

WORKING WITH CHILDREN CARD

2332. Mr P.D. Omodei to the Minister representing the Minister for Child Protection

- (1) How many people with prior convictions or charges relating to child safety have been given a Working with Children card?
- (2) In what capacity are these people currently employed?
- (3) Further to (2) are these people employed in private or government organisations?

Mr D.A. TEMPLEMAN replied:

- (1) Convictions and charges which require assessment under the Working with Children (Criminal Record Checking) Act must be considered according to section 12(8) which provides the following criteria:
  - (a) the best interests of children
  - (b) when the offence was committed or is alleged to have been committed
  - (c) the age of the applicant when the offence was committed or is alleged to have been committed
  - (d) the nature of the offence and any relevance to child-related work
  - (e) any information given by the applicant in or in relation to the application
  - (f) anything else that the CEO reasonably considers relevant to the decision.

The above criteria must be used to determine if exceptional or particular circumstances exist so that a WWC Card should be issued or denied.

Six persons hold WWC Cards on 30 June 2007 where the initial assessment was to propose a Negative Notice

Section 13 of the WWC Act requires that persons, for whom Negative Notices are proposed, are offered the opportunity to make submissions as to why they should be able to work with children. The WWC Screening Unit must consider these submissions and in doing so made decisions to issue WWC Cards to three of the above six people. Negative Notices were never issued to these three people who now hold a Working with Children Card.

This legislative requirement obtains information not present in the initial offence information received by the WWC Screening Unit. Details cannot be provided that might identify any individual. However, there can be circumstances where a charge or conviction is, for example, manslaughter as the result of a traffic accident, grievous bodily harm from a brawl at the pub between adults. In such circumstances the best interests of children have been considered and it is not reasonable to prohibit someone from child - related work.

The remaining three of the six persons have had their Negative Notices cancelled and Assessment Notices have been issued.

- one person was issued with an Assessment Notice after the WWC Screening Unit considered additional information that emerged after a mediation conference - and this was in relation to very old offences.
- two people have been issued Assessment Notices on direction of the State Administrative Tribunal (SAT) which set aside the Negative Notices. As with any new legislation, case law is established through the process of hearings and appeals. The SAT review process is an important natural justice provision. Administrative decisions must be transparent and open to external scrutiny.

The hearing and appeal process is a robust one and the Department is currently appealing one of the overturned decisions and must do so on the basis of a possible error of law. This is scheduled to be heard in September 2007. An application to stay the SAT orders pending the hearing of the leave to appeal and the appeal was heard on 30 July 2007 and the decision has been reserved, but expected in the near future.

The second overturning by the SAT followed substantial additional information being provided as part of the hearing that had not been available to the Screening unit. This is not being appealed.

- (2) Of the six above now with WWC Cards
  - two applied as volunteers (one each in connection with a club, association or movement and in connection with an educational institution for children)

- two applied as self employed (one each in connection with coaching or private tuition service and in connection with a counselling or other support service)
  - two applied as employed (one each in connection with a religious organisation and a hospital).
- (3) Of the six above, information on the application forms identifies five as either self-employed or with private organisations and one employed in a government agency.