| **Responsibility of:** | Human Resource Services | DoE File: HRM2014/56 |
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| **Target Audience:** | DoE employees/All employees engaged with or for the department | |

This document should be read in conjunction with the [**Working with Children Clearance Notices Fact Sheet**.](https://education.nt.gov.au/__data/assets/word_doc/0010/258193/Fact-Sheet-Working-with-Children-Clearance-Ochre-Cards.docx)

# 1. Policy

The [*Care and Protection of Children Act*](https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007) (CPCA) establishes a comprehensive framework for promoting and safeguarding the wellbeing of children in the Northern Territory. The object of Part 3.1 of the CPCA - Screening for child-related employment – is ‘*to ensure individuals who pose an unacceptable risk of harm or exploitation to children are prevented from contacting children through their employment’.* The object is to be achieved by prohibiting such individuals from being engaged in child-related employment and imposing related obligations on people who are engaged in child related employment and those who engage them*.*

Only those individuals who hold a current clearance notice under the CPCA can lawfully engage and be engaged in child-related employment. The ‘working with children clearance notice’ is commonly referred to as an ‘Ochre Card’.

Section 185 of the CPCA sets out what is considered child-related employment. Section 186 of the CPCA sets out circumstances where a person will be exempt and not required to hold an Ochre Card.

A worker required by this policy to hold a current Ochre Card must not engage in their work or duties, or be engaged to undertake their work or duties until the manager is satisfied that the worker holds a current Ochre Card. If the worker holds an Ochre Card issued prior to the worker’s engagement by or for the department, the manager must contact SAFE NT to establish that the Ochre Card has not been revoked under section 192 of the CPCA. It is the manager’s responsibility to determine whether the CPCA and this policy requires a worker to hold an Ochre Card.

Workers in the specific situations listed below **must** hold a current Ochre Card:

* School-based Workers

All school-based workers regardless of the nature of their work or duties are required to hold a current Ochre Card at all times.

* Relief Teachers

Relief teachers must hold a current Ochre Card, in addition to being registered through eRecruit. Relief Teacher Confirmation Letters and Cards are no longer issued and therefore not required. Managers must verify the currency of an Ochre Card, in addition to their registration status in eRecruit before engaging a relief teacher.

* Workers who may have access to Student Information

Any worker who may, during the ordinary course of their work or duties, have access to student information or student records, whether in electronic form or hard copy must hold a current Ochre Card. This includes any worker providing information technology services, whether on site at a departmental workplace or otherwise.

* Other Workers with access to a departmental workplace

If it is not readily apparent whether a worker will or might perform child-related work, and the worker does not fall within one of the above specific policy situations, a manager will determine the need for an Ochre Card by having regard to the following guiding principles:

* will the worker have or potentially have any physical contact with children?
* will the worker have or potentially have any verbal contact with children, whether face to face or by other means?
* will the worker have or potentially have any written communication with children?

Situations must be assessed on a case-by-case basis, always ensuring that the wellbeing of children is the paramount consideration.

Temporary Exemptions

Where an application for an Ochre Card, or a renewal of an Ochre Card has been made by or on behalf of a worker who under this policy is required to hold a current Ochre Card, and no decision has been made on the application, the manager is authorised to apply for a Temporary Exemption. [Application forms for exemptions](https://nt.gov.au/emergency/community-safety/working-with-children-clearance-before-you-apply/for-employers-or-volunteer-coordinators) can be found on the NT.GOV.AU website.

Access to departmental workplaces without Ochre Card

In circumstances where a worker who does not hold an Ochre Card or a Temporary Exemption requires access to a departmental workplace, the manager, must take all reasonably practicable steps to ensure the worker does not have any physical or verbal contact with children and does not engage in any form of written communication with children. Department employees will be required to attend work as normal, undertaking duties in a location (e.g. an office) where there will be no contact with students and student information or records. This may include classroom planning, completing training requirements or professional development.

Application Fees

The department will reimburse the application fee for the issue or renewal of an Ochre Card for a worker, where the worker is employed directly by the department.

The department has distributed funding to schools to reimburse fees incurred by departmental employees for the issue or renewal of an Ochre Card through their school funding allocation. Therefore schools are responsible for processing requests for reimbursement.

School Representative Bodies (including School Councils) School representative bodies must comply with the same legislative requirements and are expected to adopt the same standards and requirements for the engagement of their own employees and contractors as set out in this policy document**.**

# 2. Business Need

This policy applies to:

* all persons engaged in any capacity to undertake child-related work as defined in the CPCA for or on behalf of the Department of Education (DoE), or who engage persons to perform such child-related work; and
* all persons engaged in any capacity, or who engage persons to perform roles or duties where there is potential to misuse the responsibilities of the role or duties in a way that could create a risk to a child.

Note that the policy requirements may be more extensive than the requirements of the CPCA. DoE in making this policy determination has adopted a cautious approach to ensure that the wellbeing of children is the first and foremost priority.

Therefore, although assistance with determining who requires an Ochre Card may be sought from [SAFE NT](http://www.workingwithchildren.nt.gov.au/), the requirements of this policy in terms of which workers are required to hold an Ochre Card are to prevail.

# 3. Scope

This policy applies to all workers, as defined in this policy, engaged or who may be engaged in working with children.

# 4. Definitions

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| Definitions The following key words are used in this document | |
| **Word** | **Definition** |
| Departmental Workplace | A school or other venue, used for or associated with educational purposes and the other activities of the department and includes departmental corporate workplaces. |
| Delegate | As defined under the Human Resource Delegations. |
| Manager | In the case of a school means the Principal, and otherwise means the Director or other senior officer responsible for the implementation of this policy in a departmental workplace. |
| Screening Authority | Thebody of individual members, appointed by the relevant Minister for the CPCA, who are responsible for deciding whether or not to issue an Ochre Card to a candidate who wishes to engage in child-related employment. |
| Temporary Exemption | An exemption for a specified period of time granted by the CEO of the Department of Territory Families pursuant to section 187(5) of the CPCA in respect of a pending application for an Ochre Card. |
| Worker | All departmental employees and other personnel engaged directly or indirectly and whether for reward or on a voluntary basis by or for the department, and includes contractors and individuals employed by contractors within or outside the NT jurisdiction. |

# 5. Roles and Responsibilities

Every **Worker**, who under this policy, is required to hold a current Ochre Card must:

1. monitor the currency of their Ochre Card to ensure that they continue to have a current Ochre Card or a Temporary Exemption at all times;
2. apply for a renewal of their Ochre Card in a timely manner to ensure that a renewal can be issued prior to the expiry date of their Ochre Card; and
3. notify their manager no later than 14 days prior to the expiry date of their Ochre Card if they have not received a renewal of their Ochre Card.

Action may be taken against any worker required to hold a current Ochre Card or Temporary Exemption and who fails to apply for a renewal card persusant to Part 7 (Inability) or Part 8 (Discipline) of the *Public Sector Employment and Management Act* (PSEMA) or in the case of an Executive Contract Officer, pursuant to paragraph 112 of their Executive Contract.

**Workers** must immediately inform their manager, if:

1. their application for an Ochre Card is refused or will be delayed beyond the period for which a Temporary Exemption has been granted; or
2. their Ochre Card is revoked or the Screening Authority advises that it is considering revoking their Ochre Card; or
3. the Screening Authority imposes conditions on their Ochre Card or the Screening Authority advises that it is considering imposing conditions on their Ochre Card; or
4. a period of exemption from the requirement to hold an Ochre Card will expire in 14 days.

Every **Manager** must:

1. Ensure that no worker, who under this policy is required to hold a current Ochre Card, is permitted to commence or continue child related work unless they hold a current Ochre Card or Temporary Exemption; and
2. Authorise payment of Ochre Card applications and renewals of Ochre Cards for eligible workers in accordance with this policy. All schools are provided funding on an annual basis to pay for Ochre Card applications and renewals.
3. Maintain a current Register (available in the myBiz Ochre Card Report) in the approved form which includes relevant details of all workers required to hold a current Ochre Card.
4. Ensure all workers understand their responsibilities under both the CPCA and this policy.
5. Regularly check with relevant workers regarding the progress of their application and whether a renewal has been issued.
   1. Contact new staff members or those returning to the workplace after an extended absence to remind them of the mandatory requirement to obtain a valid Ochre card prior to commencement
6. Apply for a Temporary Exemption no later than 14 days prior to commencement of a worker or expiry of a worker’s Ochre Card where an application for an Ochre Card, or a renewal of an Ochre Card has been made and no decision has been made on the application.
   1. where the worker in question is an employee of a school council or a contractor of a school council,the manager must ensure that the school council applies for a Temporary Exemption.
7. Immediately notify the relevant Delegate in writing, via email, of any worker who may be unable to continue in their role because:

(i) their application for an Ochre Card is refused or will be delayed beyond the period for which a Temporary Exemption has been granted; or

(ii) their Ochre Card is revoked or the Screening Authority advises that it is considering revoking their Ochre Card; or

(iii) the Screening Authority imposes conditions on their Ochre Card or the Screening Authority advises that it is considering imposing conditions on their Ochre Card; or

(iv) a period of exemption from the requirement to hold an Ochre Card will expire in 14 days time.

Every **Delegate** must:

1. Advise the manager of the action to be taken in relation to the worker.
2. Immediately advise the worker they are required to continue to attend work undertaking non-child related duties in a location (e.g. an office) where there will be no contact with students and student information or records. This may include classroom planning, completing training requirements or professional development.
3. Where unable to be resolved at the workplace, the Delegate will escalate the matter to a Senior Executive (as defined under the Human Resource Delegations) and to Human Resources to consider appropriate actions or in the case of an Executive Contract Officer, pursuant to Part M of their Executive Contract.

In addition to the above, every **Principal** must:

1. On the first day of every school term, and thereafter each month in accordance with the school finance end of month reporting cycle, update their Ochre Card register as follows:
   1. download their Ochre Card Register from [MyBiz](http://apps.ntschools.net/mybiz/Pages/welcome.aspx)
   2. add the names and relevant particulars of any new employees (both NTPS and school representative body employees);
   3. update the Ochre Card details of every employee;
   4. note the names of all workers whose Ochre Card is due to expire during the forthcoming school term or school holiday period (for follow up with those employees to ensure they apply for their renewal promptly); and
   5. upload the completed Ochre Card register to the [School Financial Improvement and Support Portal](http://apps.ntschools.net/myobupload/Pages/FileToolKit.aspx).

# 6. Related Policy, Legislation and Documents

***Department of Education***

* [Working with Children Fact Sheet](https://education.nt.gov.au/__data/assets/word_doc/0010/258193/Fact-Sheet-Working-with-Children-Clearance-Ochre-Cards.docx)
* [Human Resources Delegations](http://ed.ntschools.net/documentcentre/pfgdocs/3/HR%20Delegations/Human%20Resources%20Delegations.pdf)

***Legislation***

* *[Care and Protection of Children Act](https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007)* [– Part 3.1, Screening for child-related employment.](https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007)
* [Care and Protection of Children (Screening) Regulations](https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-SCREENING-REGULATIONS-2010)
* *[Public Sector Employment and Management Act](https://legislation.nt.gov.au/Legislation/PUBLIC-SECTOR-EMPLOYMENT-AND-MANAGEMENT-ACT-1993)* [Parts 7 and 8 (Inability/Discipline)](https://legislation.nt.gov.au/Legislation/PUBLIC-SECTOR-EMPLOYMENT-AND-MANAGEMENT-ACT-1993)
* [Employment Instruction 12 – Code of Conduct](https://ocpe.nt.gov.au/nt-public-sector-employment/Information-about-ntps-employment/code-of-conduct)

***Northern Territory Government***

* [Working with Children website](https://nt.gov.au/emergency/community-safety/apply-for-a-working-with-children-clearance)