

Working with Vulnerable People Background Checking Policy



Policy Number: 9/2021

Reviewed Date: 24 March 2022

Issued By: WhoG IRPSE, WCAG, CMTEDD

Purpose

1. This policy provides guidance on the management of the *Working with Vulnerable People (Background Checking) Act 2011* (WWVP Act) in ACT Government employment.

Application

2. This policy contains a set of whole-of-government instructions issued by the Head of Service under the *Public Sector Management Act 1994* (PSM Act), which binds all public servants engaged under that Act.
3. Although not engaged under the PSM Act, directorates must ensure that all labour hire staff hold a WWVP registration if their position is captured under the WWVP Act, as part of contract/procurement arrangements.

Key Legislative Provisions

4. The legislative provisions applicable in this policy includes section 32 of the Public Sector Management Standards 2016 (PSM Standards) and the WWVP Act.

Principles

5. The WWVP Act requires people who provide or engage in certain regulated activities and/or services for vulnerable people (children and disadvantaged adults) to be registered. There are a number of positions across ACT Government that are captured by the registration requirements.
6. If an employee holding a position that requires WWVP registration has a change to the status of their registration, they should be managed in accordance with the *Redeployment due to loss of eligible person status policy*.

Procedure

Identification of Positions

7. The WWVP Act sets out criteria to assist with the identification of positions that may be captured under the Act. The Access Canberra [website](#) sets out a number of questions to assist directorates with this process.
8. Any concerns regarding whether a position is captured under the WWVP Act should be directed to Access Canberra.
9. All WWVP identified positions must be flagged on the HR system.
10. If the directorate identifies a new position that is captured under the WWVP Act (WWVP identified positions), details of the positions are to be forwarded to Shared Services for identification in the HR system.

Registration

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11. Employees holding WWVP identified positions are required to be registered in accordance with s 12 of the WWVP Act.
12. When recruiting to a position (including Higher Duties and temporary transfer positions) that requires a WWVP registration, the selected candidate should not commence in the role without a WWVP registration.
13. An employee in an identified WWVP position must inform their manager if conditions of their WWVP registration changes.
14. Directorates and agencies are required to keep appropriate records of public servants with WWVP registration. The Head of Service may seek reassurance from the directorates and agencies that these records are appropriately monitored and maintained.
15. Action must be taken by directorates if employees in WWVP identified positions:
 - have their registration suspended or cancelled;
 - are granted conditional or role-based registration;
 - are refused registration
 - are employed in an identified position and refuse to register; or
 - surrender their registration.
16. Under the terms of the WWVP Act, employees must inform Access Canberra of any information that may affect their registration status at the time of registration. Those who hold WWVP registrations must also inform Access Canberra if they experience any change in circumstance that may affect their registration.

Refusal to Register

17. If an established position is identified as requiring WWVP registration and an employee in that position refuses to register, directorates will assess the duty statement of the position with a view to the following actions:
 - if the duties of the position allow, change duties or functions so that the person is no longer in a WWVP identified position and registration is not required;
 - a transfer, either internally or to another directorate, to a position that does not require registration;
 - for a temporary employee or an officer on probation – end the employment or appointment (if the appointment has not been confirmed); or
 - commence redeployment under s 122 of the PSM Act.

Conditional Arrangements, Refused, Cancelled or Suspended Registrations

18. In the event of a refused, cancelled or surrendered registration, directorates will assess the duty statement or SETs of the position with a view to taking the following actions:
 - for conditional arrangements – a decision that no change is required as the extent of the registration allows current duties to continue;
 - a change in duty statement, SETs or functions so that the employee is no longer in a WWVP identified position and registration is not required;
 - a transfer, either internally or to another directorate, to a position that does not require registration;
 - for a temporary employee or an officer on probation – end the employment;
 - for a confirmed officer – redeployment under s 122 of the PSM Act;
 - where a suitable position is not found or accepted by the confirmed officer, action to retire the officer on the basis that the person is no longer qualified to perform their duties under s 123 of the PSM Act; or
 - a suspension with or without pay in accordance with s 32(2) of the PSM Standards, while the

preceding actions are taken.

Suspension with or without pay

19. Section 32(2) of the PSM Standards provides for periods of suspension from employment with or without pay until:
- where WWVP registration has been suspended – the day the employee becomes unconditionally registered or registered subject to a condition that does not prevent them undertaking the function of their role; or
 - the employee is transferred under ss 122 or 123 of the PSM Act.

Payment of registration

20. Individuals employed in a WWVP position (including those commencing Higher Duties or temporary transfer positions) will generally be responsible for the payment of their own registration, unless the directorate or agency has other provisions in place.

Advertising of positions

21. All WWVP identified positions should be advertised on the basis that they ‘will require registration’, in accordance with s 7(2) PSM Standards. All letters of offer for the WWVP positions should clearly state that the offer and/or commencement of employment is conditional upon a successful candidate being registered.
22. All letters of offer should state that new employees are responsible for the payment of registration fees.

References

23. The key principles of this policy are aligned with the following authorised sources:
- *Working with Vulnerable People (Background Checking) Act 2011*
 - *Public Sector Management Act 1994*
 - *Public Sector Management Standards 2016*
 - *Redeployment due to loss of eligible person status policy*

Further information

24. The contact for further information is Executive Group Manager, Whole of Government Industrial Relations & Public Sector Employment, Workforce Capability and Governance, Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

Review

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Approval Authority

This policy is approved by:
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Deputy Director-General

Workforce Capability and Governance Division
Chief Minister, Treasury and Economic Development Directorate
On behalf of the Head of Service
8 April 2021