



**WORKING WITH THE
'VOLUNTEER/STUDENT DECLARATION'
The replacement for the Prohibited Employment Declaration (PED)
INFORMATION**

**In 2010 the Children's Commission introduced the new
'VOLUNTEER/STUDENT DECLARATION'
as a replacement of the 'Prohibited Employment Declaration' (PED)**

Leaders and other volunteers who mentor disadvantaged children or who provide intimate personal care to disabled children should use the Applicant Declaration and Consent rather than the 'Volunteer/Student Declaration'.

Our Association, like all other organisations, associations and employers whose adult staff, volunteers and members are primarily in direct contact with youth, has a legal responsibility under three Acts of the NSW Parliament. Part of that responsibility is that all unpaid employees and volunteers who are helping, or asked to help, and primarily in direct contact with youth and where the **'contact is not directly supervised'** must have signed a Commission for Children's **'Volunteer/Student Declaration'**. Paid employees are subject to more stringent screening requirements. The supervisor of any contact must be a member/ owner/employee of the association, organisation or firm involved.

(Direct supervision is defined by the authorities as "when a person is present at all times during, and observing and is capable of directing, if required, the contact by the person under supervision with any child." Child Protection Act 1988 & The Commission for Children and Young People Act 1998

Those who come under the Legislation are persons 18 years of age or older, who are volunteers; unpaid and paid employees of youth clubs and organisations; hospitals and health care professionals; in fact any organisation or firm primarily dealing with children. The Association together with our Leaders and supporters are indeed primarily in direct contact with youth.

Despite the proven success of our own screening, the fact that we believe ours exceeded the requirements set in place by legislation, and full representations to the authorities, we have been unable to gain any concession and hence we will adhere fully to the legal requirements of these Acts.

Penalties for allowing a person who has exercised their right **not** to sign **'Volunteer/Student Declaration'** and to continue to have 'direct unsupervised contact with youth' are severe. If the Association is taken to court, by the authorities for such non-compliance, the Magistrate can impose fines of up to \$2200 for each individual offence. If a person chooses not to sign a 'Volunteer/Student Declaration' and continues to be involved in any organisation involving 'direct unsupervised contact with youth', they too leave themselves vulnerable to Court action, in which case the Magistrate can impose a maximum fine of \$1100.

NB. It should be noted that if a person declines to sign, this does not mean they may have committed an offence. Like those who refuse to wear a seat belt, because they believe it infringes their right of choice, there are some who might choose not to sign. Again if that is their choice we are left with no option but refuse them 'direct unsupervised contact with youth'. In the case of a Leader, there are serious legal barriers to the Association allowing them to hold an appointment.

It is the policy of the Association that:

- 1) Any Rover, layperson or volunteer, who is age 18 or older, staying overnight at a 'scout' activity/function where youth members are staying must have completed a Scout 'Volunteer/Student Declaration' if the youth members will be otherwise unsupervised at any time. ,
- 2) **'Volunteer/Student Declaration'** forms must remain on file, and they remain valid, until the person ceases to have contact with the Association, or withdraws it.

All the Leader support guides are available at www.nsw.scouts.com.au/leaders/leader-support-guides

- 3) A **'Volunteer/Student Declaration'** signed, as an unpaid employee or volunteer, for other organisations is not valid for use within the Association. There is no way of confirming that such other 'Volunteer/Student Declaration' has been signed or is still held by that body. We are required to hold one during the person's involvement with the Association.
- 4) Leaders and other volunteers who **mentor disadvantaged children or who provide intimate personal care to disabled children** should **not** use the 'Volunteer/Student Declaration' but instead use the 'Applicant Declaration and Consent' form. (*Available on the web at <https://check.kids.nsw.gov.au/background-check-consent.php>*). The definitions which distinguish these volunteers from others is as follows:
 - I. Those volunteers who mentor disadvantaged children in **family-like relationships**. or
 - II. Those volunteers who provide intimate personal care for disabled children such as **bathing or toileting**.

RESPONSIBILITIES FOR OVERSEEING SCOUT 'VOLUNTEER/STUDENT DECLARATION'.

STATE OFFICE will have the responsibility of ensuring the Scout 'Volunteer/Student Declaration' status of those persons listed below, whose role involves them being in direct contact with young people:

- All those leaders holding appointments within the Movement.
- All paid staff.
- All activity bases personnel attached to Branch.

REGIONS will have the responsibility of ensuring the Scout 'Volunteer/Student Declaration' status of those person listed below, whose role involves them being in direct contact with young people:

- All lay people connected to Region who will have contact with children/youth not **directly supervised**.
- That all paid staff are appropriately screened. (via State Office)
- That all Groups and Activity bases. Camps etc are ensuring the Scout 'Volunteer/Student Declaration' status of their layside members.

ACTIVITY CENTRES, CAMPS, GANG SHOW etc. The 'person in charge' has the responsibility for ensuring the Scout 'Volunteer/Student Declaration' status of those persons listed below, whose role involves them being in direct contact with young people:

- All lay people connected with their facility/operations.
- All those likely to be in a position where **'contact is not directly supervised'**
- Contractors, have in their own right, to conform to the requirements. (We still encourage their signing one of our **'Volunteer/Student Declaration'**.)
- That paid staff are screened (via State Office).

A list of those who have signed the **'Volunteer/Student Declaration'** should be retained and **'Volunteer/Student Declaration's'** forwarded to either the Region HQ or State Office, depending who they are directly responsible to, at a time interval set by their Region or State Office, but not exceeding three months.

GROUPS The Group Leader, Manager or Leader in Charge, has the responsibility of ensuring the Scout **'Volunteer/Student Declaration'** is completed by all lay people including parents, supporters, examiners and instructors associated with their Group, especially where they are likely to have **'contact that is not directly supervised'**.

Whilst this may seem overkill, it does simplify matters when parents are overseeing activities, sausage sizzle etc. The completed layside **'Volunteer/Student Declaration'** should be stored within the Group

CREWS: The Crew Leader will have the responsibility to ensure all Rovers/ Squires and others attached to the Crew have been invited to sign a **'Volunteer/Student Declaration'**. The **'Volunteer/Student Declaration'** should be forwarded to State Office so that the persons Membership Record can indicate they have signed.

The Crew Leader should ensure that those who choose NOT to sign are not allowed to participate in scouting activities with youth members under 18 year of age unless **directly supervised**. If a person who declines to sign a **'Volunteer/Student Declaration'** but insists on attending a function with youth members the Crew Leader should remind the person that unless constantly supervised they are acting against the law and face prosecution and they should seek their own legal advice. In addition, the Crew Leader must ensure those responsible for the event know the **'Volunteer/Student Declaration'** status of that person.

Branch HQ does not make it mandatory that all Rovers/Squires should sign, but has endorsed the feelings of the Branch Rover Council that there are distinct advantages to every crew member signing.

SCOUT 'VOLUNTEER/STUDENT DECLARATION'

SOME ANSWERS

If people have signed PEDs before January 2011 do they have to resign the new forms?

NO.

Who can sign, as officially having sighted the person's proof of ID, on the Volunteer/student declaration?

Any appointed Leader or Commissioner; Crew Leader; Rover Advisor; Group Committee Office holder; or the person in charge of an specific activity.

Have I got to keep running around with forms?

Most Group Leaders comment that they have had no problem as these days most parents seem to be used to them and even expect to sign. They ask all their parents (both mum & dad) to sign the Scout 'Volunteer/Student Declaration' when the child enrolls. They believe it will be easier to remember who has declined to sign.

Is it essential for a Leader, or someone who has signed, to be directly supervising youth members when someone who will not/has not signed is spending time with youth members?

YES. The responsibility is on you to ensure all youth members, or the person concerned, are **directly supervised**'.

What about the kids being driven to cubs etc?

Travel to the hall is not a 'scout activity' its something that two or three parents have organised between themselves for their own convenience. Travel to camps is the same, something that two or three parents have organised between themselves for their own convenience again not really our responsibility. However if the Leaders are organising it a Scout 'Volunteer/Student Declaration' is required from the adult driving.(see LSG25)

What about Scout family Christmas parties and the?

These are not a problem as the youth members are supervised (a) by their Leaders and (b) in most cases by their parents. Grandma and Uncle Bert and others **needn't** sign if you are keeping a watch on your members.

Same as going to the Anzac March or Carols by Candlelight – everyone doesn't have to sign as the Leaders will be in direct supervised control.

What about the sound and lighting chaps at our Gang Show, do they have to sign?

If it is their occupation and or are contracted or if they are employees of the company contracted to provide the service, they have to have been fully screened by their company's approved Screening Agency. The firm should check with their own legal advisor as the fines for contractors and firms are quite high. Picture theatres, theme and adventure parks, in fact all children entertainment centres, are required to have their employees screened through their own 'Screening Authority'.

However.

The payment of 'out of pocket expenses' is not deemed as a wage. Our Screening Authority has given an example of the position of umpires at local children's sports matches. *They get a payment (about \$40) and only have to sign a 'Volunteer/Student Declaration'. The Tax Dept has ruled that it is a hobby payment and/or expenses re-imburement, and therefore they are considered as unpaid employment/volunteer so a 'VOLUNTEER/STUDENT DECLARATION' is all that is necessary.*

Do all youth organisations have parents and supporters sign Scout 'Volunteer/Student Declarations'?

Yes legally they **MUST**, **if they will be in direct unsupervised contact**, and like us they must ensure those who **haven't** signed do not have any direct unsupervised child contact. Most Groups also ask their parents to sign, which makes it easier for when parents act as part of a helpers roster, or at fund raisers such as 'sausage sizzles' etc, and someone who has signed fails to turn up or is delayed.

SIMPLY PUT IT'S THE LAW

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THEREFORE

**NO SIGNED SCOUT 'VOLUNTEER/STUDENT DECLARATION' MEANS
NO UNSUPERVISED DIRECT CONTACT WITH YOUTH MEMBERS**

Scouts Australia NSW acknowledges the contribution of Dr Warwick Bateman AM in the development of this Leader Support Guide.

All the Leader support guides are available at www.nsw.scouts.com.au/leaders/leader-support-guides