



# Australian Islamic College PERTH

## Duty of Care Policy and Procedure

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## 1. Policy Purpose

Schools and teachers owe a duty to take reasonable care for the safety and welfare of all students in the school. The duty of care exists when the teacher/ student relationship is established.

This duty requires schools and teachers to take all reasonable steps to ensure the safety and welfare of the students from both known and reasonably foreseeable risks of harm and/or injury. In particular instances, non-teaching staff, volunteers and external providers also owe a duty of care to students.

When preparing activities for the students a teacher must use their professional judgement to balance the risk of harm involved in the activity with what the students will learn from undertaking the activity. Often a teacher's professional judgement will be guided by school policies and the school's risk assessment procedure.

## 2. Policy Details

### 2.1 Duty of Care

The term 'duty of care' is a legal concept that defines the duty a person has to use reasonable care towards others in order to protect them from known or reasonably foreseeable risk of harm and/or injury. The notion of duty of care is one that is contained in most school policies and procedures.

The school has a duty to take reasonable care to ensure that it employs competent teachers and provides safe premises. The school will be vicariously liable for the actions of the teachers while they are acting within the course and scope of their duties as an employee of the school (this may not be the case if the teacher acts with deliberate negligence).

A teacher owes a duty to students to take reasonable care to protect them, from a known or a reasonably foreseeable risk of harm and/or injury. Discharge of this duty requires a teacher to take such proactive measures as are reasonable to prevent harm and/or injury to a student.

### 2.2 Reasonable Care

The concept of 'duty of care' is based on reasonable care. It is not a duty to ensure no harm will come to a student but that **reasonable care** is taken to avoid harm being suffered. What is considered reasonable care varies depending on the circumstances at the time.

Listed below are some factors to consider when assessing the 'reasonableness' of the level of care required for a particular student or students. College staff should use these factors and any other factors applicable to the particular situation to risk assess the duty of care required:

- **The student's age, experience and capabilities:** The level of care will generally be greater the younger the student.
- **Any physical or intellectual impairment:** A student with a disability may be at greater risk of injury than a student without a disability for a particular activity. This could be due to a physical inability to safely participate in an activity or the intellectual inability to appreciate the risks involved and therefore the need to exercise caution.
- **Medical condition:** Particular medical conditions including asthma, epilepsy and anaphylaxis, require special attention to ensure that students who are susceptible are not exposed to a greater risk of injury.
- **Behavioural characteristics:** If a student is known to behave inappropriately, then the level of care increases.

- **Nature of the activity and the environment in which the activity is held:** School activities with a higher level of risk and held in hazardous environments require a higher level of care.
- **School policy and procedures:** The Colleges Policies and Procedures provide guidance to the suitability of certain activities for students and the care required if they are undertaken. These must be followed.
- All activities should be risk assessed before being undertaken using the College's risk assessment procedure. Assessing the level of risk involved in any individual activity means to determine the probability of harm occurring, the degree of harm that could occur and the mitigation required to make the activities risks acceptable
- **The supervisor's level of experience, attributes and skills:** A supervisor should know, understand and be able to keep students safe in the particular environment the activity is taking place in.
- **The supervisor's relationship with the students:** A teacher who has a 'difficult' relationship with a student may need a different approach to their duty of care than a teacher who has a positive relationship with a student.
- While duty of care responsibilities may appear to impose onerous obligations on College staff and teachers, these obligations should not discourage the school from allowing students to participate in challenging or managed risk activities. Routine risk assessment strategies and efficient mitigation processes can encourage teacher participation in activities that may appear at first to be too hard to bother with.

### 2.3 Duty of Care Owed by Teaching Staff

Teachers' duty of care responsibility is automatic, arising from the establishment of the teacher/student relationship. Teachers therefore must take reasonable care to ensure their acts or omissions do not cause reasonably foreseeable injury to their students.

A teacher's duty of care is not delegated to them by the parent but by the Crown and this is the reason why a teacher is expected to provide a higher standard of care than a reasonable parent. A teacher must provide a standard of care that is reasonable for a teacher to provide.

The College's duty of care is even higher than a teachers. The College may become vicariously liable for any teacher's actions however in some cases the individual teacher may be liable, especially in the case of criminal conduct.

A teacher's duty of care is not limited to specific school activities such as excursions and incursions, it remains at all times whilst the student is in the teacher's care. A school's/teacher's duty of care also includes being aware of and implementing all College policies affecting students' safety and welfare, providing adequate supervision, ensuring grounds and equipment are safe for students to use, choosing appropriate persons to care for students and providing appropriate medical assistance if required.

Although there may be particular circumstances that allow delegation of duty of care to others, it is considered prudent that the College and its teachers always assume they have a duty of care for our students. This non-delegable duty of care applies to all on and off campus situations.

### 2.4 Duty of care owed by Non-Teaching Staff, Volunteers and External Providers

When non-teaching staff, volunteers and external providers agree to take personal care of students in the absence of a teacher they then owe a duty of care to the students. They must take reasonable measures to prevent harm coming to the student or students.

The Department of Education policy describes non-teaching staff, volunteers and external providers as follows:

*Non-teaching staff* – Employees of the school who work on the school premises and are not part of the teaching staff, eg. Librarians, laboratory assistants, exam supervisors.

*Volunteers* – An adult or organisation offering a service for school activities, but receiving no remuneration from the school for the services provided, eg. parents/guardians and other relatives, community members, employers who accept students on work experience, student teachers.

*External Providers* – A business/individual paid by the school to provide a venue, service and/or expertise appropriate to a particular school activity, eg. private dance teacher, Perth Zoo, AQWA, Scitech.

Non-teaching staff, volunteers (eg. parents) and/or external providers are not generally personally responsible for students and do not have the same duty of care to students as teachers. However, in certain situations and under certain conditions teachers may delegate a proportion of their duty of care to non-teaching staff, volunteers (eg. parents) and/or external providers. In this case the non-teacher will then owe the same level of care to students as would a teacher.

Before the school and/or the teacher delegate the duty of care responsibility to non-teaching staff, volunteers (eg. parents) and/or external providers, it is necessary for the College and/or the teacher to ensure the following are satisfied. Failure to do so could result in a breach of the College's and/or the teacher's duty of care to the student:

- That the non-teaching staff, volunteers (eg. parents) and/or external providers are suitable for the task being delegated.
- That the non-teaching staff, volunteers (eg. parents) and/or external providers involved are covered by either the College's insurance or have in place their own adequate insurance cover.
- That the non-teaching staff, volunteers (eg. parents) and/or external providers **agree** to assume this personal duty of care for the students and that they are aware they have the right to refuse, unless it is part of their normal duties.
- That the teacher has provided the non-teaching staff, volunteers (eg. parents) and/or external providers with clear instructions as to the level of care required by them.

It is recommended that these instructions for caring for students, the level of care required and the acceptance of this responsibility be recorded in writing and signed by the non-teaching staff, volunteers (eg. parents) and/or external providers.

The *Volunteers (Protection from Liability) Act 2002* states that schools, that are an Incorporated Association under the Associations Incorporations Act 1987, are responsible for the acts of a volunteer (ie. the school is vicariously liable for the volunteer) where the work performed by the volunteer is done on behalf of the College and is done in good faith by the volunteer.

## **2.5 Working with Children (Criminal Record Checking) Act 2004**

The Working with Children (Criminal Record Checking) Act 2004 aims to protect children from harm by providing a high standard of compulsory national criminal record checking for people wishing to do paid, not paid or volunteer in child-related work in Western Australia.

The Working with Children Check (WWCC) considers criminal records to see if people have charges or convictions that indicate they may harm a child (ie, persons under the age of 18). Where a person's WWCC reveals a criminal history indicating they might harm children, they will be prohibited from 'child-related work'.

The WWCC is only one way of promoting a safer environment for children. The College will also ensure that:

- Rigorous recruitment and selection practices, including thorough referee checks are undertaken
- Policies and Procedures promote safe and supportive environments for children, that are rigorously implemented across the College
- A work culture that ensures that children's concerns are heard
- Good risk management policies are followed that include practices to safeguard children
- Codes of Conduct are followed
- Supervision and training is provided

### **2.5.1 Who is required to get a WWCC?**

Under the WWC Act, people whose **usual duties** of work involve (or are likely to involve) contact with a child (ie, person under 18 years of age) in connection with one or more categories of child-related work are required to have a WWCC. The College has an obligation to ensure that all employees and volunteers who need a WWCC have one.

Work is ‘child-related work’ if the **usual duties** of the work involve, or are likely to involve, **contact** with a child in connection with one of the categories covered in section 6 of the *Working with Children (Criminal Record Checking) Act 2004*. People who are **not** in ‘child-related work’ as defined under the Act are not eligible for a Check and should not apply.

The following extract comes from Section 6 of the Working with Children (Criminal Recording Checking) Act 2004:

*Work is “**child-related work**” if the usual duties of the work involve, or are likely to involve, contact with a child in connection with:*

- i) an educational institution for children;*
- ii) a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes;*
- iii) an arrangement for the accommodation or care of children, whether in a residential facility or private residence, but not including an informal arrangement made by a parent of the child concerned or accommodation or care provided by a relative of the child;*
- iv) an overnight camp, regardless of the type of accommodation or how many children are involved;*
- v) a transport service specifically for children;*
- vi) a school crossing service, being a service provided to assist children to cross roads on their way to or from school;*
- vii) a children's entertainment or party service; or*
- viii) any other work of a kind prescribed by the regulations.*

This extract from **Factsheet 10: Information for the Education Sector** gives some examples of child related work in the education sector. The factsheet is available at [www.workingwithchildren.wa.gov.au](http://www.workingwithchildren.wa.gov.au).

(iii) An educational institution for children	Teachers Non-teaching staff (including administrators, school psychologists, canteen staff, cleaners and gardeners who have contact with children as part of the usual duties of their work)
(iv) Coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purpose	Active After School coach
(v) An arrangement for the accommodation or care of children, whether in a residential facility or private residence, but not including an informal arrangement made by a parent of the child concerned or accommodation or care provided by a relative of the child	People providing care and accommodation for children (eg billeting) Boarding house staff who have contact with children as part of their usual duties of work
(xv) An overnight camp, regardless of the type of accommodation or how many children are involved	Camp supervisors ( <b>no exemption for volunteer parents</b> )
(xvi) A transport service specifically for children	School bus drivers
(xvii) A school crossing service	‘Lollipop’ school cross walk attendants
(xviii) A children’s entertainment or party service	A story-teller reading to children (exemption for volunteer parents)

Other examples of child-related work in the education and training sector are inclusive of but not limited to:

- People tutoring children, whether individually or in groups (not including informal arrangements)
- Teaching staff of schools, community kindergartens or pre-primary schools
- Training providers who run coaching or private tuition classes primarily for children
- School support staff working in various areas in a school and who have contact with children as part of the usual duties of their work
- People who provide health services to school children at the school
- The grounds person who works during school hours, and assists with activities that involve contact with children, as part of the usual duties of the work
- School bus drivers
- Entertainers who provide services to children at schools
- Sports coaching or private tuition services for school children
- TAFE lecturers and other staff whose usual duties involve or are likely to involve contact with a child
- Students on placement doing child-related work, such as student teachers or nurses working in connection with one of the 19 categories
- Volunteers helping with various school activities (except parents whose children are enrolled at the school)\*
- Parents volunteering at overnight school camps

### 2.5.2 What is Contact?

Contact is defined as:

- Any form of **physical contact**
- Any form of **oral communication**, whether face to face, by telephone or otherwise
- Any form of **electronic communication**.

The contact needs to occur as part of a person's usual duties but does not include contact in the normal course of duties between an employer and an employee (including employees under 18 years) or between employees of the same employer.

### 2.5.3 Who is Ineligible for a WWC Check?

Exemptions, under the legislation, mean that the following persons are not required to apply for a Working with Children Check and should not apply:

- Volunteers and students on unpaid placement who are under 18 years or age
- Parents volunteering at a school in which their child is enrolled. (This exemption does not apply to parents volunteering at overnight camps).
- Short-term visitors to WA carrying out 'child-related work' during the period of 2 weeks after their arrival in Western Australia, and for no more than 2 weeks in any period of 12 months
- Persons not ordinarily resident in Western Australia who are involved with a 'one off' **national event** taking place in WA (eg Scout jamboree); or a 'one-off' **national tour** (eg AFL Under 18 All Australian Team tour; Australian Ballet School national audition tour) that stops at several different venues and locations in Australia, including at least one stop in WA.

In the context of the Working with Children Act, a national event or tour is one that:

- Takes place over a specific period;
- Is organised by a recognised body for sporting, educational, religious, cultural, recreational or skill development purposes; and
- In which children from more than one state, territory or country are participating.
- Is for a non-cumulative period of 30 days within a 12 month period (the person can access the exemption once in a 12 month period whether they use 10 days or the 30 days for that one-off national event or national tour); and

This type of exemption cannot be used in conjunction with the short-term visitor exemption (above). A person cannot use both exemptions in the same 12 month period.

Parents involved in volunteering in their child's school (eg. in the school Canteen) are exempt from requiring a WWC Check. However, in situations where a parent volunteer fulfils a role that involves child-related work (e.g. category 4 – coaching) then that parent is only exempt if **their own child participates (or normally participates)** in the activity (e.g. coaching a school sporting team).

#### 2.5.4 How to apply for a WWC Check

An application for a WWC Check must be lodged in person by the applicant. When applying, applicants must meet the 100 points' identification criteria as outlined within the application form.

The application form must be signed prior to lodgement by an authorised AIC representative, being relevant campus Principal, Business Manager or Executive Principal only. Such authorised AIC representative will never sign blank application forms. The agency representative who signs the application form will then receive any related correspondence from the WWC Screening Unit.

Applicants who do not have sufficient identification or who live in remote communities and are unable to access an authorised Australia Post outlet, must contact the WWC Screening Unit for assistance.

#### 2.5.5 Outcome of a WWC Check

- A 'successful' WWC Check results in a WWC Card which is portable for 3 years across all types of child-related work, unless cancelled.
- A card with a photograph will be issued as proof of a WWC Check. A WWC Card **is not** an endorsement of a person's general suitability to work with children. Suitability covers a wider range of factors other than offence history, such as character, skills and experience. Obtaining WWC Checks is only one of the practices that responsible organisations put in place to achieve safe environments for children. These include referee checks, supervision and training, as well as practices within the workplace which enable children to voice their concerns
- An 'unsuccessful' WWC Check results in a Negative Notice, which prohibits the holder from carrying out child-related work (including voluntary work) under any category with any employer or as a self-employed person
- The agency representative on the WWC application form will be told what the outcome of the Check is, and any subsequent changes to a person's status should they have a change in their criminal history, but will not be given information about a person's criminal record
- The WWC Card is 'live' which means that it is monitored and updated information is continually received, including from the WA Police. If a person is charged with, or convicted of, any offence of concern, their WWC Card can be reassessed. If the re-assessment is unsuccessful a Negative Notice is issued. The Negative Notice cancels the WWC Card and current employers known to the WWC Screening Unit will be notified of this.

#### 2.5.6 Obligations of all Parties

##### ***Paid employees and volunteers***

Employees and volunteers have responsibilities and obligations under the WWC legislation. Not complying with these responsibilities can result in fines of up to \$60,000 and up to five years' imprisonment:

- If you are in child-related work, you must hold a current WWC Card or have a pending application within the required time. See the information provided regarding the five day threshold.
- You must apply for a WWC Check within the time stated if asked to do so by the WWC Screening Unit.
- You must not give false or misleading information to the WWC Screening Unit.
- You should update your address and employment details on the WWC website if they change.
- The WWC Check must be renewed every three years, if you are still in child-related work.
- You must not carry out child-related work if you have been convicted of a Class 1 offence committed as an adult.
- You must return your WWC Card to the WWC Screening Unit as soon as practicable after being convicted of a Class 1 offence committed as an adult or if your WWC Card is cancelled by the WWC Screening Unit.
- If you have been issued with an Interim Negative Notice or a Negative Notice you must not carry out child-related work, and you must return your WWC Card to the WWC Screening Unit as soon as practicable.
- If you are issued with an Interim Negative Notice you cannot withdraw your application for a WWC Card.
- If you are charged with or convicted of a Class 1 or Class 2 offence you are required to provide written notice to your employer of the change in your criminal record. You do not have to provide details of the offence, only state that there has been a 'relevant change'. You must also give written notice to the WWC Screening Unit.
- If you have a current WWC Card and have a relevant change in your criminal record and are no longer in child-related work you are still required to give written notice to the WWC Screening Unit of the relevant

change. Your Card will be cancelled and you cannot start child-related work until you have been issued with a further WWC Card or made an application for one. You must also notify your proposed employer that there has been a relevant change to your criminal record and that you have applied for a new WWC Check.

### 2.5.7 Employers and Organisations

Employers of people in child-related work, including paid employees and volunteers, and self-employed people in child-related work have a number of responsibilities under the Act. These are to:

- Identify which of the listed categories of child-related work you and your employees, volunteers or students carry out
- Ensure that all volunteers, paid employees and self-employed people in child-related work have applied for a WWC Check by the date required
- Not engage a person in child-related work on more than five days in a calendar year unless they hold a current WWC Card or have applied for one unless you are a licensed child care service (in which case your employees, volunteers or students must hold a valid WWC Card or have applied for one **before** they start work)
- Keep adequate records that demonstrate the organisation is complying with the WWC legislation. You may be asked to provide records to demonstrate compliance with the Act by the WWC Screening Unit. (See Record Keeping sample following)
- Check, record and validate (using the validation facility on the WWC Check website) the WWC cards of all new employees, volunteers, students and self-employed contractors and periodically check and record that all current employees' and volunteers' WWC Cards are valid, current and have not been cancelled
- Have strategies to ensure employees and volunteers renew their cards every 3 years
- Register your organisation as an employer on the WWC Check website to advise us when you have new employees, volunteers and students who already have a WWC Card from a previous employer. This will enable the WWC Screening Unit to better protect children by enabling them to advise you about any changes in status of the person's WWC Card and of other matters if necessary
- Notify the WWC Screening Unit in writing if you reasonably suspect an employee, volunteer or student has been charged with or convicted of an offence which makes it inappropriate for them to continue to carry out child-related work
- Not give false or misleading information to the WWC Screening Unit
- Not start or continue someone in "child-related work" if the person has an Interim Negative Notice, a Negative Notice, or if their WWC application has been withdrawn, or if they are aware of a conviction or pending charge for a Class 1 or Class 2 offence against that person and they have do not hold a current WWC Card and have not applied for one
- Comply with the WWC Act despite another Act or law or any industrial award, order or agreement. (you will not incur any liability if you do so).

An employer not complying with their responsibilities can be fined up to \$60,000 and receive five years' imprisonment.

It is vital that the College not only sights the WWC card of volunteers and self-employed people but checks the validity of the card by going to the Working with Children Website. Police are concerned with the number of people working with children who say they have a valid WWC card, however on further inspection it is discovered that they either do not have a card or have been issued with a Negative Notice.

More information about employer and employee obligations is available from

<https://workingwithchildren.wa.gov.au/resources/publications/fact-sheets-booklets/resources-for-employers-and-organisations> or [www.workingwithchildren.wa.gov.au](http://www.workingwithchildren.wa.gov.au).

## 2.5.8 Record Keeping Example

The College will keep up to date records of everyone in child-related work. These records may look like this:

Position	Volunteer/ Paid	Current Holder of Position	Exemptions Apply Why?	Status & Action (if req'd) 1 Holds Current Card 2 Application lodged 3 Interim Negative Notice 4 Negative Notice 5 Application withdrawn	WWC Receipt Number (if applicant does not yet have valid card)	WWC Card Number	Expiry Date	Date position reviewed	Date Last Validated
Under 11 Coach	Volunteer	John Smith	Yes – parent of child member					01/01/2010	01/01/2010
Canteen Person	Paid	Mary Blogg	No	1	C234678	123456	4/04/2011	01/01/2010	01/01/2010
Marshall	Paid	Jason Young	No	3 – currently suspended from child-related work until final outcome	C178764				
NSW Interstate Coach	Volunteer	Bill Jones	Yes – 2 week exemption for interstate visitor						

Be sure to periodically review positions and duties as these may change and exemptions may no longer apply (eg. parent may no longer have an exemption if their child leaves the club or school, but they continue to volunteer in child-related work).

First determine which positions within your school involve 'child-related' work and then consider whether the people currently holding these positions require a WWC Check

### 2.5.9 Impact on Schools – Including points related to the increased student age differential on campus

Under the WWC Act a parent of a student enrolled at a school is (with certain exceptions) exempt from obtaining a WWC check when carrying out voluntary work on school premises or with students such as helping in the canteen. However, even though this exemption applies under the WWC Act that does not mean that in some circumstances a school should not still require a volunteer parent to provide a police clearance. This might be called for by the College if it has genuine and realistic concerns about the background of a particular parent. The procedure to obtain such a police clearance is outlined in Section 8 below.

Requiring one parent and not others to provide a police clearance before they are permitted to access the school premises is a sensitive issue. Some schools will overcome this by insisting all volunteers obtain a police check, perhaps even helping pay for the police check. Schools should approach this issue with caution and take legal advice before implementing any course of action.

### 2.5.10 Adult Aged Students:

With the changing dynamic of secondary schools now including the younger Year 7 students and potentially adult students (older than 18 years of age) consideration will need to be given to situations where such (adult) students are undertaking work that involves or is likely to involve contact with a child in a non-school based context or extra-curricular capacity. In such situations, the process for determining if a WWC Check is required should be the same as for other adults undertaking child-related work.

The WWC Act **does not** require adult students to apply for a WWC Check just because they are involved in activities with younger students as part of the school day. Examples of activities commonly experienced as part of the normal course of schooling where adult students are **unlikely to require a WWC Check** include:

- When they have been asked by their teacher(s) to help other students (who are younger than 18 years of age) in their class, eg with the school work during school time whether or not they remain under teacher supervision
- When they have been asked to show younger students where school classes and facilities are located on school premises
- Where they have been asked to be a 'buddy' or participate in similar mentoring activities at school
- Where they serve on the school council
- Where they are involved in activities alongside younger students or their younger peers (eg in rowing or when playing a game of basketball or football), regardless of whether these activities occur during school time or in after school hours, such as weekend).

However, adult students **will require** a WWC Check if they agree to carry out work on behalf of the school in a context that is beyond or exceeds that normally experienced or undertaken by the student in the normal course of their schooling. That work must include **usual duties** that are likely to involve **contact with a child** in connection with certain categories (including the education institution at which they are enrolled).

As an example, if an adult student enters into a formal arrangement to provide coaching or private tutoring outside of school hours specifically for a younger student or group of younger students (aged below 18 years), this is likely to **require a WWC Check**, regardless of whether a teacher organised it or whether there is parental or other adult supervision.

A student who has a paid job at the school (before or after school hours) or with a contractor who provides child-related services to the school, **will also require a WWC Check**.

More information on this topic and a description of the categories of work within this context can be obtained from the Working with Children Check [\*\*Factsheet 18: Adult High School Students and the Working with Children Check.\*\*](#)

### **2.5.11 Cost**

Information about fees for volunteers and unpaid workers such as student teachers on placement as part of their studies, and paid workers and self-employed people can be found on the WWC Check website: [www.workingwithchildren.wa.gov.au](http://www.workingwithchildren.wa.gov.au).

### **2.5.12 Where to go for Further Information?**

The Working with Children Screening Unit, part of the Department for Child Protection and Family Support, is responsible for administering the Working with Children Checks. The Unit can be contacted through:

- [www.workingwithchildren.wa.gov.au](http://www.workingwithchildren.wa.gov.au) or
- telephone their helpline on (08) 6217 8100 or 1800 883 979.

### **2.5.13 Are Police Clearances Required?**

Part of the requirement for registration with the Teacher Registration Board of Western Australia is that a person must meet the 'fit and proper requirements.' These requirements include a criminal record check.

Information completed on the application form will be forwarded, by TRBWA, to the CrimTrac Agency, other Australian police services or other law enforcement agencies for checking.

The teacher will be asked to disclose whether they are the subject of any criminal charges still pending before the Court, or whether they have been the subject of any convictions or findings of guilt before a Court.

Under Western Australian legislation (Spent Convictions Act 1988 (WA)), Spent Convictions are not disclosed as part of the criminal history checks. However, TRBWA has received an exemption that allows them to receive information on ALL criminal convictions or findings of guilt, including spent convictions in WA. Details of Spent Convictions in other States will only be released if the State based legislation in that State allows the release of such information.

Teachers are also required to have a WWC Check as part of the WWC Checking legislation. It is the school's responsibility to ensure that all teachers have a current WWC Check and that the school is registered as the employer so that any updates on the teachers' status can be passed on.

### **2.5.14 Other School Staff**

Generally staff who are not engaged in on site work during school student contact hours do not require a WWCC. However some staff, such as cleaners, who may be on the school site during 'cross over' times (eg at the commencement of their work at a time during the day when some students may still be on site) will require the school to have appropriate protocols and supervision policies and procedures in place.

Schools may also require all staff to also have a criminal check or police clearance. The Australian Federal Police administer the National Police Certificate through the CrimTrac Agency.

A National Police Certificate provides a list of a person's disclosable Court outcomes and pending charges sourced from the databases of all Australian Police jurisdictions. Certain convictions may not be disclosed on a NPC in accordance with the legislation and policies of various police jurisdictions (eg Spent Convictions and most traffic and juvenile convictions). National Police Certificates are commonly used for employment or licensing purposes. To obtain a National Police Certificate, collect a form from a participating [Australia Post Office](http://www.australiapost.com).

### **2.5.15 What is CrimTrac?**

The CrimTrac agency provides national criminal history checks for a range of organisations across the country. These services involve checking the criminal history of potential employees on behalf of employers, such as government agencies, and non-government organisations.

A national criminal history check involves identifying and releasing any relevant criminal history information (CHI) subject to relevant spent convictions/non-disclosure legislation and/or information release policies.

### 2.5.16 What is a Spent Conviction?

A spent conviction is a conviction for either a Commonwealth, Territory, State or foreign offence which satisfies all of the following conditions:

- it is 10 years since the date of the conviction (or 5 years for juvenile offenders);
- the individual was not sentenced to imprisonment or was not sentenced to imprisonment for more than 30 months;
- the individual has not re-offended during the 10 year (5 years for juvenile offenders) waiting period: and;
- a statutory or regulatory exclusion does not apply. (A full list of exclusions is available from the Privacy Commissioner.

Volunteers may be requested to complete a confidential declaration indicating that they do not have any convictions or whether there are any circumstances or reasons that might preclude them from working with or near children. If a school wishes, it could request that the person signs a Statutory Declaration instead as this requires the declaration to be witnessed. A National Police Check can then be requested if necessary.

Refer to Appendix A for a copy of the Confidential Declaration required to be completed by people wishing to access the school who are not employees of the school including contractors, volunteers including parent volunteers, and work placement students.

## 3. Conclusion

While each situation will be judged on its own merits, schools and teachers have a special duty of care to all their students and this duty can only be delegated in very specific and controlled situations.

## 4. Relevant Legislation and Regulations

- Working with Children (Criminal Record Checking) Act 2004
- Volunteers (Protection from Liability) Act 2002 (WA)
- Occupational Safety and Health Act 1984 (WA)
- Civil Liability Act 2002
- Occupiers Liability Act 1985
- School Education Act 1999 (WA)
- School Education Regulations 2019 (WA)
- *Volunteers (Protection from Liability) Act 2002*
- Associations Incorporations Act 1987
- Working with Children (Criminal Record Checking) Act 2004

## 5. Relevant Internal References

- Risk Management & Safety in School Policy
- Child Protection Policy

Reviewed date: [February 2020]  
Approved by: [Executive Principal]  
Next review: [February 2021]

**Appendix 1**

**Confidential Declaration for access to the school by people who are not employees of the school including contractors, volunteers (including parent volunteers) and work placement students who are not covered by the Working with Children legislation:**

Please complete the relevant details, sign, date and submit this form to the College before the commencement of any work in the College.

I, \_\_\_\_\_  
(Full name)

representing \_\_\_\_\_  
(Name of company, if applicable)

**declare that I do not have any circumstances, reasons or convictions that might preclude my working with or near children and undertake to inform the College immediately should my circumstances change or there arises any reason or conviction that may preclude my working with or near children.**

**I am/am not (delete one) a parent of a student enrolled in Australian Islamic College \_\_\_\_\_ Campus**  
(If not please complete the contact details below): (Campus name)

Home/Business address: \_\_\_\_\_

Contact phone numbers: \_\_\_\_\_  
(Business) (Mobile) (Other)

Email address: \_\_\_\_\_

I certify the accuracy of the above information.

I am aware that I may be required to provide a police clearance if considered necessary to verify the information provided.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*All personal information provided on this form will be handled and stored in accordance with the School's Privacy Policy.*