.
Direct contact	Means any contact between a person and a child that involves face to face or physical contact, oral, written or electronic communication.
Employee	Means permanent, sessional, casual, trainees (over 18) and labour hire employees.
Labour Hire Employee	The term applied to the provision of outsourced workers engaged for short- or long-term positions. They are employed by the labour hire company.
National Police Check (NPC)	Means a National Police Check obtained from Victoria Police or similar agency.

Volunteer	Includes unpaid engagement and unpaid student placement.
Working with Children clearance (WWC)	A legislative requirement and process of assessment as prescribed in <i>the WS Act</i> and subsequent Regulations 2021. An Employee WWC clearance and a Volunteer WWC clearance are the same, however, you are required to pay for an employee WWC clearance if you are doing paid child-related work. Penalties apply if you have the incorrect check.
Working with Children clearance card (Card)	A card issued by the Department of Justice and Community Safety which evidences that the holder has been given a WWC clearance.

Procedure

1. Working with Children Check (WWC)

1.1 Procedure for Employees, Contractors and Volunteers

All GOTAFE existing, new and prospective employees, contractors and volunteers engaged in child related work are required to hold a current WWC clearance as prescribed in *the WS Act*.

Employees who are registered under the *Victorian Institute of Teaching Act 2001* (e.g. Secondary school teachers), do not require a WWC clearance, whilst such registration is valid. Proof of current registration is to be provided to and recorded by Human Resources.

Employees who are not Victorian residents must apply for an equivalent WWC clearance in the state where they ordinarily reside.

It is the responsibility of the applicant, employee, contractor and/or relevant Labour Hire Company to ensure that they hold a WWC clearance as prescribed in *the WS Act*.

1.2 Lodging WWC Applications

- Applications can be made via the Working with Children Check website: <http://www.workingwithchildren.vic.gov.au/>.
- It is the responsibility of each existing, new and prospective employee, contractor and volunteer to apply for and obtain a WWC clearance.

1.3 Payment of WWC Applications

- All existing, new and prospective employees and contractors will be required to fund the cost of their own WWC check application and renewals.
- Volunteer checks do not have a cost associated with the application.

1.4 On Return of a WWC Clearance Renewal, Record Keeping and Monitoring

- Once an application or renewal is processed by the Department of Justice and Community Safety, a WWC clearance and card or an interim WWC exclusion or WWC exclusion will be forwarded directly to the individual.

- Employees, contractors and volunteers will need to present the WWC clearance or card to Human Resources. This information will be stored on the employee's, contractor's or volunteer's personal file and recorded on the Human Resources Information System.
- Persons issued with a WWC clearance card are always advised to carry the card on them when conducting child related work.
- Human Resources will generate a monthly report listing WWC clearance expiry dates of staff employed directly by GOTAFE. The relevant individual will be advised within four (4) weeks of the expiry date of the WWC clearance via email. The Human Resources Information System will generate an expiry notification to the employee 30 days prior to expiry; the Manager 14 days prior to expiry and Human Resources 7 days prior to expiry.
- GOTAFE requires all new and existing employees, contractors and volunteers to register for MyCheck. You will need to register for MyCheck by visiting the Department of Justice and Community Safety website. Individuals are required to update their contact details within 21 days of any change. Employees, contractors and volunteers are also required to update their details to include GOTAFE as their organisation via their MyCheck account. You will receive a reminder to renew from the Department of Justice and Community Safety via email, SMS, or letter 28 days before the WWC clearance expiry date.
- In the case of an employee, contractor or volunteer being issued with an interim WWC exclusion or WWC exclusion, they must notify their Manager and Human Resources in writing within 7 days. Please refer to clause 1.8 of this procedure for further information.

1.5 Right of Appeal

- If an interim WWC exclusion or WWC exclusion is issued to a person, the person has a right to appeal as specified in *the WS Act*. If an interim WWC exclusion or WWC exclusion is issued, the process for appeal will be outlined in the notice.
- It will be the responsibility of the person issued with the interim WWC exclusion or WWC exclusion to pursue such an appeal if they wish to do so. The person must not be engaged in any child-related work during the appeal period.

1.6 Valid Period of a WWC Clearance

- A WWC clearance will be valid for a period of five (5) years or as otherwise amended by legislation.
- The WWC clearance and card issued belongs to the person. It is transferable between positions and when changing employment or other engagement arrangements within the valid period.

1.7 Further Disclosure During Period of Employment/Engagement

- Any future criminal charge/s will be monitored by the Department of Justice and Community Safety on an on-going basis during the term of the issued WWC clearance as outlined in *the WS Act*. Any new charge/s or conviction/s will result in a re-assessment of the WWC clearance as per *the WS Act*.
- If a person, who has been issued a WWC clearance, is given notice by the Department of Justice and Community Safety that their WWC clearance is to be re-assessed, the person must notify their relevant Manager and Human Resources, in writing, within 7 days.
- In this case, the person must be withdrawn from all child-related work. The person cannot resume child-related work until such time as the re-assessment process is completed and the person is issued with an WWC clearance.
- If a person holding a valid WWC clearance is charged with or convicted of a relevant criminal offence or otherwise has a relevant change of circumstance within the meaning of Section 72 of *the WS Act* they must notify their Manager and Human Resources in writing, within 7 days. Failure to notify will be considered as serious misconduct and may result in termination.
- In the case where a person is withdrawn from child-related work, the person will be responsible for organising and paying for any re-assessment.

1.8 Non-compliance or Issue of an interim WWC exclusion or WWC exclusion

Where an employee, contractor or volunteer fails to comply with obtaining a WWC clearance or receives an interim WWC exclusion or WWC exclusion after a WWC check has been conducted, GOTAFE may take (and not be restricted to) any of the following steps against a current or prospective employee, contractor or volunteer:

- Immediate cessation of their work in the child-related work area; or
- Modify the work processes or duties associated with the child-related work conducted; or
- Re-design the position or work required; or
- Re-deployment; or
- Terminate the employment or engagement as per due process.
- Withdraw employment or engagement offer.

1.9 Re-applying or Renewing WWC clearance

- It is the responsibility of the employee, contractor or volunteer to re-apply or renew a WWC clearance 30 days prior to the expiry date.

- Employees and contractors will be responsible for funding their own WWC clearance renewal.
- Volunteer WWC check has no cost associated with their renewal.
- Employees, contractors and volunteers will need to present the renewed WWC clearance or card to Human Resources. This information will be stored on the employee's, contractor's or volunteer's personal file and recorded on the Human Resources Information System.

1.10 Advising Change of Circumstance

Holders of WWC clearances including all GOTAFE employees, contractors or volunteers must advise their Manager and Human Resources in writing within 7 days of any change of circumstances. This includes but is not limited to:

- Any relevant criminal charges or convictions that have occurred; or
- If the Department of Justice and Community Safety revokes the WWC clearance after any re-assessment; or
- If the WWC clearance has expired; or
- If personal details or residential address has changed; or
- If the person has moved from volunteer work to paid work

It is the responsibility of the holder of a WWC clearance and card to advise the Department of Justice and Community Safety of any change of circumstances as outlined in Section 73 of *the WS Act*. Failure to do so may result in criminal penalties.

It is the responsibility of the holder of a WWC clearance and card to notify the Department of Justice and Community Safety within 21 days of changes to personal details such as name, date of birth, phone number, residential address or change of employer or volunteer organisation.

1.11 Employment or Engagement Without an WWC clearance.

- Any person who does not present a valid WWC clearance or card prior to commencement **must not be engaged to perform any child-related work until the valid WWC clearance or card is received**. There are severe civil and criminal penalties for individuals, including relevant Managers who do not fulfil this statutory obligation. These penalties may be viewed through the Department of Justice and Community Safety's website.
- If a WWC clearance or card is not gained prior to commencement, evidence of application will be acceptable in the interim. However, employment contracts are subject to a satisfactory check and if employees, contractors or volunteers fail to comply, GOTAFE will act in accordance with clause 1.8 of this procedure.
- Any person who presents an interim WWC exclusion or WWC exclusion,

must not commence employment or engagement until such time as they are able to present a valid WWC clearance and card.

- Once a person has been employed or engaged, they are expected to further disclose any future changes to their circumstances as per the section in this procedure titled Further Disclosure During Period of Employment/Engagement.

1.12 Holders of Volunteer WWC clearance

- A Volunteer WWC clearance cannot be used for the purpose of paid employment or engagement. This is a criminal offence under *the WS Act*.
- A person who holds a valid volunteer WWC clearance or volunteer card, must not commence paid employment or engagement until such time as they are a holder of a standard WWC clearance for employees or contractors.
- A person who is a holder of a valid volunteer WWC clearance can re-apply for a standard WWC clearance if they are seeking paid employment or engagement as prescribed in *the WS Act*.

2. National Police Checks (NPC)

2.1. Procedure for Employees, Contractors and Volunteers

On commencement, all new and prospective GOTAFE employees, are required to undertake a National Police Check (NPC).

It is the responsibility of the applicant, employee and/or relevant Labour Hire Company to ensure that they undertake a NPC prior to commencement and provide the results of the check to GOTAFE in writing.

2.2. Lodging National Police Check Applications

- Lodgement for a National Police Check can be undertaken through the Victoria Police Website <http://www.police.vic.gov.au/> then on the side menu bar under “**Our Services**” click “**Police Records Check**”. You are required to obtain a **National Name Check** only, not a National Name Check and Fingerprint Record.
- Applications can also be made via a CrimTrac accredited agency. If using a CrimTrac accredited agency results must be provided in writing via a check results report.

2.3. Payment of National Police Check Applications

- On commencement, all new GOTAFE employees, contractors and volunteers will be required to fund the cost of their own NPC.
- Select positions that require regular mandatory National Police Checks will be organised, undertaken and funded by GOTAFE. Employees in the specified

areas of Finance, Payroll, Procurement or any employee with a financial delegation will undertake a mandatory National Police check on an annual basis, all other employees will be required to undertake a mandatory check on a biannual basis.

2.4. On Return of a National Police Check, Record Keeping

- New or prospective employees will need to provide the results in writing to Human Resources. This information will be recorded on the Human Resources Information System and the hard copy will be destroyed.

2.5. Right of Appeal

- If individuals wish to dispute the results of their NPC they must do so through the agency in which they applied.

2.6. Valid Period of a National Police Check

- National Police Checks do not have an expiry date for validity. The check is of police records only up until the day they are issued. For that reason, new or prospective employees will need to provide a current NPC at the time of signing their contract.

2.7. Further Disclosure During Period of Employment/Engagement

- If an employee is charged with or convicted of a relevant criminal offence or otherwise has a relevant change of circumstance, they must notify their Manager and Human Resources in writing, within 7 days. Failure to notify will be considered as serious misconduct and may result in termination.

2.8. Non-compliance or Issue of a Disclosable Court Outcomes

Where an employee fails to comply with obtaining a NPC or receives a disclosable court outcomes assessment/result after a check has been conducted, GOTAFE may take (and not be restricted to) any of the following steps against a current or prospective employee:

- Immediate cessation of their work; or
- Modify the work processes or duties associated; or
- Re-design the position or work required; or
- Re-deployment; or
- Terminate the employment or engagement as per due process.
- Withdraw employment or engagement offer.

On receipt of disclosable court outcomes, Human Resources will make a determination based on all available evidence, relating to the individual's suitability to engage or re-engage in work with GOTAFE. Such determination will be based on the following, note that this is not an exhaustive list;

- The nature and gravity of the conduct and its relevance to inherent requirements of the position; and
- The period of time since the applicant engaged, or allegedly engaged, in the conduct; and
- Any pattern of offending; and

- In the case of an offence, whether a finding of guilt or a conviction was recorded for it or a charge for it is still pending; and
- In the case of an offence, the sentence imposed for it; and
- The ages of the applicant and of any victim at the time the applicant engaged, or allegedly engaged, in the conduct; and
- The applicant's behaviour since he or she engaged, or allegedly engaged, in the conduct; and
- The existence of a 'tight correlation' between the inherent requirements of the role and the individual's criminal record; and
- The likelihood of any future conduct having a negative impact on GOTAFE or the health and safety of those entrusted with its care; and
- The good character and trustworthiness of the individual since the conduct occurred.

Human Resources will advise, in writing, of their determination to the affected employee within 14 days of receipt of such information.

2.9. Employment or Engagement Without a National Police Check.

- If a NPC is not gained prior to commencement, evidence of application will be acceptable in the interim. However, employment contracts are subject to a satisfactory check and if employees fail to comply, GOTAFE will act in accordance with clause 2.8 of this procedure.

Documentation and regulation

- Working with Children Check and National Police Check Policy – POHR13
- Employee Code of Conduct Policy – POHR14
- Discipline Policy for PACCT Staff – CS34
- Discipline Policy for Employees Other Than PACCT Staff – CS11
- Trainer and Assessor Qualifications Procedure PRED-177
- *Worker Screening Act 2020 (Vic)*
- *Public Administration Act 2011*
- *Education and Training Reform Act 2006*
- Volunteer Request to Engage Form