



Office of
Environment
& Heritage

Child Safe and Friendly Environment Policy

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<p>Please note, this policy is currently under review and will be updated as soon as possible.</p>

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Contents

Part 1 – Overview of policy.....	1
1 Introduction.....	1 2
Objectives.....	1
3 Scope and application.....	1
4 Definitions.....	2
5 Relevant legislation or other mandating instruments	
4 6 Policy and principles.....	5 7 Child
Safe Friendly Environment Code of Conduct.....	5 8
Child participation principles.....	6
9 Risk assessment	6
10 Accountabilities	6
Part 2 – Recruitment and background screening for child-related employment.....	9
11 Persons prohibited from working in child-related employment.....	9
12 Background screening for employees in paid child-related employment	10
13 Background screening for volunteers and work experience students in child-related employment.....	10
14 Selection of persons for child-related employment	11 15
Employment risk assessment and appointment of persons working with children.....	11
Part 3 – Child-focused activities.....	13
16 What are child-focused activities and how do they differ from child-related employment?.....	13
17 Background screening for staff and volunteers engaged in child-focused activities on OEH premises	13
18 Background screening of non-employees involved in child-focused activities.....	14
Part 4 – Management issues.....	17
19 Management of information.....	17 20
Staff and volunteer induction.....	17 21
Managing a child-related employment position.....	18 22
Managing child-focused activities and young staff.....	19 23
Managing OEH premises, parks or botanic gardens.....	19
24 Approvals for activities	20
25 Offensive or indecent behaviour by the public in parks and botanic gardens	20

26	Minimising risk through design of facilities	21	27
	Use of children’s images	22	28
	Child safe internet procedures	23	
	Part 5 – Reporting and managing complaints and allegations.....		
	24 29 Management of complaints and allegations.....		
	24		
30	Reporting requirements.....	25	
	Part 6 – Application of the policy to boards of management under Part 4A of the National Parks and Wildlife Act 1974		
31	Introduction.....	27	
32	Completion of OEH Declaration and Consent for Child-Focused Activities Form.....	27	33
	Reporting concerns, complaints and allegations.....	28	34
	Employment of persons in child-related employment.....	28	35
	Promotion of child safe friendly environment	28	36
	Child participation principles.....	28	37
	Project risk assessments.....	28	
	Part 7 – Resources.....	30	
38	Related policies and guidelines.....	30	
39	Other references	30	
40	Contacts.....	31	
	Appendix A – Definitions of child abuse and risk of significant harm	32	
	Appendix B – Child Safe and Friendly Environment Code of Conduct	34	
	Appendix C – Child participation principles and strategies	35	
	Appendix D – Risk assessment and management procedures.....	37	
	Appendix E – Definition of child-related employment (s 33(1) of the Commission for Children and Young People Act 1998).....	44	
	Appendix F – Definition of prohibited person (ss 33B–33E of the Commission for Children and Young People Act 1998).....	46	
	Appendix G – Child-related employment in OEH.....	49	
	Appendix H – Sample interview questions.....	51	
	Appendix I – Standard referee check questions.....	52	
	Appendix J – Suitability for working with children checklist.....	53	
	Appendix K – OEH Declaration and Consent for Child-Focused Activities Form.....	54	
	Appendix L – Parental/guardian photographic and publication consent form	56	
	Appendix M – Mandatory reporting in OEH.....	57	

Part 1 – Overview of policy

1 Introduction

Providing a safe environment for children and young people is a community responsibility, and the Office of Environment and Heritage (OEH) is committed to ensuring that its policies and procedures contribute to this aim.

Many staff members come into contact with children and young people during their working day, and others provide services to children and facilities that are used by children. In addition, many staff are parents and guardians.

As an employer, OEH is legally responsible for managing risks to children and young people. A range of positions in OEH have been identified as child-related employment for the purposes of the *Commission for Children and Young People Act 1998 (NSW)*. People in some positions may also have mandatory reporting obligations under the *Children and Young Persons (Care and Protection) Act 1998*.

2 Objectives

To foster a safe, friendly and positive environment for children by:

- increasing awareness of child safety, welfare and wellbeing issues amongst staff, volunteers and visitors to OEH premises, parks and botanic gardens
- equipping staff and volunteers with child safety, welfare and wellbeing strategies and guidelines
- providing information to assist staff and volunteers in dealing with child safety, welfare and wellbeing issues, so they clearly understand their responsibilities and the procedures to be followed
- promoting discussion of child safety, welfare and wellbeing issues and taking necessary action.

To help ensure OEH meets its mandatory employer responsibilities under NSW legislation.

To help maintain OEH's professional image as a responsible employer, service provider and land manager.

To help ensure OEH is a preferred employer with fair and helpful child and family workplace provisions.

3 Scope and application

The Child Safe and Friendly Environment (CSFE) Policy applies to everyone engaged by OEH, whether they are appointed permanently, temporarily, on work experience, as volunteers, or as members of committees, trusts, boards, panels, authorities and advisory councils appointed under legislation administered by OEH.

The CSFE Policy also applies to:

- lessees, licensees and permit holders while they are conducting activities on OEH premises, or in parks or botanic gardens

- visitors to OEH premises, parks or botanic gardens including service providers, other agencies or organisations
- any person involved with OEH in a partnership arrangement, such as community members, where that arrangement involves delivering a program or service, or carrying out an activity, which involves contact with children.

While some provisions of this policy will apply to all staff, other provisions will apply only to some staff, for example, staff who are employed in child-related employment and who require a Working With Children Check.

This policy repeals and replaces the Working With Children Policy drafted by the Department of Environment, Climate Change and Water (DECCW).

4 Definitions

Approved screening agency: is the agency authorised to undertake Working With Children Checks for persons in child-related employment. The approved screening agency for OEH is the Department of Family and Community Services' Approved Screening Agency, formerly the Working With Children Check Section in the Commission for Children and Young People.

Background screening: is the general term used in this policy to refer to the pre-employment checks that may be conducted on an individual to gather information to help assess potential risks to children and young people.

Child and young person: is a person under 18 years of age, unless otherwise specified (note that some legislation defines a child as under 15 or 16, and young people's activities may involve individuals up to 24 years of age).

Child abuse: refers to all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, including sexual abuse. Further information on the definition of child abuse is provided at Appendix A.

Child-focused activity: is a term adopted in this policy to define activities or programs involving occasional contact with children, as distinct from regular unsupervised contact with children, which is defined as *child-related employment*. The distinction is important as different background screening is required for *child-related employment* and *child-focused activities*.

Child friendly environment: is an environment that promotes a child's wellbeing and is responsive to the needs of children.

Child-related employment: is defined in s 33(1)(a) of the *Commission for Children and Young People Act 1998* as employment that primarily involves direct contact with children or young persons under 18 where that contact is not directly supervised by a person directing the employee in the course of their employment. Child-related employment includes employment in clubs, associations, movements, societies, institutions or other bodies, including bodies of a cultural, recreational or sporting nature, having a significant child membership or involvement (s 33(1)(a)(vii)), and employment at overnight camps for children (s 33(1)(a)(xviii)). Child-related employment may be paid or unpaid. The full definition of child-related employment under s 33 of the *Commission for Children and Young People Act 1998* is at Appendix E.

Child protection: is an activity or initiative designed to protect children from any form of harm, particularly arising from child abuse or neglect.

Child safe: means taking steps to prevent children and young people from suffering physical, sexual or emotional abuse.

Child safe environment: is an environment that is created to reduce opportunities for harm or abuse to children.

Contractor: for the purposes of this policy, a *contractor* is a person who is engaged by OEH under a temporary employment contract. A person who is providing services to OEH but remains employed by another agency or organisation is referred to in this policy as a service provider. This distinction is important because certain legal obligations rest with the employer of a person.

Employment: refers to paid employment on a permanent, temporary or casual basis and for the purpose of this policy, includes employment or performance of work under a contract, or as a volunteer.

OEH Declaration and Consent for Child-Focused Activities Form: refers to the OEH form on which an employee, volunteer or student being considered for engagement in child-focused activities (as distinct from child-related employment) declares that they do not have a criminal history that would make them a prohibited person (as defined in s 33B of the *Commission for Children and Young People Act 1998*) and consents to OEH checking relevant criminal history information to verify the statements made in the declaration. The OEH Declaration and Consent for Child-Focused Activities Form at Appendix K must be used for applicants being considered for engagement in child-focused activities.

OEH premises, parks and botanic gardens: for the purpose of this policy include, but are not limited to:

- OEH offices, depots and laboratories
- lands acquired or reserved under the *National Parks and Wildlife Act 1974*
 - Trust lands under the *Royal Botanic Gardens and Domain Trust Act 1980*.

Position description: includes a description of a position of employment or a description of a position on a committee, board or trust.

Prohibited person: is defined in s 33B of the *Commission for Children and Young People Act 1998* as a person who is convicted of a serious sex offence, the murder of a child or a child-related personal violence offence, as well as a registrable person under the *Child Protection (Offenders Registration) Act 2000*. It is illegal for a prohibited person to apply for, undertake or remain in child-related employment and it is illegal for an employer to employ a person known to be a prohibited person. The full definition of a *prohibited person* and the obligations on prohibited persons and employers in relation to child-related employment are at Appendix F.

Relevant employment proceedings: is a completed disciplinary proceeding where an employer, or a professional or other body that supervises the professional conduct of the employee, has found that reportable conduct occurred, or has some evidence that it occurred, or has found that an act of violence occurred, or has some evidence that it occurred, in the course of employment and in the presence of a child.

Risk of significant harm: is defined in s 23 of the *Children and Young Persons (Care and Protection) Act 1998*. A child or young person is at risk of significant harm if there are current

concerns for their safety, welfare or wellbeing. Further information on the definition of risk of significant harm is provided at Appendix A.

Spent conviction: refers to offences on a person's criminal record which, because of the amount of time having passed and legislative preconditions having been met, are no longer to be considered in any administrative decision making. Sexual offences and child-related personal violence offences can never be 'spent' for the purposes of the Working With Children Check.

Temporary appointment: refers to paid employment and for the purpose of this policy also includes a contractor or consultant.

Volunteer: for the purposes of this policy, a volunteer is a person engaged by OEH who freely chooses to participate and is not paid. Under some legislation, such as the *Commission for Children and Young People Act 1998*, a volunteer is treated as an employee.

Working With Children Check Applicant Declaration and Consent Form: refers to a Commission for Children and Young People form on which a person being considered for appointment to a position in child-related employment declares that they are not a prohibited person and consents to an approved screening agency undertaking criminal records checks. The Working With Children Check Applicant Declaration and Consent Form, which is available from the Commission for Children and Young People website at www.kids.nsw.gov.au must be used.

Working With Children Check Volunteer/Student Declaration Form: refers to a Commission for Children and Young People form on which a volunteer or student being considered for child-related employment declares that they are not a prohibited person and consents to the Commission for Children and Young People checking relevant criminal records to verify the statements made in the declaration. The Working With Children Check Volunteer/Student Declaration Form, which is available at www.kids.nsw.gov.au must be used.

5 Relevant legislation or other mandating instruments

The principal pieces of legislation that this policy supports are:

- *Children and Young Persons (Care and Protection) Act 1998*
- *Commission for Children and Young People Act 1998*
- *Ombudsman Act 1974 – Part 3A*
- *Child Protection (Offenders Registration) Act 2000*.

Other relevant NSW legislation:

- *National Parks and Wildlife Act 1974*
- *Royal Botanic Gardens and Domain Trust Act 1980*
- *Government Information (Public Access) Act 2009*
- *Crimes Act 1900*
- *Occupational Health & Safety Act 2000*
- *Anti-Discrimination Act 1977*
- *Independent Commission Against Corruption Act 1988*

- *Privacy & Personal Information Protection Act 1998* □ *Public Sector Employment & Management Act 2002.*

Relevant Commonwealth legislation:

- *Criminal Code Act 1995*, Division 474 (Telecommunications Offences, Subdivision C).

6 Policy and principles

OEH is committed to the protection of children and aims to provide a child safe and friendly environment for all OEH activities and programs.

Strategies and procedures for OEH will focus on the best interests of children and meet legislative requirements. Activities and programs will incorporate child participation principles.

OEH is also committed to the safety, welfare and protection of the rights of employees, volunteers, work experience students, contractors and partners and encourages their active participation in creating a child safe and friendly environment.

Managers will ensure that staff, volunteers, work experience students, contractors and partners are aware of their responsibilities arising from child protection legislation and this policy, and will assist them in meeting these responsibilities.

In addition to meeting its legal obligations, OEH will adopt a risk management approach to prevent and manage potential risks to child safety, welfare and wellbeing.

OEH will not permit a person to work with children if they pose an unacceptable risk to children's safety, welfare or wellbeing. OEH will also endeavour to ensure that persons who pose such a risk, and who do not work for OEH, are also not permitted to be involved in child-focused activities on OEH premises, or in parks or botanic gardens.

It is mandatory for any person engaged by OEH to report immediately any concerns relating to the safety, welfare or wellbeing of a child.

Parents, guardians, children and members of the public will be encouraged to raise any concerns in accordance with OEH's complaints processes.

OEH will treat all such concerns seriously and ensure that all parties involved are treated fairly and according to the principles of natural justice. All reports made in good faith will be viewed as being made in the best interests of the child.

OEH will promote its commitment to providing a child safe and friendly environment in relevant promotional materials, information brochures, recruitment advertisements, staff and volunteer application forms, newsletters and posters, and on the OEH website and intranet.

7 Child Safe Friendly Environment Code of Conduct

OEH has developed a CSFE Code of Conduct to support staff and volunteers in meeting their obligations under this policy.

Staff and volunteers will be required to sign an acknowledgement that they have read, understood and are prepared to abide by the CSFE Policy and CSFE Code of Conduct.

OEH will publish the CSFE Code of Conduct on its website and display it at offices and recreational areas which children and families attend.

The CSFE Code of Conduct is at Appendix B.

8 Child participation principles

OEH staff and volunteers are encouraged to incorporate child participation principles in their activities and programs where relevant and appropriate. Suggested principles and ideas are set out at Appendix C.

9 Risk assessment

Identifying and managing risk is an integral part of OEH operations. Risk assessment and management is guided by OEH's Risk Management Policy and risk management procedures, and other relevant policies or procedures (such as occupational health and safety safe work method statements).

The procedures in the CSFE Policy are intended to supplement existing risk assessment and management processes, not create additional ones. The procedures will help to create awareness of the specific risks to children's safety, welfare and wellbeing and ensure any opportunities for harm to children are minimised.

There are three key types of child safety risk assessments in OEH:

- A **program or project risk assessment** may be undertaken when planning child-focused activities and programs, or designing recreational spaces or buildings that will be visited and used by children such as parks and botanic gardens. Where the person providing the activity, program or facility is not employed by OEH, the requirement for the risk assessment will be part of the agreement or contract. A job safety analysis is an example of a type of project risk assessment.
- An **employment risk assessment** is used to determine whether a position requires background screening, the type of screening required, and whether to employ a person who is the subject of an unsatisfactory screening.
- An **allegation risk assessment** is used to determine the risk and appropriate action which needs to be taken when an allegation is made regarding improper conduct by a staff member or other person involved in OEH activities.

Further information and checklists on conducting the different types of child safety risk assessments are at Appendix D.

10 Accountabilities

10.1 Child Safe and Friendly Environment Committee

OEH will convene a CSFE Committee to oversee the implementation of this policy. The committee will comprise members from various OEH divisions.

The committee will provide a focal point in OEH for any matters regarding the safety, welfare or wellbeing of a child involved in an OEH activity or program.

10.2 Positions and functions with responsibilities for implementing the CSFE Policy

Position	Responsibility
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Chief Executive	<p>Oversees the policy framework for providing a safe, friendly and positive environment for children involved in OEH activities and on OEH premises.</p> <p>Notifies the NSW Ombudsman of reportable allegations or convictions (see Part 5 of this policy).</p> <p>Notifies the Commissioner for Children and Young People of all completed relevant employment proceedings in accordance with s 39 of the <i>Commission for Children and Young People Act 1998</i> (Part 5 of this policy).</p>
All Executive members	<p>Set up systems for providing a safe environment for children.</p> <p>Ensure appropriate screening occurs during the appointment of persons to groups, divisions and branches and to committees, trusts, boards, panels, authorities or advisory councils (Part 3 of this policy).</p> <p>Ensure systems are in place for recording and responding to allegations or convictions of a child safety, welfare or wellbeing nature against employees (Part 5 of this policy).</p> <p>Ensure complaints or allegations regarding child safety, welfare and wellbeing are managed in line with legislative and policy requirements (Part 5 of this policy).</p>
All managers and supervisors	<p>Provide support and guidance to staff, contractors and volunteers to comply with this policy and work effectively with children.</p> <p>Provide support and guidance to staff, contractors and volunteers on procedures regarding concern for the safety, welfare or wellbeing of a child.</p> <p>Assist staff and volunteers with risk assessments and the planning of projects and programs.</p> <p>Ensure appropriate screening occurs during the appointment of staff, contractors and volunteers.</p> <p>Manage any issues that arise in relation to child safety, welfare or wellbeing of children or employment screening.</p>
All staff, contractors, volunteers and work experience students	<p>Foster a safe, friendly and positive environment for children involved in OEH activities and on OEH premises.</p> <p>Comply with requirements as outlined in this policy and CSFE Code of Conduct.</p>
Corporate Governance Branch	<p>Coordinates governance issues regarding the implementation of this policy.</p> <p>Coordinates external reporting, including to the NSW Ombudsman, Department of Family and Community Services and NSW Police (Part 5 of</p>
Position	Responsibility

	<p>this policy) and the Commission for Children and Young People.</p> <p>Conducts or coordinates allegation risk assessments.</p>
Service Centre Branch	Ensures appropriate screening occurs during recruitment or when an existing employee takes up a position deemed as child-related employment.
Human Resources Branch	<p>Coordinates the identification of child-related employment positions in conjunction with the Service Centre.</p> <p>Advises managers and staff regarding concerns relating to inappropriate or unsafe behaviour or actions of any OEH staff member.</p> <p>Advises managers and staff regarding the management of allegations relating to staff.</p> <p>Ensures staff training and induction processes address child safety issues.</p>
Child Safe and Friendly Environment Committee	Facilitates and monitors implementation of this policy, including supporting managers and supervisors.

10.3 Policy review

The Corporate Governance Branch is responsible for coordinating the review of this policy. Reviews will be undertaken at least every second year and more frequently if changes in legislation, policies or other areas require the amendment of this policy. The next scheduled review is due on 1 April 2013.

Part 2 – Recruitment and background screening for child-related employment

11 Persons prohibited from working in child-related employment

The *Commission for Children and Young People Act 1998* prohibits certain people from working in child-related employment, including in a paid or voluntary capacity.

A prohibited person is a person who is convicted of a serious sex offence, the murder of a child or a child-related personal violence offence, as well as a registrable person under the *Child Protection (Offenders Registration) Act 2000*.

Child-related employment primarily involves contact with children or young persons under 18 where that contact is not directly supervised by a person directing the employee in the course of the employment. It includes s 33(1)(a)(vii) employment in clubs, associations, movements, societies, institutions or other bodies (including bodies of a cultural, recreational or sporting nature) having a significant child membership or involvement, and s 33(1)(a)(xviii) employment at overnight camps for children. Child-related employment may be paid or unpaid. The definition of child-related employment in s 33 of the *Commission for Children and Young People Act 1998* is at Appendix E.

It is an offence under the *Commission for Children and Young People Act 1998* for a prohibited person to apply for, attempt to obtain, undertake or remain in child-related employment.

It is also an offence for an employer to fail to ask an applicant for child-related employment if they are a prohibited person.

Details of child-related employment positions in OEH are at Appendix G.

If an OEH position is identified as child-related employment:

- that information will be included in the relevant position description or volunteer statement of duties, together with information about the individual's obligations under the relevant legislation
- that information will be included in the advertisement for the position
 - appropriate background screening will be undertaken.

This policy, the CSFE Code of Conduct and the complaints management process will be promoted throughout the recruitment process for paid and unpaid roles, to deter unsuitable people from applying or proceeding with their application.

12 Background screening for employees in paid child-related employment

12.1 Working With Children Check

All preferred applicants for paid child-related employment are required to:

- complete a declaration that they are not a prohibited person □ undergo a Working With Children Check.

These are requirements under the *Commission for Children and Young People Act 1998*. They apply to:

- new appointments to permanent or temporary positions in child-related employment
- the engagement of casual employees in child-related employment
- the appointment of existing employees to a new position with a different range of childrelated contact in the organisation. This includes employees moving from non-childrelated employment to child-related employment.

The Working With Children Applicant Declaration and Consent Form available from the Commission for Children and Young People website www.kids.nsw.gov.au must be completed by applicants being recommended for employment in paid child-related employment.

12.2 Who conducts the Working With Children Check?

The Working With Children Check is conducted by an approved screening agency and involves checks for relevant criminal records, relevant Apprehended Violence Orders and relevant employment proceedings.

The approved screening agency for OEH employees in paid child-related employment is the Department of Family and Community Services' Approved Screening Agency, formerly the Working With Children Check Section in the Commission for Children and Young People.

If a person is engaged in child-related employment on OEH premises, or in parks or botanic gardens, but is not employed by OEH, that person's employer (not OEH) is responsible for background screening (e.g. a teacher conducting an overnight camp with children in a park).

13 Background screening for volunteers and work experience students in child-related employment

All volunteers and work experience students in child-related employment must complete the Working With Children Volunteer/Student Declaration Form declaring that they are not a prohibited person and consent to the Commission for Children and Young People checking criminal history information to verify the statements in the form.

This is a requirement of the *Commission for Children and Young People Act 2010*.

The Working With Children Volunteer/Student Declaration Form is available from the Commission for Children and Young People website at www.kids.nsw.gov.au.

All forms are retained by OEH and must be made available for audit by the Commission for Children and Young People.

Note: OEH will not place a work experience student unsupervised in a child-related employment position. However, work experience students may work with a staff member who is in such a position. Consequently, work experience students will not be engaged in child-related employment and will not be required to complete a Commission for Children and Young People Volunteer/Student Declaration Form. However, as they will be involved in child-focused activities (see Part 3 of this policy), they will be expected to complete the OEH Declaration and Consent for Child-Focused Activities Form.

14 Selection of persons for child-related employment

OEH will use targeted interview questions using behavioural based and value based questions to assess attitudes and potential risks to children. Sample questions are provided at Appendix H.

Referee checks will include specific emphasis on the applicant's motivation and suitability to work with children. Standard referee questions are at Appendix I.

A checklist to assist panels in determining suitability for child-related employment is at Appendix J.

Convenors will inform interviewees for paid employment in child-related employment of the requirement to provide proof of identity documents to enable the Working With Children Check to be undertaken by the approved screening agency. Certified photocopies of identification must be forwarded to the Service Centre with the selection papers.

It is not the role of the selection committee to question interviewees about prior criminal offences disclosed at the interview, or about their potential prohibited person status. However, if an applicant for paid child-related employment chooses to verbally disclose a prior conviction during the actual job interview or at any other time, the disclosure should be noted and brought to the attention of the Service Centre for further action.

No advice is to be offered at the time of interview on what effect, if any, a voluntary disclosure of a prior conviction may have on the interviewee's application for the position. The convenor should reply to such a question by stating that the disclosure will be considered along with other selection criteria and factors for the position.

In the event that the person is considered for appointment, any prior criminal offences would be identified as part of the Working With Children Check and an assessment made by the approved screening agency as to whether the person poses a risk to children.

15 Employment risk assessment and appointment of persons working with children

15.1 Paid child-related employment

No offers of paid employment or appointment in child-related positions must be made until all forms and checks have been completed and cleared by the approved screening agency.

Any person who does not complete a prohibited person declaration and consent form will not be engaged in paid child-related employment. However, a person's right to refuse to sign a declaration should not be treated as an admission of guilt.

If the preferred applicant for child-related employment has identified they are a prohibited person, they cannot legally be appointed to the position.

On receipt of an unsatisfactory background check, the approved screening agency will undertake an employment risk assessment to determine the person's suitability for employment, taking into account the nature of the position and the seriousness of the offence. OEHL will then be required to also undertake an assessment and advise the agency if OEHL's decision is not to proceed with the appointment. Further advice regarding this process can be obtained from the Service Centre.

Where the preferred applicant does not have a relevant record but a referee raises concerns about the candidate's suitability to work with children, the selection committee and approving officer will make a judgement about the person's suitability for employment, following a discussion with the applicant and review of any relevant information. Further advice regarding this process can be obtained from the Service Centre.

15.2 Volunteers and work experience students in child-related employment

No offers of engagement are to be made to volunteers and work experience students in child-related employment until they have completed a Working With Children Check Volunteer/Student Declaration Form.

The Commission for Children and Young People conducts regular audits of these declarations.

Part 3 – Child-focused activities

16 What are child-focused activities and how do they differ from child-related employment?

Staff and others to whom this policy applies may have occasional contact with children, rather than the regular contact which is typical of child-related employment. Such occasional contact is referred to in this policy as a child-focused activity.

Examples of a child-focused activity include:

- supervising work experience students
- involvement in educational activities on an occasional basis, rather than as a core duty of a position
- giving guest talks or lectures at schools, TAFEs or universities
- being involved in an ‘open day’ in parks or botanic gardens □ conducting tours in parks aimed at children.

While there is no legislative requirement to conduct background screening of people in child-focused activities, as part of OEH’s commitment to providing a child safe and friendly environment, all persons engaged in child-focused activities on OEH premises will be expected to undergo pre-screening checks.

Note: While organising an overnight camp for children is a child-focused activity, staff or volunteers who work in overnight camps for children are in child-related employment as defined in s 33(1)(a)(xviii) of the *Commission for Children and Young People Act 1998* and must comply with the legislative requirements for persons in child-related employment.

17 Background screening for staff and volunteers engaged in child-focused activities on OEH premises

Although there is no legal requirement for people in child-focused activities (as distinct from child-related employment) to undergo a Working With Children Check, as part of its commitment to providing a child safe and friendly environment, OEH will conduct background screening of anyone engaged by OEH who is seeking to be involved in a child-focused activity, if:

- the children or young people are not accompanied by a parent or guardian
- the person may be required to be in the presence of a child or young person without the presence of another staff member or volunteer supervisor. Note that the other staff member present does not have to be a OEH employee. For example, they may be a teacher at a school.

Screening will also be required for all staff who directly supervise a staff member under the age of 18.

As a minimum, applicants will be required to complete an OEH Declaration and Consent for Child-Focused Activities Form declaring that they do not have a criminal history that would

make them a prohibited person (as defined in s 33B of the *Commission for Children and Young People Act 1998*) and consenting to OEH checking relevant criminal history information to verify the information in the declaration. Referee checks may also be required.

The OEH Declaration and Consent for Child-Focused Activities Form is at Appendix K.

Note: The OEH Declaration and Consent for Child-Focused Activities Form is similar to but different from the Commission for Children and Young People's Working With Children Applicant Declaration and Consent Form and Working With Children Volunteer/Student Declaration Form, which are used for child-related employment situations.

The OEH Declaration and Consent for Child-Focused Activities Form allows OEH to check the veracity of the declaration against relevant criminal records if required. This will be organised by the Service Centre and undertaken by OEH's shared services provider as part of the normal recruitment and appointment process.

Although completion of the OEH Declaration and Consent for Child-Focused Activities Form is not a legal requirement under the *Commission for Children and Young People Act 1998* as child-focused activities are not included in the definition of child-related employment, if a person refuses to complete the form for a child-focused activity, OEH will take steps to ensure the safety of children. This may include:

- not allowing the person to be involved in the child-focused activity, or
- providing additional supervision.

17.1 Selection of persons for positions involving child-focused activities

If a position is identified as one which may frequently involve child-focused activities or one which may involve supervision of staff under the age of 18:

- information will be included in the relevant position description or Volunteer Statement of Duties and the advertisement advising that background screening may be required for preferred applicants
- OEH will use targeted interview questions using behavioural based and value based questions to assess attitudes and potential risks to children
- referee checks will include specific emphasis on the applicant's motivation and suitability to work with children.

If the preferred applicant has identified they have a criminal history that would make them a prohibited person as defined in s 33B of the *Commission for Children and Young People Act 1998*, an employment risk assessment will be undertaken to determine the person's suitability for employment, taking into account the nature of the position and the seriousness of the offence.

18 Background screening of non-employees involved in childfocused activities

Non-employees include:

- members of committees, trusts, boards, panels, authorities and advisory councils appointed under legislation administered by OEH

- lessees, licensees and permit holders conducting activities on OEH premises, and in parks or botanic gardens
- any person involved with OEH in a partnership to deliver a child-focused activity.

18.1 Members of a committee, trust, board, panel, authority or advisory council involved in child-focused activities

Persons being considered for appointment to a committee, trust, board, panel, authority or advisory council under legislation administered by OEH where the work of the committee, trust, board, panel, authority or advisory committee involves child-focused activities will be expected to complete a OEH Declaration and Consent for Child-Focused Activities Form (Appendix K) and agree to comply with the CSFE Code of Conduct.

Information on these requirements will be provided to applicants when nominations or applications are sought. The OEH Declaration and Consent for Child-Focused Activities Form allows OEH to check the declaration against relevant criminal records. If required, this will be organised by the Service Centre through OEH's shared services provider as part of the normal recruitment and appointment process.

Note: If the work of the committee, trust, board, panel, authority or advisory committee involves activities that are defined as child-related employment in the *Commission for Children and Young People Act 1998* – including employment in clubs, associations, movements, societies, institutions or other bodies such as bodies of a cultural, recreational or sporting nature which have a significant child membership or involvement, and employment at overnight camps for children – persons being considered for appointment to the committee, trust, board, panel, authority or advisory committee will be expected to complete a Commission for Children and Young People's Working With Children Applicant Declaration and Consent Form for paid employment or a Working With Children Volunteer/Student Declaration Form for unpaid employment, available from www.kids.nsw.gov.au.

The Children and Young People's Working With Children Applicant Declaration and Consent Form allows the approved screening agency to conduct a Working With Children Check in accordance with the *Commission for Children and Young People Act 1998*. The Working With Children Volunteer/Student Declaration Form allows the Commission for Children and Young People to check criminal history information to verify the information in the declaration.

Note: Some legislation treats members of committees, trusts, boards, panels, authorities and advisory councils appointed under legislation administered by OEH as employees. For example, the *Ombudsman's Act 1974* requires the Chief Executive to report to the Ombudsman on allegations made against board and committee members.

18.2 Lessees, licensees and permit holders conducting activities on OEH premises, or in parks or botanic gardens

In seeking approval to conduct a child-focused activity on OEH premises, parks or botanic gardens, lessees, licensees and permit holders must declare that they will:

- undertake all checks required by law for all individuals involved in the activity
- not employ anyone for the activity who they know to be a risk to children
- agree that all persons employed by them to undertake the activity will comply with the CSFE Policy and CSFE Code of Conduct.

18.3 Partnership arrangements

OEH often works in partnership with community members on child-focused activities.

OEH will require community members involved in these activities to:

- complete an OEH Declaration and Consent for Child-Focused Activities Form unless they have already been screened by their employer or organisation
- agree to comply with the CSFE Code of Conduct.

Note: Partnerships involving members of clubs, associations, movements, societies, institutions or other bodies (including bodies of a cultural, recreational or sporting nature) which have a significant child membership or involvement are defined as undertaking child-related employment in accordance with s 33(1)(a)(vii) of the *Commission for Children and Young People Act 1998*. In such cases the club, association, movement, society, institution or other body must arrange for the community members to complete a Commission for Children and Young People Working With Children Check Applicant Declaration and Consent Form for paid employment, or a Commission for Children and Young People Working With Children Check Volunteer/Student Declaration Form for unpaid employment.

Similarly, partnerships involving paid or unpaid employment in overnight camps are also defined as undertaking child-related employment in accordance with s 33(1)(a)(xviii) of the *Commission for Children and Young People Act 1998*. In such cases, the club, association, movement, society, institution or other body must arrange for the community members to complete a Commission for Children and Young People Working With Children Check Applicant Declaration and Consent Form for paid employment, or a Commission for Children and Young People Working With Children Check Volunteer/Student Declaration Form for unpaid employment.

Part 4 – Management issues

19 Management of information

Only designated officers in OEH may have access to background screening documents. This information is not to be given or sent to, or discussed with, any third party person or organisation other than the applicant. Designated officers are required to sign a confidentiality agreement.

Convenors of selection committees and managers or directors must ensure the confidentiality of information offered by interviewees and the results of background screening. These arrangements must include, as a minimum:

- advice to selection committee members on respecting the confidentiality of information voluntarily disclosed at interview
- appropriate security controls in relation to handling voluntary verbal disclosures of past offences
- proper access control over completed interview selection papers during the recruitment process.

Breaches of confidentiality may result in disciplinary action and, in some cases, are an offence under the *Commission for Children and Young People Act 1998*.

All information collected throughout the recruitment and screening process will be treated as confidential, stored securely and only made available on a need-to-know basis or when required by law.

Declaration and consent forms (including duplicate copies of the Commission for Children and Young People's Working With Children Check Applicant Declaration and Consent Form for paid child-related employment) will be stored securely by the Service Centre. Originals of the OEH Declaration and Consent for Child-Focused Activities Form collected during the recruitment process for paid employment will also be stored securely in the Service Centre. They must be available for audit by the Commission for Children and Young People.

The original Commission for Children and Young People's Working With Children Check Volunteer/Student Declaration Form for Child-Related Employment and originals of the OEH Declaration and Consent for Child-Focused Activities Form for volunteers and students collected during the recruitment process will be stored securely by the volunteer supervisor/coordinator. They must be available for audit by the Commission for Children and Young People, if required.

Records must be kept of the risk assessment, and findings leading to relevant work proceeding notifications, so the information is available for future reference. This information is to be kept in a secure location, as specified above.

20 Staff and volunteer induction

OEH is responsible for providing staff, volunteers and work experience students with the necessary guidance and support to effectively comply with the CSFE Policy, CSFE Code of Conduct and any legislative responsibilities.

OEH will ensure that all staff and volunteers who are employed in child-related employment, and all staff who may have reporting obligations, are made aware of their legislative responsibilities.

OEH will ensure that all staff, volunteers and work experience students are aware of the CSFE Policy, CSFE Code of Conduct and the complaints management process. This will be achieved by providing training sessions and induction processes, and information on the intranet.

The following training and induction procedures will be followed:

- training on the CSFE Policy, CSFE Code of Conduct and the complaints management process will be provided to all staff, volunteers and work experience students as part of their induction, regardless of their level of involvement with children
- information will be provided on the intranet on suitable external training programs available to staff, particularly those in child-related employment and their supervisors
- supervision and performance review processes for those working directly with children will include guidance on expectations in regards to the policy on, and legislative requirements and identification of, any practice or behaviour of concern
- training sessions on working effectively and safely with children, child safe risk assessment and program planning, Working With Children Check information and other relevant areas will be provided to staff and volunteers when requested or as identified by OEH management.

21 Managing a child-related employment position

It is an offence for a person being engaged in child-related employment not to disclose their prohibited person status or for an employee to remain in child-related employment if they are a prohibited person.

It is also an offence for an employer to employ a person, or to continue to employ a person, in child-related employment if they are aware that a person is a prohibited person.

All current employees, volunteer workers and others engaged in any other capacity in child-related employment must be reminded of their obligations under the relevant legislation and of the fact that it is an offence for a prohibited person to apply for, or continue to work in, child-related employment.

If an employee currently engaged in child-related employment becomes a prohibited person, it is their responsibility to vacate the position. If OEH becomes aware that a person in child-related employment is a prohibited person, the person must be moved out of the position immediately and the Commission for Children and Young People must be notified.

A prohibited person declaration and consent form remains current while a person remains an employee.

All OEH workplaces will be reviewed at least every two years to ensure that all child-related employment positions have been identified. This review will be coordinated by the Human Resources Branch in conjunction with the Service Centre.

22 Managing child-focused activities and young staff

To minimise any concerns for child safety, child-focused activities should ideally be designed so a child or young person is not left alone in the company of another person who is not their parent or guardian, unless that person is in a child-related employment position and has been subject to appropriate background screening checks. Appendix C of this policy provides further guidance on how to make a child-focused activity a safe and enjoyable experience.

22.1 Work experience and young staff

A work experience student will not be placed in a child-related employment position but may work with staff who are in child-related employment. Consequently, they will not be required to complete the Commission for Children and Young People's Working With Children Check Volunteer/Student Declaration Form. However, where a work experience student or young staff member may be involved in child-focused activities, they will be expected to complete the OEH Declaration and Consent for Child-Focused Activities Form.

Management or supervision of work experience students and young staff members requires an understanding and knowledge of responsibilities and child safe strategies.

Work experience students and young staff will be made aware of OEH's CSFE Policy, the CSFE Code of Conduct and the complaints management process. They will also be informed who will supervise them and their lines of accountability.

Work experience students and young staff should not work alone with another staff member unless that staff member has been screened for child-related employment or child-focused activities as appropriate.

Allegations or complaints involving a work experience student will be investigated in accordance with the OEH Guidelines for *Managing external complaints and allegations* (refer to Part 5 of this policy). However, such an investigation will be conducted in liaison with the relevant school or TAFE as they will have their own procedures.

22.2 Incidental contact with children

Staff may come into contact with children while conducting their work, even if they are not employed in child-related employment or engaged in child-focused activities. For example, staff may be:

- maintaining or constructing facilities in parks
- conducting law enforcement
- conducting research or pollution monitoring
- in a workplace with work experience students.

All staff should therefore be familiar with this policy and the CSFE Code of Conduct. Part 6 contains information on referring to the *Legal Eye* for dealing with children and young people.

23 Managing OEH premises, parks or botanic gardens

Anyone who undertakes child-focused activities or child-related employment on OEH premises, or in parks or botanic gardens under permit, lease, licence, or other form of consent or agreement (non-employees of OEH as defined in Part 3, Section 18 of this policy):

- will be supplied with a copy of the OEH CSFE Code of Conduct and will be expected to comply with it
- will be made aware of OEH CSFE Policy and complaints processes
- will be made aware of lines of accountability in relation to OEH staff and management
- may be required to undertake a CSFE risk assessment as part of the agreement with OEH
- will have to provide evidence to OEH that adequate levels of supervision are provided to their staff and volunteers and that adequate ratios between children and staff/volunteers are maintained.

24 Approvals for activities

Approvals to carry out a child-focused activity or child-related employment on OEH premises, or in parks or botanic gardens, will include the following conditions:

- that groups and individuals are reminded of the requirements of the *Commission for Children and Young People Act 1998* – employer guidelines for child-related employment are available from www.kids.nsw.gov.au, and include declarations and consents that must be made by prospective employees
- that groups and individuals must disclose to potential customers/team members that they are an independent body from OEH.

Provisions should be included in lease or licence agreements that may include child-focused activities or child-related employment (e.g. a child care centre) to the effect that:

- the lessee/licensee declares to the lessor/licensor that the lessee/licensee is aware of the provisions of the *Commission for Children and Young People Act 1998* and that it is an offence to employ a prohibited person in child-related employment
- the lessee/licensee indemnifies OEH in respect of any claim arising out of alleged or actual offences committed against children or young persons on the premises or in connection with the lease/licence.

25 Offensive or indecent behaviour by the public in parks and botanic gardens

This section of the policy deals with behaviour of the public. Behaviour of staff is dealt with in Part 5.

Offensive or indecent behaviour by the public in parks and botanic gardens may be an offence under OEH legislation. However, it may also be a criminal offence under other legislation such as the *Crimes Act 1900*, or a police matter. For example:

- an act of indecent assault or indecent exposure may constitute a criminal offence under Part 3 Division 10 of the *Crimes Act 1900*
- it is an offence under clause 13 of the National Parks & Wildlife Regulation 2009 to behave in a disorderly manner, or use insulting or offensive language, or commit an act of indecency in a park

- it is an offence under clause 15 of the Royal Botanic Gardens and Domain Trust Regulation 2008 to behave in an offensive or indecent manner.

Where OEH considers that an act might involve a criminal offence, OEH staff will notify police before taking any action under OEH legislation. Staff must also advise their supervisor or other senior OEH employee, but this notification should not delay referral to the police.

Where the act cannot be successfully pursued under the *Crimes Act 1900*, or such course of action is considered not appropriate for any reason, the act could still be dealt with as a contravention of OEH legislation.

Where a police officer is attending the scene of a possible offence, a OEH officer should only attend the scene with the police officer if the OEH officer's safety is not likely to be at risk.

Where the incident is a possible offence under legislation other than OEH administered legislation, OEH staff should only record information that is relevant for a corresponding offence under OEH legislation, or for OEH's internal records of the incident (e.g. to assist in the management of future incidents).

Authorised OEH officers and police officers have the power to require people alleged to have committed an offence under the National Parks & Wildlife Regulation 2002 or the Royal Botanic Gardens and Domain Trust Regulation 2008 to state their name and residential address, and if they are driving a motor vehicle in a national park, to require the driver and others to provide information.

If the police are unable to attend the scene, the measures to be taken by OEH officers should depend on the officers' judgement of:

- the potential risk posed to child safety
- how effective the attendance of OEH officers would be in dealing with the risk
 - OEH officers' availability.

26 Minimising risk through design of facilities

The following design tools may be used to minimise risk in parks, gardens and other outdoor recreational spaces. Further guidance is available in the references listed in Part 7 of this policy.

- Consulting with children during the design phase can help to identify issues that need to be addressed. However, consultation with children needs to be undertaken under parent supervision, or by appropriately trained people.
- Clear signage should be present in parks, gardens and other recreational spaces stating that parents and guardians are responsible for supervising children in their care.
- Facilities which are likely to be frequented by children must be designed to minimise risks to their safety.
- For major new facilities (e.g. new camping grounds) and places where children often go without supervision, a crime risk assessment could be conducted to guide the design and management of the facilities (refer to references in Part 7 of this policy). This assessment should be conducted by consultants or staff who have undergone training.
- If there is community ownership of an area, people are more likely to visit and care for the area. They are also more likely to take responsibility for the children using the area,

and to report or attempt to prevent crime. Design should encourage people to gather in a space and take responsibility for its use and condition.

26.1 Surveillance

- People feel safe in public areas when they can see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance.
- The layout, orientation and location of facilities, and the use of landscaping and lighting to create spaces where users can see and be seen by others, must be considered.
- Mechanical or electronic measures such as surveillance cameras, help points and mirrored building panels can be used to supervise isolated, high risk locations. Signs can be used to warn people they are under surveillance, or to inform them of penalties.
- Tactical positioning of on-site supervisors may be used at high risk locations or for temporary activities such as events.

26.2 Access control

- Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. Such barriers can minimise opportunities for offences and increase the effort required to commit crime.
- Signs, barriers and other tools must be used to clarify where people are permitted to go or not to go. This makes it harder for would-be offenders to make excuses for being in restricted areas.
- The tactical use of landforms and waterways, formal and informal pathways, landscaping, fencing and gardens may also be used to channel people into target areas and restrict access to areas which may be unsafe or isolated.

27 Use of children's images

To ensure the safety of children and to uphold their right to be represented in a respectful and positive way, everyone engaged by OEH must comply with the following before taking a photo of or filming a child:

- assess and endeavour to comply with cultural restrictions for reproducing personal images
- depending on the age of the child, obtain consent from the child and from the child's parents or guardians where the child is under 18 years of age – a permission form is included at Appendix L
- explain and provide an example if possible of how the image will be used
- ensure photographs, films, videos and DVDs present children in a dignified manner and not in a vulnerable or submissive position – children should be adequately clothed and not in poses that could be seen as sexually suggestive
- ensure images contain no information identifying the child
- ensure images are an honest representation of the context and the facts

- ensure that when sending images electronically, file labels do not reveal identifying information.

28 Child safe internet procedures

It is mandatory for OEH staff and volunteers to make a report to their direct supervisor immediately if they become aware of any images, SPAM, pop-ups or emails which are pornographic, suspicious or inappropriate, or concern the safety or welfare of children.

The *Criminal Code Act 1995* provides for a penalty of 10 years' imprisonment for possession of child pornography depicting a person under 18 years of age, and up to 15 years' imprisonment for online grooming of a person under 16 years of age. For further details refer to www.comlaw.gov.au.

Everyone engaged by OEH must comply with the Network Acceptable Use Policy, which is on the intranet.

Part 5 – Reporting and managing complaints and allegations

29 Management of complaints and allegations

OEH staff rarely deal with the same children on an ongoing basis, and are therefore not expected to be able to assess whether a child is being harmed in the home. The focus of this policy is on child safety concerns arising from harm occurring on OEH premises, in parks or botanic gardens, or where OEH staff are involved.

The policy requires that the following be reported:

- suspicion, observation, concern or allegation of harm to a child's safety or wellbeing perpetrated by anyone engaged by OEH, working with OEH on an activity or program, on OEH premises, or in parks or botanic gardens; or a general concern for child safety arising from the way that OEH premises, parks or botanic gardens are managed – this includes situations where the alleged perpetrator is also a child or young person
- breach of the CSFE Code of Conduct
- images, SPAM, pop-ups or emails received on a OEH computer which involve child pornography or the exploitation of children
- use of a OEH computer or other technology to store or send images of child pornography
- information from a child or a family member that the child is being harmed, or fears being harmed, by anyone engaged by OEH, working with OEH on an activity or program, on OEH premises, or in parks or botanic gardens.

Complaints and allegations generally fall into one of three categories:

- a complaint or allegation about the actions or behaviours of a person engaged by OEH
- a concern or complaint about the design or management of a OEH facility, or program, i.e. not specifically against an individual
- a complaint or allegation about the actions or behaviours of a person who is not engaged by OEH, but who was on OEH premises or in a botanic garden or park when the incident occurred.

For the purposes of this policy:

- A complaint is defined as a concern for a child's wellbeing; for example, dissatisfaction with the way a program is being operated, concerns about the inappropriate behaviour of a staff member or volunteer, report of a child being upset as a result of participating in an activity, or a child complaining another child is bullying him or her.
- An allegation is defined as a concern for a child's safety; for example, a staff member or volunteer is behaving in an unsafe manner towards children, a parent reports a child has been harmed as a result of participating in a program, a staff member reports receiving child pornographic images on their computer from a staff member or volunteer, a staff member is concerned about the unsafe behaviour of a child participating in a program or a child tells a staff member that she or he is being harmed.

If a complaint or allegation is made against a person engaged by OEH, the procedures in the OEH *Guidelines for managing external complaints and allegations* will be applied. These guidelines provide definitions of complaints and allegations. A child safety matter will generally be treated as an allegation, rather than a complaint, if it involves an allegation of misconduct or harm to a child's safety. OEH must notify the NSW Ombudsman of the outcome of such investigations, and notify the Commission for Children and Young People of all completed relevant employment proceedings in accordance with s 39 of the *Commission for Children and Young People Act 1998*.

The procedures in the *Guidelines for managing external complaints and allegations* should also be applied if a complaint or allegation is made about the actions or behaviours of a person who is not engaged by OEH, including work experience students. However, OEH is not required to notify the NSW Ombudsman of the outcome of such investigations.

A person making a complaint or allegation may be directed to the Department of Family and Community Services, the police or the NSW Ombudsman, depending on the nature of the complaint or allegation (refer to the *Guidelines for managing external complaints and allegations*).

30 Reporting requirements

30.1 Reporting significant risk of harm

Any person who has reasonable grounds for suspecting that a child or young person is at significant risk of harm and is concerned about the safety, welfare or wellbeing of the child or young person should make a report to the Child Protection Helpline (refer to the references in Part 7 of this policy).

The requirement to make a report is mandatory if an OEH employee, contractor, service provider or volunteer is:

- a mandatory reporter under the *Children and Young Persons (Care and Protection) Act 1998*, or
- in child-related employment, or
- in a management position with direct supervisory responsibilities for a person who is in child-related employment.

Mandatory reporting under the *Children and Young Persons (Care and Protection) Act 1998* applies to a child under the age of 16, while responsibilities of a person in child-related employment apply to a child under 18 years of age.

To decide whether a case needs to be reported to the Child Protection Helpline, staff should use the guideline at www.keepthemsafe.nsw.gov.au/reporting_children_at_risk.

Non-mandatory reporters should telephone 132 111. Mandatory reporters should telephone 133 627.

Further details on mandatory reporting are at Appendix M.

30.2 Reporting a crime

Anyone can make a report to the police if they have reasonable grounds to suspect that a criminal offence has occurred involving a child or young person. However, any allegations or complaints against staff should be directed through the Chief Executive or Corporate

Governance Branch so the requirements of the OEH *Guidelines for managing external complaints and allegations* can be adhered to.

30.3 Reporting to the Commission for Children and Young People

The Chief Executive must notify the Commission for Children and Young People of relevant employment proceedings, which are completed disciplinary proceedings where an employer has found that reportable conduct occurred.

A report to the Commission for Children and Young People must be made within one month of completing a relevant employment proceeding.

The Chief Executive is also required to notify the Commission for Children and Young People of the details of a person whose application for child-related employment has been rejected due to an estimate of risk.

All reports by the Chief Executive to the Commission for Children and Young People are coordinated and monitored through Corporate Governance Branch.

Refer to the *Working with children employer guidelines* at www.kids.nsw.gov.au.

30.4 Reporting to the Ombudsman

The NSW Ombudsman is responsible for monitoring the handling of reportable allegations and convictions against employees of all government agencies in NSW. The Ombudsman is also responsible for scrutinising the systems for preventing and handling reportable allegations and convictions against employees.

Any person may make a complaint to the NSW Ombudsman about the handling of allegations by a public authority, including the person about whom the allegation was made.

OEH is not a designated government agency under the *Ombudsman Act 1974*, but is a public authority for the purposes of s 25I of that Act. The Chief Executive of OEH is the head of the agency for the purposes of fulfilling OEH's responsibilities under the *Ombudsman Act 1974*, and must report to the NSW Ombudsman any reportable allegations or convictions against a OEH employee that arise in the course of an employee's work. A reportable allegation or conviction includes:

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child, including a child pornography offence
- any assault, ill-treatment or neglect of a child
- any behaviour that causes psychological harm to a child.

For the purposes of the *Ombudsman Act 1974*, a OEH employee includes all paid employees, as well as members of trusts, boards and advisory committees established under legislation administered by OEH, and any individual engaged by the agency to provide services to children, including as a volunteer.

A report to the Ombudsman must be made within 30 days of becoming aware of a reportable allegation or conviction. All reports by the Chief Executive to the Ombudsman are coordinated and monitored through Corporate Governance Branch (refer to the *Guidelines for managing external complaints and allegations*).

Part 6 – Application of the policy to boards of management under Part 4A of the National Parks and Wildlife Act 1974

31 Introduction

The functions of some boards and committees may require members to work with, or come into contact with, children as part of their duties. Some legislation treats members of boards and committees as employees in matters of child protection, so it is important that appropriate procedures be put in place. This section summarises how the policy applies to boards and committees whose work involves child-focused activities or child-related employment.

Boards of management established under Part 4A of the *National Parks and Wildlife Act 1974* for lands which are jointly managed by OEH and Aboriginal communities (referred to here as 'Part 4A boards') provide an example of the application of the CSFE Policy to boards and committees whose work involves child-focused activities or child-related employment.

Part 4A boards are not bound to apply OEH policies. However, to ensure that children are appropriately protected, OEH will request that all Part 4A boards adopt the CSFE Policy. Even if Part 4A boards do not adopt the policy, the CSFE Policy will still apply to the extent that it sets out ways in which OEH will work with Part 4A boards on child safety.

32 Completion of OEH Declaration and Consent for Child-Focused Activities Form

Part 4A board members will be treated the same as OEH staff for the purpose of child safety. As Part 4A board members may be involved in child-focused activities, they will be required to complete an OEH Declaration and Consent for Child-Focused Activities Form and agree to comply with the CSFE Code of Conduct.

The declaration allows OEH to check criminal history information to verify the information in the declaration to ensure that the person does not pose a risk to children. This check will be organised by the Service Centre through OEH's shared services provider.

Where the work of Part 4A board members involves participating in overnight camps for children, board members will have to complete a Commission for Children and Young People's Working With Children Applicant Declaration and Consent Form for paid employment, or a Working With Children Check Volunteer/Student Declaration Form for unpaid employment, as employment at overnight camps for children is child-related employment in accordance with s 33(1)(a)(xviii) of the *Commission for Children and Young People Act 1998*.

The Working With Children Applicant Declaration and Consent Form allows the approved screening agency for OEH to undertake a Working With Children Check to determine if the person poses a risk to children. The Working With Children Check Volunteer/Student Declaration Form allows the Commission for Children and Young People to check criminal history information to verify the information in the declaration.

Information on these requirements will be provided to applicants when nominations or applications are sought. This information will include advice about the types of checks which are conducted and the confidentiality of the information that is obtained through the checks.

OEH will not support the appointment to a Part 4A board of a person who has a criminal history that would make them a prohibited person as defined in s 33B of the *Commission for Children and Young People Act 1998*, that is, a person who is convicted of a serious sex offence, the murder of a child or a child-related personal violence offence, or a registrable person under the *Child Protection (Offenders Registration) Act 2000*.

OEH will recommend to the Minister that all existing members of Part 4A boards be required to complete an OEH Declaration and Consent for Child-Focused Activities Form. If they refuse to sign the form, OEH may seek their removal from the board.

33 Reporting concerns, complaints and allegations

Part 4A board members may report concerns, or make allegations or complaints, regarding child safety to a senior OEH officer, the Minister, the Department of Family and Community Services and the police. All concerns, allegations and complaints will be treated seriously and confidentially.

If an allegation or complaint regarding child safety is made against a Part 4A board member, the board member will be treated as a staff member and the matter will be dealt with in accordance with the OEH *Guidelines for managing external complaints and allegations*.

If a reportable allegation is made against a Part 4A board member, the Chief Executive must notify the NSW Ombudsman's office in the same manner as is if the board member were an employee of OEH. The Chief Executive must also notify the Commission for Children and Young People of any completed relevant employment proceedings in accordance with clause 39 of the *Commission for Children and Young People Act 1998*.

34 Employment of persons in child-related employment

If a Part 4A board employs a person in child-related employment, the law requires that they undertake a Working With Children Check in accordance with the provisions of Part 7 of the *Commission for Children and Young People Act 1998*. The Service Centre will organise this screening on behalf of the board, if requested.

35 Promotion of child safe friendly environment

Part 4A boards will be required to promote child safe and friendly messages, the CSFE Policy and the CSFE Code of Conduct.

36 Child participation principles

Part 4A boards are encouraged to use the child participation principles at Appendix C when they are designing a program or activity which involves children.

37 Project risk assessments

Part 4A boards will have to undertake a project risk assessment when they are designing a program or activity which involves children. If child safety risks are identified, risk management options include:

- ensuring that activities are appropriately supervised
- requiring the Commission for Children and Young People's Working With Children Applicant Declaration/Consent Form for paid employment or Working With Children

Volunteer/Student Declaration Form for unpaid employment to be completed by adults involved in delivering the activities (not from all participants or attendees, just adults who may supervise children in an activity)

- employing professional child carers who have undertaken appropriate Working With Children Checks
- locating activities in areas where children can be monitored by other adults □
utilising design tools to minimise risk (see Part 4 of this policy).

Part 7 – Resources

38 Related policies and guidelines

Volunteer Policy and procedures

PWG Volunteer Operational Policy and procedures

Botanic Gardens Trust Volunteer Policy and reference manual

National Parks & Wildlife Service Discovery Program Policy and guidelines

Guidelines for managing external complaints and allegations

Risk Management Policy and risk management procedures

Dealing with minors in law enforcement:

PWG Law Enforcement Manual

Legal Eye 2008/13 – Dealing with Minors

In the case of a conflict between the CSFE Policy and another policy, the CSFE Policy will prevail to the extent of the inconsistency.

The above policies can be obtained from Environment Line – email <mailto:info@environment.nsw.gov.au>.

39 Other references

[Child safe child-friendly](#) (checklists, interview questions etc.) – NSW Commission for Children and Young People

[Guidelines on workplace child protection issues](#) (child protection fact sheets, guidelines etc.) – NSW Ombudsman

[Personnel Handbook, Chapter 9 – Management of conduct and performance](#) - Department of Premier and Cabinet

Design tools for safety:

[Built 4 kids: A good practice guide to creating child-friendly built environments](#) – NSW Commission for Children and Young People

[Crime prevention and the assessment of development applications](#) – NSW Department of Urban Affairs and Planning

[Safer by design](#) – NSW Police

United Nations Convention on the Rights of the Child:

The Convention sets out a framework of minimum standards for the protection and wellbeing of children. The fundamental principle of the Convention is the recognition of children's rights as human rights. For more information, see www.unicef.org.au

40 Contacts

40.1 OEH contacts

Park policy matters – Manager, Reserve & Wildlife Policy, Parks and Wildlife Group.

Legal advice – Manager, Legislation & Advice, Legal Services.

Staff recruitment – Manager, Personnel Services, Service Centre.

Staff complaints and allegations, and other human resource issues – Human Resources.

External complaints and allegations and external reporting – Program Leader, Probity and Risk Management, Corporate Governance.

40.2 External contacts

Department of Family and Community Services

Child Protection Helpline 132 111 (24 hours, 7 days a week)

Mandatory reporters – phone 133 627 www.community.nsw.gov.au

NSW Commission for Children and Young People

Information and resources on Working With Children Check and child participation – see www.kids.nsw.gov.au

NSW Department of Premier and Cabinet

The NSW Government's Keep them Safe: A Shared Approach to Child Wellbeing website – see www.keepthemsafe.nsw.gov.au

NSW Police

Online Sexual Exploitation Team (OSCET)

The OSCET was established by the Australian Federal Police to deal with online child exploitation matters, specifically in chat rooms, on websites and through instant messaging. Issues may include pornography, abuse, grooming and procurement of children. Email OSCET-OMC@afp.gov.au

Human Services Network (services for families where a child may be at risk)

<https://www.hsnet.nsw.gov.au>

Child Wise

Child Wise is a non-profit organisation working to prevent the sexual abuse and exploitation of children in Australia and overseas, who assisted OEH in developing this policy. Child Wise can provide advice, support and resources on issues of child abuse, developing a child safe organisation, child pornography, child sex tourism or child trafficking and exploitation. Visit www.childwise.net or email office@childwise.net

Appendix A – Definitions of child abuse and risk of significant harm

Child abuse (adapted from the Australian Medical Association definition)

Child abuse happens to male and female children of all ages, ethnicity and social backgrounds, abilities, sexual orientation, religious beliefs and political persuasion.

Both boys and girls can be the victims of abuse, and abuse can be inflicted on a child by both men and women as well as by young people themselves.

In some cases professionals and other adults working with children in a position of trust also abuse children.

Child abuse takes place not only within the family environment but also outside the family such as in institutions and in sport and recreational settings.

- **Physical abuse**

Occurs when a person purposefully injures or threatens to injure a child or young person. This may take the form of slapping, punching, shaking, kicking, burning, shoving or grabbing. The injury may take the form of bruises, cuts, burns or fractures.
- **Emotional abuse**

Occurs when a child is repeatedly rejected or frightened by threats. This may involve name calling, being put down or continual coldness from a parent, caregiver or supervisor to the extent that it affects the child's physical and emotional growth.
- **Neglect**

Neglect is the persistent failure or the deliberate denial to provide the child with clean water, food, shelter, sanitation or supervision or care to the extent that the child's health and development are at risk.
- **Sexual abuse**

Occurs when a child or young person is used by an older or bigger child, adolescent or adult for his or her own sexual stimulation or gratification. Acts can be contact or noncontact acts, including threats and exposure to pornography.
- **Bullying**

Bullying is the inappropriate use of power by an individual or group, with the intent to injure either physically or emotionally. It is usually deliberate and repetitive. The bullying may be physical or psychological (verbal and non-verbal):

 - physically, bullying includes pushing, hitting, punching, kicking or any other action causing hurt or injury
 - verbal bullying includes insults, taunts, threats and ridicules
 - psychological bullying includes physical intimidation and ostracism.
- **Exposure to domestic violence**

Occurs when children and young people witness or experience the chronic domination, coercion, intimidation and victimisation of one person by another through physical, sexual or emotional means in intimate relationships.

Risk of significant harm: is defined in s 23 of the *Children and Young Persons (Care and Protection) Act 1998*:

A child or young person is at risk of significant harm if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- (a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met
- (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- (b1) in the case of a child or young person who is required to attend school in accordance with the *Education Act 1990*, the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act
- (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 caregiver 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
- (f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Note: Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

Appendix B – Child Safe and Friendly Environment Code of Conduct

OEH is committed to the protection of children and aims to provide a child safe and friendly environment for all OEH activities and programs.

OEH also supports the rights and welfare of employees, volunteers, contractors and partners and encourages their active participation in creating a child safe and friendly environment.

I will:

- conduct myself in a manner consistent with my role and position, and maintain high standards in terms of my behaviour and interactions with children

- conduct myself so I am a positive role model for children
- treat children with respect regardless of race, colour, sex, language or religion; national, ethnic or social origin; economic circumstances; disability; birth or other status
- not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- listen to children, take their concerns seriously and allow them to have a say in the decisions that affect them
- not smack, hit or physically assault children
- not develop sexual relationships with children or relationships with children that may in any way be deemed exploitative or abusive
- when working within close proximity to children, wherever possible, ensure another adult is present
- not offer or agree to babysit, supervise or care for children if this is not part of my job description, and ensure this is effectively communicated to parents and guardians
- not act in a way that shows unfair differential treatment, or favouring particular children to the exclusion of others
- not photograph or video a child without the consent of the child and his/her parents or guardians
- not do things of a personal nature that a child can do for himself/herself, such as assistance with toileting or changing clothes
- not provide children with alcohol or illegal drugs, or consume alcohol or illegal drugs while on duty and responsible for children
- comply with all relevant Australian and state legislation, including NSW and Australian Government policies and codes regarding appropriate use of the internet
- not condone or participate in, behaviour of children that is illegal, unsafe or abusive
- immediately report concerns or allegations regarding child safety in accordance with appropriate procedures.

Appendix C – Child participation principles and strategies

- Young people must understand what they are being invited to participate in and have a right to say 'yes' or 'no'.
- Work with young people must always be honest, accountable and transparent.
- All young people should be able to participate regardless of sex, ethnicity, level of literacy or any other factor and the facilitator must be cautious not to focus on more confident participants at the expense of more reserved young people.
- A safe environment, both psychological and physical, should be created in which young people can participate. Appropriate boundaries of conduct and language for projects/activities can be developed through the participation of young people.

- Young people should benefit from their participation in a project/research.
- Opportunities for young people to provide feedback should be given, and follow-up on the progress of the project/activity should be provided to them.
- Young people must be given opportunities to identify issues of concern to them, and to develop the agenda and set priorities for action.
- Information on ways in which the government functions, and how to access resources for projects young people are involved in, should be provided.
- Methods of participation should be youth-focused, appropriate for the age group and level of development. and ethical and fun.
- Children and young people can contribute to designing a child safe environment. This enables them to make their own risk assessments and find their own strategies for minimising harm. Ask children and young people what they feel are safe and friendly areas. Have them design a safe area. Discuss ideas on:
 - how chairs and desks are positioned
 - including private yet still observable spaces
 - having open doors
 - decorating areas with child friendly posters, toys and furniture
 - where the space should be located, such as being in a safe and accessible place
 - having familiar people on reception
 - selecting the most suitable and safe people to be working in these environments –
engaging young people as peer workers to be present in the environment.
- Involve older children and young people in drafting a code of conduct for children. Such a code helps to explain children’s rights and responsibilities when taking part in activities or programs. It should be in simple language, widely advertised and address issues that are important to children and young people.
- Have young people represented on your committee or working group for your program or activity.
- Discuss ways to encourage and support children and young people who wish to make complaints or provide feedback such as a Kids Feedback Form. A suggestion box provides a confidential and less intimidating way in which children and young people can make suggestions or complaints about the activities or programs they participate in.
- Talk to children about what makes them feel safe and unsafe and that they should always talk to someone if they feel unsafe or upset.
- Listen to children and young people’s views through music, movement, dance, storytelling, singing, role play, drawing, painting and photography as well as just talking.

Further information: www.kids.nsw.gov.au/kids/resources/participationkit.cfm

Appendix D – Risk assessment and management procedures

Program or project risk assessment

Responsibility:	Program or project manager
Output:	Risk treatment plan; program or project plan
Confidentiality:	Nil
Outcome:	Outcome of assessment recorded on file, or within the program or project plan

If systemic issues are identified, notify appropriate area such as Park Management Policy Unit, Legal Services Branch or Human Resources.

Undertaking a program or project risk assessment involves:

- analysing the type of contact the activity, program or space has with children
- analysing what child protection measures are already in place
 - identifying where there are gaps.

A risk assessment will highlight the risks to a child's safety or wellbeing and ways in which these will be managed. The next step is to develop strategies that will reduce or remove these risks.

Step 1

Table 1 should be used with the OEH risk management procedures to identify risk to a child's safety or wellbeing.

The table highlights specific risk factors which must be considered in program/project planning and implementation.

Approaches to identify risks include:

- checklists
- judgements based on experience and record
- brainstorming
- systems analysis
- scenario analysis.

The questions in identifying risk are:

- what are the practical details of the program?
- what could go wrong?
- what is the likelihood of something going wrong?
- what would the consequences be?

Table 1

Specific child safety risk factors to be considered	Risk features
Age/vulnerability of child	<ul style="list-style-type: none"> • very young children • children with disabilities • children who have already been abused • no caregiver/parental supervision • children from disadvantaged background • newly arrived children
Location/setting	<ul style="list-style-type: none"> • isolated areas • project involves outdoor activities • secluded or inaccessible locations • physical danger in environment e.g. water, traffic, bush
Activity	<ul style="list-style-type: none"> • working directly with children • one-on-one activities • physical contact • personal hygiene tasks • direct engagement with children • staffing by volunteers • overnight camp
Personnel	<ul style="list-style-type: none"> • not screened carefully • recruited quickly • not supervised adequately • not made aware of or received training on the CSFE Policy • not signed code of conduct • employees/applicants whose convictions are disclosed as a result of voluntary disclosure or criminal record
Supervision	<ul style="list-style-type: none"> • employee/volunteer works alone unsupervised • lack of formal supervision • lack of accountability or transparency in practice

	<input type="checkbox"/> non-existent or informal supervision, such as when visitors can attend an activity involving children <input type="checkbox"/> external organisation responsible for supervision
Organisational culture	<input type="checkbox"/> organisation closed or unaware in regards to child safe and friendly issues <input type="checkbox"/> low level of commitment to child safe and friendly issues by management/personnel <input type="checkbox"/> no promotion of child safe and friendly measures or message <input type="checkbox"/> culture of not raising concerns or reporting inappropriate behaviour of personnel

Step 2

Once the risks have been identified, they must be analysed in terms of the likelihood of them happening, and the consequences if they do. The OEH risk management procedures provide guidance on this step.

Step 3

Use the OEH risk management procedures to determine priorities and strategies to reduce the risk. Complete the risk treatment plan.

Step 4

Child safety risk assessment should be an ongoing process. The following questions should be asked:

- Do the risks still exist?
- Have they been reduced, controlled, and managed by existing strategies?
- Are there new risks?
- What strategies do we need to implement to reduce, remove and control these emerging risks?

Table 2 and the checklists on the next three pages should be used in conjunction with the OEH risk management procedures.

Table 2

Activity	Risk factors	Likelihood of risk occurring and consequences	Strategies to reduce risk	Risk monitoring
Example: All day	Child becomes separated from group and is lost	Unlikely, but consequences major	Ensure all staff and park visitors are aware of	Monitor compliance with strategies and

bushwalking activity with 8 children (10–14 years old), not accompanied by parents/guardians. One leader present from external agency	Child injured	Possible, but consequences moderate to major	CSFE Policy and Code of Conduct. External agencies to undergo child safety risk assessment and to be checked by OEH. OEH to specify in all external agency agreements that activities be supervised by at least two adults in accordance with the CFSE Code of Conduct.	require risk assessment to be conducted by team leader/project manager. Audit personnel understanding of CSFE Policy and procedures.
	Leader befriends one particular child and gives child his/her phone number	Unlikely, but consequences minor to major		

The checklists on the next two pages may be useful. When external agencies such as schools have similar checklists, OEH staff may just need to review these before approving the agency to operate a camp.

Camping activity and planning checklists

Camping activities checklist

Activity	Completed	Any follow-up?
Obtain a map of the site, if possible, and determine out-of-bounds areas		
Check for hazards: <ul style="list-style-type: none"> • water • pools • lakes • beach • ovals • campfires • fire dangers • adequate shelter in case of bad weather • access for vehicles • adequate lighting • potential for uninvited people to wander into the site 		

<p>Check that kitchen and cooking facilities:</p> <ul style="list-style-type: none"> • are clean • have good equipment • have good refrigeration • contain easy to use appliances • have a fire blanket or extinguisher 		
Water supply – clean, available, accessible		
<p>Dorms/cabins/tents:</p> <ul style="list-style-type: none"> • smaller dorms/tents holding 4–8 people preferable • good lighting • clean • tents in good condition 		
<p>Toilets/bathrooms:</p> <ul style="list-style-type: none"> • one toilet for every 15 children • clean and accessible • hand washing facilities • soap and hand drying equipment • good lighting • showers working 		
Telephone availability for land line and mobiles		

Camping planning checklist

Activity	Completed	Any follow up?
Site inspection?		
<p>Information and forms sent to participants:</p> <ul style="list-style-type: none"> • consent form • medical and emergency contact form • reporting brochure for kids 		
<p>Recruit leaders:</p> <ul style="list-style-type: none"> • medical and emergency contact form • recruitment and screening procedures • suitable ratios between children and leaders 		

Train/ brief leaders: <ul style="list-style-type: none"> • aware of CSFE Policy and Code of Conduct • accountability and supervision • working effectively with children • first aid • emergency procedures • aware of complaints management process 		
Check all forms collected		
Arrange for transport		
Check OH&S and insurance details		
Evacuation plan drawn up		

Employment risk assessment

Responsibility: Service Centre
Output: Internal report as part of recruitment paperwork
Confidentiality: Strict
Outcome: Determination on employment; potential notification to Office for Children and Young People

The contact person for the recruitment action will be notified if an Employment Risk Assessment is required.

The preferred applicant should be told the full details of the criminal record or matter. A final decision on the preferred applicant’s suitability for employment must not be made until the person has had the opportunity to discuss the adverse result in a personal interview.

Once the estimate of risk is complete, a decision must be made in consultation with the relevant senior manager.

The applicant will be notified in writing of OEH’s decision.

Appeals regarding the outcome of an employment risk assessment can be made to the Chief Executive.

Allegation risk assessment

Responsibility: Corporate Governance or relevant Group/Division
Output: Internal report
Confidentiality: Strict
Outcome: Determination on employment and actions taken to minimise risk to child; potential notification to NSW Ombudsman and/or police.

Procedures for risk assessments associated with allegations are prescribed in the *Guidelines for managing external complaints and allegations*, and in the NSW Ombudsman publication *Child protection in the workplace*.

Appendix E – Definition of child-related employment (s 33(1) of the Commission for Children and Young People Act 1998)

Child-related employment

- (a) means any employment of the following kind that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the person in the course of the employment:
- (i) employment involving the provision of child protection services,
 - (ii) employment in pre-schools, kindergartens and child care centres (including residential child care centres),
 - (iii) employment in schools or other educational institutions (not being universities),
 - (iv) employment in detention centres (within the meaning of the *Children (Detention Centres) Act 1987*) and juvenile correctional centres (within the meaning of the *Crimes (Administration of Sentences) Act 1999*),
 - (v) employment in refuges used by children,
 - (vi) employment in wards of public or private hospitals in which children are patients,
 - (vii) employment in clubs, associations, movements, societies, institutions or other bodies (including bodies of a cultural, recreational or sporting nature) having a significant child membership or involvement,
 - (viii) employment in any religious organisation,
 - (ix) employment in entertainment venues where the clientele is primarily children,
 - (x) employment as a babysitter or childminder that is arranged by a commercial agency,
 - (xi) employment involving fostering or other child care,
 - (xii) employment involving regular provision of taxi services for the transport of children with a disability,
 - (xiii) employment involving the private tuition of children,
 - (xiv) employment involving the direct provision of child health services,
 - (xv) employment involving the provision of counselling or other support services for children,
 - (xvi) employment on school buses,
 - (xvii) employment at overnight camps for children, and
- (a1) means (without limiting paragraph (a)) any employment of the following kind:

- (i) employment comprising the provision of a prescribed children's service
 - (ii) employment as a person involved in the control or management of a prescribed children's service,
 - (iii) employment as an authorised supervisor (within the meaning of section 199 of the *Children and Young Persons (Care and Protection) Act 1998* in relation to a prescribed children's service,
 - (iv) employment as an assessment officer within the meaning of section 27A of the *Children and Young Persons (Care and Protection) Act 1998*,
 - (v) employment as the principal officer of a designated agency within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
 - (vi) employment as the principal officer of an accredited adoption service provider within the meaning of the *Adoption Act 2000*,
 - (vii) employment as a self-employed person or as a subcontractor (by or on behalf of or in a relevant agency) if that employment involves direct contact with children and the contact is not directly supervised by a person having capacity to direct the self-employed person or subcontractor in the course of his or her work, and
- (b) includes any other employment of a kind prescribed by the regulations, but does not include any employment of a kind excluded by the regulations.

Appendix F – Definition of prohibited person (s 33B–33E of the Commission for Children and Young People Act 1998)

33B Prohibited persons

- (1) For the purposes of this Division, a *prohibited person* means:
- (a) a person convicted of a serious sex offence, the murder of a child or a child-related personal violence offence, whether before or after the commencement of this subsection, or
 - (b) a person who is a registrable person within the meaning of the *Child Protection (Offenders Registration) Act 2000*.
- (2) For the purposes of this Division, a person is not a prohibited person in respect of an offence if an order in force under Subdivision 2 declares that this Division is not to apply to the person in respect of the offence.

- (3) In this Division:

child-related personal violence offence means:

- (a) an offence committed by an adult involving intentionally wounding or causing grievous bodily harm to a child, or
- (b) an offence committed by an adult of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraph (a),

but does not include an offence committed by an adult who is not more than 3 years older than the child concerned. *serious sex offence* means

(subject to subsections (4) and (5)):

- (a) an offence involving sexual activity or acts of indecency that was committed in New South Wales and that was punishable by penal servitude or imprisonment for 12 months or more, or
- (b) an offence, involving sexual activity or acts of indecency, that was committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more if it had been committed in New South Wales, or
- (c) an offence under section 80D or 80E of the *Crimes Act 1900*, where the person against whom the offence is committed is a child, or
- (d) an offence under sections 91D–91G of the *Crimes Act 1900* (other than if committed by a child prostitute) or a similar offence under a law other than a law of New South Wales, or
- (e) an offence under section 91H, 578B or 578C (2A) of the *Crimes Act 1900* or a similar offence under a law other than a law of New South Wales, or
- (f) an offence an element of which is an intention to commit an offence referred to in paragraph (a) or (b), or

- (g) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs, or
- (h) any other offence, whether under the law of New South Wales or elsewhere, prescribed by the regulations.

NOTE. A conviction for an offence includes a finding that an offence is proven, or that a person is guilty of an offence, even though the court does not proceed to a conviction.

- (4) An offence that was a serious sex offence at the time of its commission is not a serious sex offence for the purposes of this Division if the conduct constituting the offence has ceased to be an offence in New South Wales.
- (5) An offence involving sexual activity or an act of indecency is not a serious sex offence for the purposes of this Division if the conduct constituting the offence:
 - (a) occurred in a public place, and
 - (b) would not have constituted an offence in New South Wales if the place were not a public place.
- (6) For the purposes of this Division, section 579 of the *Crimes Act 1900* does not apply to or in respect of a serious sex offence or a child-related personal violence offence.

33C Offences relating to prohibited persons

- (1) A prohibited person must not:
 - (a) apply for, or otherwise attempt to obtain, child-related employment, or
 - (b) undertake child-related employment, or (c) remain in child-related employment.
- (2) A person is not criminally responsible for an offence against this section if the person did not know, at the time of the commission of the offence, that the employment concerned was child-related employment.

33D Employer to ascertain whether employee is prohibited person

- (1) An employer must not commence employing any other person in child-related employment without first requiring that other person to disclose whether or not that other person is a prohibited person.
- (2) A person must not, in purported compliance with a requirement under this section, make any statement that the person knows is false.
- (3) This section does not apply to the employment of a person in child-related employment if all the children with whom the person is required to have contact in that employment are related to the employer (whether or not the person is related to the employer).

NOTE. Under section 37, an employer also has a duty to carry out background checking procedures in relation to a preferred applicant for primary child-related employment before employing the applicant. An employer who fails to do so may be required, by notice, to comply with his or her duty.

33E Employer not to employ prohibited person in child-related employment

An employer must not commence employing, or continue to employ, in child-related employment a person that the employer knows is a prohibited person.

Appendix G – Child-related employment in OEH

Principal reference: *Commission for Children and Young People Act 1998.*

Child-related employment is employment:

- in the work settings listed below
- that primarily involves contact with children
- that involves direct contact with children
- where that contact is not directly supervised by a person having the capacity to direct the employee in the course of the employment.

All four criteria must be satisfied for the position to be child-related employment.

Work settings:

- employment involving the provision of child protection services
- employment in pre-schools, kindergartens and child care centres (including residential child care centres)
- employment in schools or other educational institutions (not being universities)
- employment in detention centres (within the meaning of the *Children (Detention Centres) Act 1987*)
- employment in refuges used by children
- employment in wards of public or private hospitals in which children are patients
- employment in clubs, associations, movements, societies, institutions or other bodies (including bodies of a cultural, recreational or sporting nature) having a significant child membership or involvement
- employment in any religious organisation
- employment in entertainment venues where the clientele is primarily children
- employment as a babysitter or childminder that is arranged by a commercial agency
- employment involving fostering or other child care
- employment involving regular provision of taxi services for the transport of children with a disability
- employment involving the private tuition of children
- employment involving the direct provision of child health services
- employment involving the provision of counselling or other support services for children
- employment on school buses
- employment at overnight camps for children.

The following categories of positions in OEH will be treated as child-related employment:

Group/Division	Category
Botanic Gardens Trust	Officers involved in providing education to children and young people. Examples: Education Officers/Assistants, Community Greening Coordinators/Officers.
Parks & Wildlife Group	Officers involved in providing guided tours or education to children and young people. Examples: Discovery Rangers/Coordinators/Guides, Visitor Services/Information Officers, Aboriginal Trainees, Education Coordinators/Officers, Community Programs Officers, Guide Officers, Senior Guides, Aboriginal Education and Community Liaison Officers, Interpretive Assistants, Caves Assistants.
Country, Culture and Heritage Division	Officers involved in providing education to children and young people. Example: Aboriginal Heritage Conservation Officers.

Employment classifications include:

- permanent positions temporary positions casual positions.

Appendix H – Sample interview questions

These are some questions that might help you determine a candidate's suitability for working with children.

[Modified from: www.kids.nsw.gov.au/kids/working/safefriendly/rightpeople.cfm]

- What motivated you to apply for this job/volunteer here?
- What skills and experience can you bring to our programs?
- Have you read our Child Safe and Friendly Environment Policy and Code of Conduct? What do you think of them?
- What would you like to see a child personally achieve from participating in our activities?
 - What techniques do you use to motivate children and young people?
- Have you ever worked with a child or young person who really got on your nerves? What did you do about it?
- In this organisation we encourage everyone, and especially children and young people, to speak up if they have an idea or concern. What do you think of this policy and how do you feel it will affect you?
- How will you find out from children and young people whether or not they are enjoying your program activities?
- Your co-worker has just given a child or young person what you feel is a harsh punishment for what you believe to be a minor matter. How would you deal with it?

Appendix I – Standard referee check questions

These questions should be added to the standard OEH referee check questions for all childrelated employment.

[adapted from: www.kids.nsw.gov.au/kids/working/safefriendly/rightpeople.cfm]

To your knowledge, has _____ ever been involved in situations concerning inappropriate behaviour or abuse?

Would you employ/recruit _____ to work with children?

Appendix J – Suitability for working with children checklist

Use this checklist for ideas about what to look for when selecting staff, volunteers and students to work with children. Do not expect to find a person with experience and training in all the areas mentioned. Use the checklist to find out about the applicant's interest in working with children and as a prompt for questions.

[modified from <http://www.kids.nsw.gov.au/kids/working/safefriendly/rightpeople.cfm>]

Does the person have experience, involvement or training in any of the following areas?	✓
Membership of clubs or other organisations that provide activities for children and young people?	
Life experiences that involved time spent with children and young people (e.g. parent, uncle/aunt, friend)?	
Training in working with children and young people or vulnerable people – e.g. with disabilities or from a disadvantaged background (e.g. youth or welfare worker)?	
Previous experiences working with children and young people in a paid or voluntary capacity?	
Parent of child involved in the activity they wish to volunteer in?	
Involvement in community events e.g. fetes?	
Does the person speak positively and respectfully about children and young people?	
Have they held positions of responsibility in other organisations?	
Special skills – artistic, sport, musical, outdoor activities etc?	
Involvement in hobbies that have included children and young people or would interest children and young people?	
Interest in issues concerning children and young people?	
Demonstrated tolerance and understanding of different cultural or racial backgrounds, belief in the equal participation of girls and boys, acceptance of people from all walks of life?	
Has experience in a team or group environment?	
Has participated in creating or planning an activity that encouraged participation of children and young people?	
Has helped children and young people speak out or voice their opinion?	
Involvement in an event, activity or organisation that included children and young people, and people from a diverse background?	

Enthusiastic involvement in activities when the person was young?	
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Appendix K – OEH Declaration and Consent for Child-Focused Activities Form

Personal details:

Name:

Family name:

First name:

Other given name(s):

Previous names/aliases:

Residential address:

Address line 1:

Address line 2:

Suburb/town:

State:

Postcode:

Country:

Contact details:

Phone:

Mobile:

Email:

Birth details:

Date of birth:

Gender:

Place of birth:

Suburb/town:

State:

Country:

Identifying document:

License type:

Number:

Issuing agency:

Passport type:

Number:

Issuing country:

Position details:

Position title:

Type of position or activity (please tick):

- Volunteer position Committee or board member Student on placement
 Child-focused activity Existing OEH staff member engaged in child-focused

activities **Declaration:**

I am the applicant named in this form.

I have read and understood the relevant information in the OEH Child Safe and Friendly Environment Policy on the employment of persons in child-focused activities.

I declare that I do not have a criminal history that would make me a prohibited person under the *Commission for Children and young People Act 1998* and preclude me from applying for or undertaking child-related employment.

I understand that under the *Commission for Children and Young People Act 1998* a prohibited person is a person who is convicted of the following (whether in NSW or elsewhere):

- murder of a child
- serious sex offence, including carnal knowledge
- child-related personal violence offence (an offence committed by an adult involving intentionally wounding or causing grievous bodily harm to a child)
- indecency offences punishable by imprisonment of 12 months or more
- kidnapping (unless the offender is or has been the child's parent or carer)
- offences connected with child prostitution
- possession, distribution or publication of child pornography
- attempt, conspiracy or incitement to commit the above offences.

I also understand that a prohibited person includes a Registrable person under the [Child Protection \(Offenders Registration\) Act 2000](#).

I consent to OEH, through its approved shared services provider, checking my relevant criminal history information to verify these statements if required.

I understand that if I have provided false or misleading information it may result in a decision not to employ or appoint me, or, if already employed or appointed, may lead to my removal from my position.

I understand that this form will be securely stored by OEH and can be made available for auditing compliance with OEH's Child Safe and Friendly Environment Policy as appropriate.

Signature:

Date:

Appendix L – Parental/guardian photographic and publication consent form

I Parent/Guardian

hereby consent to my son/daughter/ward

..... (name) who

attendsSchool

being photographed/filmed by the Office of Environment and Heritage (OEH) and for the photo/film to be used for purposes considered appropriate by OEH.

I understand that OEH guarantees to maintain the integrity of these images and not to allow the use of the images in a derogatory treatment or context.

Signed

Address

Date Phone

Appendix M – Mandatory reporting in OEH

Principal reference: Chapter 3, Part 2 of the *Children and Young Persons (Care and Protection) Act 1998*.

Mandatory reporting

A *mandatory reporter* is:

- 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
- 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, welfare, education, children’s services, residential services, or law enforcement, wholly or partly, to children.

Mandatory reporters in OEH

Staff in the following types of positions may have mandatory reporting obligations and should be aware of the procedures involved:

- staff in child-related employment
- staff who deliver education services to children, such as Discovery Ranger
- staff involved in law enforcement, such as rangers
- people in management positions, especially those who manage activities or staff who are mandatory reporters.

If it is unclear whether a staff member is a mandatory reporter, the best approach is to contact the Department of Family and Community Services if there is a concern about a child and to discuss the matter with them.