

Working with Children Check hearing

This fact sheet explains how to prepare for a Working with Children Check hearing.

What does the Tribunal have to decide?

In review matters the Tribunal has to decide whether you (*the applicant*) pose a risk to the safety of children. For enabling orders you have to prove that you do not pose a risk to the safety of children. In both cases the Tribunal makes a decision based on all the relevant material that you and the Children's Guardian provide.

On the back of this fact sheet is a list of the factors the Tribunal has to consider and the things it has to be satisfied about before making its decision.

What happens at the first directions hearing?

At the first directions hearing the Tribunal will give a timetable for you and the Children's Guardian to provide all relevant material to each other and to the Tribunal.

If possible, the Tribunal will give you a hearing date at the first directions hearing.

What information should you provide to the Tribunal?

You must fully disclose to the Tribunal any matters relevant to the application.

You should also provide a statement from you and anyone else who has relevant information, about:

1. any allegations, charges or offences and
2. your conduct since any incident leading to you becoming unable to work with children.

If necessary, you can apply to the Tribunal to issue a summons to a person or organisation to provide relevant information.

One factor the Tribunal must consider is the likelihood that you pose a risk to the safety of children.

You should consider obtaining a report from a psychiatrist or psychologist (called a risk assessment). A risk assessment may help the Tribunal to decide whether you are likely to pose a risk to the safety of children.

What documents will be provided about you?

The Children's Guardian can require a government agency such as the Police or Family and Community Services to provide relevant information about you. The Children's Guardian can also apply to the Tribunal to issue a summons to a person such as your employer to provide relevant information about you.

Getting a report from a psychologist or psychiatrist

If you decide to get a risk assessment from a psychologist or psychiatrist, you will need to make an appointment as soon as possible.

You can get advice about which psychologists or psychiatrists to ask and what information to give them by making an appointment with Legal Aid NSW. Refer to "Can I get help to prepare my case" below.

The Tribunal will normally allow the psychologist or psychiatrist to give evidence by phone or video link at the hearing.

If possible, you should find out the dates when the psychologist or psychiatrist is available to give evidence and tell the Tribunal member at the first directions hearing.

What kinds of questions will you be asked at the hearing?

During the hearing you may be asked questions about matters which may incriminate you. If you object to answering the question, the Tribunal will explain the legal position to you.

Can I get help to prepare my case?

You can present your own case or have a lawyer represent you. You can receive free advice from lawyers from Legal Aid NSW. Ask the NCAT Registry to make an appointment for you.

Find more information about [getting legal advice](#) or contact LawAccess NSW on 1300 888 529.



Child Protection (Working with Children) Act 2012 No 51

Section 30 - Determination of applications and other matters

The Tribunal must consider the following under s30 (1) and (1A) in determining an application:

- the seriousness of the offences with respect to which the person is a disqualified person or any matters that caused a refusal of a clearance or imposition of an interim bar,
- the period of time since those offences or matters occurred and the conduct of the person since they occurred,
- the age of the person at the time the offences or matters occurred,
- the age of each victim of any relevant offence or conduct at the time they occurred and any matters relating to the vulnerability of the victim,
- age differences between the victim and the person,
- the relationship between the person seeking the review and the victim
- the seriousness of the person's criminal record
- current conduct of the person since offences occurred
- the likelihood of the person re-committing an offence
- any relevant information under section 36A to be exchanged between the Children's Guardian and other agencies that deal with working with children check clearances in other jurisdictions.

The Tribunal must be satisfied that:

- a reasonable person would allow his or her child to have direct contact with the affected person in review, without direct supervision in any child-related work, and
- it is in the public interest to make the order.

Contact NCAT

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