

Work and Development Order Guidelines

2024

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Part 1 – Overview

1.1 The Work and Development Order (WDO) scheme

The Work and Development Order (**WDO**) scheme was introduced into the *Fines Act 1996* (**Fines Act**) alongside a number of other reform measures to improve the difficulties that fines present to the most disadvantaged people in the community.¹

The WDO scheme is established under Subdivision 1, Division 8 of Part 4 of the Fines Act. It enables eligible people who are experiencing hardship to reduce their fines through participation in unpaid work, courses, treatment, programs, and other activities. People who are eligible for the WDO scheme include those who are experiencing:

- Mental illness,
- Intellectual disability or cognitive impairment,
- Serious addiction to drugs, alcohol or volatile substances,
- Homelessness, or
- Acute economic hardship.

To participate in the WDO scheme, an eligible person must be supported by a person or organisation approved to supervise WDOs under section 99A of the Fines Act (known as a WDO sponsor). A sponsor may be an organisation, social worker or health practitioner.

The WDO scheme is delivered by the Department of Communities and Justice (**DCJ**), Revenue NSW and Legal Aid NSW, with input from the Aboriginal Legal Service NSW/ACT. Representatives from each partner agency form the WDO Governance Group, which is responsible for developing and administering the WDO Guidelines and ensuring the WDO scheme is meeting its objectives.

1.2 The role of WDOs in the broader NSW fines system

In NSW, penalty notices and court fines are issued, enforced, and collected under the Fines Act. Revenue NSW collects unpaid fines on behalf of the Commissioner of Fines Administration. Failure to pay can have serious consequences, including:

- Suspension of a person's driver licence or cancellation of a person's vehicle registration
- Taking of money from a person's bank account or wages.

Debt recovery action will generally cease once a person begins managing their fines. Applying for a WDO is one way to manage unpaid fine debt. Other options include:

- Entering into, and complying with, a payment plan
- Applying for a write-off or partial write-off of fines (in certain circumstances).

One or more of these options may be undertaken at the same time or at different times during the life cycle of a fine. For example, a payment plan may be set up at the same time as making a WDO application, or a payment plan might be entered after a WDO is completed to pay a residual amount.

More information about the NSW fines system can be found in the Resource Kit.

¹ See *Fines Further Amendment Act 2008*.

1.3 The WDO Guidelines

The WDO Guidelines 2024 (**WDO Guidelines**) are issued by the Attorney General, in consultation with the Treasurer and Minister for Finance, in accordance with section 99I of the Fines Act. They replace the Work and Development Order Guidelines 2017.

The WDO Guidelines set out the high-level rules and principles which govern the WDO scheme. All persons exercising functions or responsibilities under the WDO scheme must comply with the Guidelines, including DCJ, Revenue NSW, sponsors and WDO applicants. In the event of any inconsistency between the WDO Guidelines and the Fines Act, the Fines Act prevails.

The WDO Guidelines are supported by a Resource Kit developed by DCJ, Revenue NSW and Legal Aid NSW. The Resource Kit provides detailed operational and administrative guidance to help sponsors apply the WDO Guidelines in practice. Together, these two documents are known as the WDO Guidelines and Resource Kit.

The Resource Kit does not form part of the Guidelines for the purposes of section 99I of the Fines Act. However, the procedures set out in the Resource Kit form part of the WDO scheme framework for compliance purposes.

1.4 Definitions

Unless otherwise specified, the terms used in the WDO Guidelines have the same meaning as in the Fines Act:

Fine includes a court fine, a penalty notice or other charge or fee described in section 4 of the Fines Act. It includes an order for restitution as defined in Part 5 the *Victims Rights and Support Act 2013* and Part 7A of the Fines Act.

Fine debt includes debt arising from court fines, penalty notices or Orders for Restitution, including enforcement costs as defined in section 44 of the Fines Act.

Health practitioner refers to a registered (including provisionally registered) psychologist, registered medical practitioner or a nurse as defined in the *Health Practitioner Regulation National Law (NSW) No 86a of 2009*.

Income includes, but is not limited to, wages, pensions or benefits, allowances, interest on investments, or financial support from an associate (e.g. support provided by a parent or family member overseas).

Order for restitution refers to an order issued by the Commissioner of Victims Rights under Part 5 of the *Victims Rights and Support Act 2013 (VRS Act)*.

Revenue NSW refers to the Commissioner of Fines Administration under the Fines Act or their delegate.

Self-Service Portal (SSP) refers to the online portal managed by Revenue NSW where sponsors submit new WDO applications and enter monthly reports on open WDO applications. All WDOs are managed through the SSP.

Social Worker means:

- *General social worker* - An undergraduate or graduate degree-level, qualified professional eligible for membership with the Australian Association of Social Workers (AASW) eligible to apply as a sponsor to provide all activities except mental health treatment;
- *Accredited Mental Health Social Worker* - An undergraduate or graduate degree-level, qualified professional registered with the AASW as an Accredited Mental Health Social Worker (AMHSW) eligible to apply as a sponsor to provide all WDO activities including mental health treatment.

Sponsor refers to an approved organisation, social worker or health practitioner authorised to support WDO applicants to clear fines through participation in WDO activities. The term also includes those staff members or case managers who have been delegated access to the SSP by the approved sponsor.

Substantial assets include but are not limited to investment properties or luxury vehicles or vessels (as defined by the Australian Tax Office), savings, and liquid assets. An applicant or participant's principal place of residence will generally not be considered a substantial asset.

Third-party provider is an individual, health practitioner or organisation who provides an activity for a WDO participant, and from whom a sponsor must collect information such as hours of attendance.

WDO is a work and development order which enables an eligible person to undertake suitable WDO activities to clear fines.

WDO activities are activities that may be included on a WDO, including activities provided directly by a sponsor or activities provided via referral to a third-party provider.

WDO applicant is a person applying to do a WDO.

WDO application refers to an individual application on behalf of a person with eligible fines submitted by a sponsor in the SSP.

WDO participant refers to an eligible person with eligible fines who is undertaking a WDO.

WDO records refers to any information relating to a specific applicant or participant and their WDO. This includes but is not limited to completed consent forms, information provided by the WDO applicant to support their eligibility for the WDO program, evidence from third party providers of their suitability to provide approved activities, information relating to the activities undertaken and the hours completed each month.

Part 2 – Information for sponsors

2.1 Why be a sponsor?

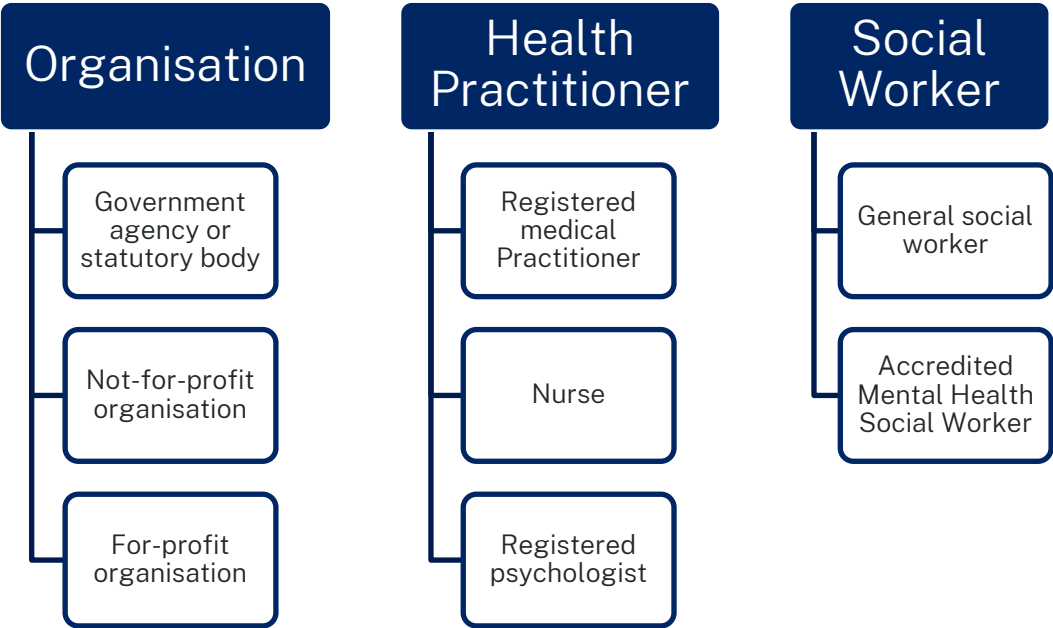
If a person is unable to pay, unpaid fines can become a burden. Unpaid fines can result in increasing debt, loss of driver licence or vehicle registration, wages or savings being taken by Revenue NSW or property being seized by the NSW Sheriff’s Office. Fines debt can have a significant impact on a person’s mental health and wellbeing. It can also lead to loss of employment, further offending and social exclusion.

Becoming a WDO sponsor can help to break the cycle of disadvantage. It is a practical way to help people clear fines while facilitating broader engagement with the programs and activities a service may offer. Sponsors may participate in the WDO scheme as a tool to encourage engagement in programs and services or to reach more people in a community.

2.2 Who can be a sponsor?

Sponsors may be government organisations, non-government organisations (for-profit or not-for-profit), individual health practitioners or social workers approved to supervise WDOs. A sponsor may be located in New South Wales or any other Australian state or territory.

Diagram 1: Types of sponsors



2.3 How to become a sponsor

In order to become a sponsor, an individual or organisation must complete an online application on the Revenue NSW website. As part of the application process, the organisation or individual must nominate the types of clients they assist and select the WDO activities they will provide or support.

A sponsor may apply to provide WDO activities directly (direct activity) or to manage and supervise activities which are provided by a third-party provider (referral activity). In both cases, a sponsor is responsible for applying for, managing and reporting on participation on behalf of a WDO participant.

Each type of sponsor has different approval requirements and may have specific limitations on the type of activities that can be provided for WDO purposes. During the application process sponsors will be asked to provide the following information:

- Sponsor type
- Details of the person lodging the application
- Individual or organisation details – including name of the approving manager, ABN, name and location of the service or program
- Type of client groups the service supports e.g. people experiencing homelessness or people with a drug or alcohol addiction
- Select the WDO activities to be provided either direct or on referral
- Minimum training, qualifications or experience of staff supporting WDO activities
- Details of any insurance or professional requirements
- Any Working with Children Check details and restrictions
- Details regarding any conflicts of interest.

More information on how to become a sponsor, including details of approval requirements, can be found in the Resource Kit.

2.4 Sponsors to be notified of application outcome

A sponsor will be notified about the outcome of their application.

If an application to become a sponsor is approved, Revenue NSW will provide the sponsor with a WDO Sponsor Summary report, which includes:

- A unique sponsor identification number
- A summary of the type of WDO activities the sponsor is approved to support
- Information about how to access and administer the Self-Service Portal

If an application to become a sponsor is declined, the applicant will be notified and will be provided with reasons for this decision.

2.5 Sponsor responsibilities

A WDO is an agreement to clear fines made between Revenue NSW and a sponsor, on behalf of a WDO applicant.

Sponsors are not obliged to support a particular client's application for a WDO. Where an application is supported the sponsor is responsible for assessing eligibility, keeping adequate records and overseeing compliance with activities. Regular training is available to sponsors to assist in understanding these obligations.

A sponsor is responsible for the proper administration of the WDO scheme including:

- Appropriately assessing eligibility and suitability of an activity for a WDO applicant
- Keeping adequate proof of eligibility and records of WDO activity and participation in accordance with record-keeping requirements
- Entering and reporting on WDOs through the Self-Service Portal in a timely way
- Keeping proper records of WDO applicant eligibility, activities and participation in a secure location for five (5) years
- Ensuring sponsor details are up to date and accurate.

Sponsors agree to participate in, and respond to, requests from Revenue NSW or DCJ, or auditors acting on their behalf, as part of ongoing quality assurance, investigation or audit processes. The purpose of these review processes is to maintain the integrity of the WDO scheme and provide education and support to sponsors.

A sponsor who is found to have seriously or repeatedly failed to follow their obligations and responsibilities may be revoked or suspended (see Part 4: Investigations, audits and reviews).

A more detailed overview of sponsor obligations is provided in the Resource Kit.

2.6 Ongoing requirements of approval

Once approved, a sponsor must continue to meet the eligibility criteria set out at section 2.2. Any material change in circumstances, or new information that may impact a sponsor's ability to effectively administer WDOs, must be reported to Revenue NSW immediately. This includes:

- Being subject to any conditions, undertakings or reprimands from a professional governing body, a funding body, or legal or regulatory agency, which may affect a sponsor's integrity or ability to properly supervise and support WDOs
- A change in ABN or a fundamental change in the sponsor's purpose.

2.7 Conflicts of interest

Sponsors are required to assess and make decisions about a person's eligibility to undertake a WDO in a fair and impartial way. A sponsor's administration of the WDO scheme should not be influenced, or appear to be influenced, by a conflict of interest. If a conflict of interest cannot be avoided, it must be declared and appropriately managed.

More information about identifying conflicts of interest can be found in the Resource Kit.

2.8 Fees, gifts and benefits

A sponsor must not receive any payment, gift or personal benefit from a person applying for, or subject to a WDO, except for a payment that is normally associated with the provision of a service or activity (for example, course fees or consultation fees).

2.9 Varying sponsor approval

A sponsor may apply to vary the WDO activities and service locations they are approved to support. Sponsors must continue to meet the conditions of approval outlined in their original application and:

- Health practitioners and social workers must not have changed their registration details
- Organisations must have the same ABN.

If these details have changed a sponsor must lodge a new application.

A sponsor may withdraw from the WDO scheme at any time. If a sponsor withdraws from the scheme, they are still obliged to comply with sponsor obligations and retain WDO records for five (5) years from the date of the last closed WDO.

Part 3 – Managing a WDO

3.1 Sponsor obligations regarding privacy and consent

Privacy obligations

There are legal obligations which NSW public sector agencies, health organisations, allied health service providers, and non-government organisations must abide by when they collect, store, use or disclose personal, sensitive and/or health information. These include compliance with one or more of the following:

- Information protection principles in the *Privacy and Personal Information Protection Act 1998* (NSW)
- Health privacy principles in the *Health Records and Information Privacy Act 2002* (NSW)
- Australian Privacy Principles in the *Privacy Act 1988* (Cth).

Sponsors should discuss with WDO applicants their rights regarding the collection, use, and disclosure of their personal information in processing the WDO application and administering the WDO as set out in this section.

Privacy Collection Notice, FAQ and consent form

Prior to collecting any information or submitting a WDO application, sponsors must provide a WDO applicant with a copy of the Privacy Collection Notice and FAQ. Sponsors must also obtain the applicant's informed and written consent using the consent form.

The signing of the consent form by the WDO applicant and sponsor is an acknowledgement of, and agreement to, the content of the consent form and Privacy Collection Notice. Once the consent form is signed, a WDO sponsor may collect, use, retain and disclose information in accordance with that consent form and the Privacy Collection Notice.

Consent will start from the date the consent form is signed by both the sponsor and the WDO applicant and will remain in force for the duration of the WDO or until consent is withdrawn.

When submitting a WDO on the Self-Service Portal, a sponsor must advise Revenue NSW that signed consent has been obtained. Revenue NSW will not approve a WDO if consent has not been obtained. A WDO applicant can withdraw their consent at any time. Should they do so, the sponsor must advise Revenue NSW promptly. Withdrawing consent has the same effect as closing a WDO.

Information collection, use and disclosure

A WDO applicant's personal, sensitive and/or health information may be collected, retained, used and disclosed as follows with the consent of the WDO applicant.

The sponsor may use the personal, sensitive and/or health information collected about the WDO applicant to:

- Assess the WDO applicant's eligibility for a WDO
- Identify and manage conflicts of interest relating to the WDO
- Prepare and submit a WDO application on behalf of the WDO applicant
- If the WDO is approved, prepare and submit monthly activity reports to Revenue NSW via the

WDO Self-Service Portal, and maintain records of participation in WDO activities

- Assist members of the WDO Governance Group and/or auditors appointed or approved by the WDO Governance Group to undertake audits, internal investigations, or reviews of/in relation to the WDO scheme, if required
- Undertake any other related administrative functions.

The sponsor may disclose information collected to the following persons or organisations:

- Third party sponsors – i.e. third parties engaged by the sponsor to assist with the provision of WDO activities, or persons to whom the sponsor’s functions are delegated under section 99H of the Fines Act
- Any or all members of the WDO Governance Group – i.e. Revenue NSW, the Department of Communities and Justice, Legal Aid NSW and the Aboriginal Legal Service NSW/ACT
- Auditors as appointed or approved by the WDO Governance Group
- Enforcement agencies – i.e. organisations that can issue fines such as councils, NSW Police or Transport for NSW (insofar as the information disclosed to that agency relates to a fine issued by that agency and/or completion of a related WDO)
- Any other agency as permitted or required by law, including NSW Police.

The sponsor may disclose this information in the following circumstances:

- For the purposes of assessing eligibility for, submitting and managing a WDO application on the SSP, recording attendance at WDO activities and providing WDO activity reports;
- To allow the WDO Governance Group or auditors appointed or approved by the WDO Governance Group to undertake audits, internal investigations and/or reviews of/in relation to the WDO program; and
- For any other related administrative functions.

The WDO Governance Group and/or auditors engaged by the WDO Governance Group may also collect, use and disclose the personal, sensitive and/or health information of WDO applicants for the purposes of managing, operating, reporting and complying with the WDO scheme. This includes information relating to applicant eligibility, compliance with WDO activities, fines and financial information in order to conduct investigations and audits on compliance.

Retention of records

WDO records must be retained by a sponsor for at least five (5) years following completion or revocation of the WDO.

In applying for and managing a WDO, sponsors may access from Revenue NSW details of the relevant WDO applicant’s overdue fines, including the amount owing, type and nature of fines issued. This may include fines which become overdue after a WDO has commenced.

Any collection, use or disclosure of a WDO applicant’s personal, sensitive and/or health information that is not provided for in the WDO applicant’s privacy consent form, including any use or disclosure of WDO records that falls outside its scope, requires further written consent from the WDO applicant.

Sponsors and third-party providers must also provide copies of documentation relating to a WDO, in response to reasonable requests by the WDO applicant, a person authorised to act on their behalf, or their lawyer.

A Privacy Collection Notice, FAQ and Client Consent form is available in the Resource Kit.

3.2 Which fines may be cleared on a WDO?

NSW issued fines, court fines and overdue fines

All NSW fines issued to an individual are eligible for a WDO, regardless of whether they are overdue or not. Fines and court fines that are not yet overdue may be voluntarily enforced early for the purpose of being included on a WDO.

Order for restitution debts

An unpaid order for restitution debt is deemed to be an overdue fine and may be managed on a WDO. As these debts may be large, and of a slightly different nature to other fines, sponsors must advise Revenue NSW whether they agree to include these debts on a WDO.

Fines that are not eligible

A person cannot clear fines issued by other Australian states or territories through the NSW WDO scheme. However, many other states and territories have fine mitigation, or WDO-like, schemes.

Fines issued to corporations cannot be cleared through a WDO.

3.3 Who is eligible for a WDO?

Anyone with NSW fines debt may be eligible for a WDO, including people who live in NSW and people who live in another Australian state or territory.² Both children and adults may be eligible for a WDO.

It is the responsibility of a sponsor to assess a WDO applicant's eligibility and keep records of that assessment. Revenue NSW is to rely on the sponsor's assessment of eligibility at the time of application. If Revenue NSW has reason to believe that the assessment should not be relied upon or has changed, Revenue NSW will notify the sponsor and contact the WDO applicant directly to confirm eligibility.

A person is eligible for a WDO if they satisfy each of the following categories:

A. Ground of Eligibility

A WDO applicant must be experiencing at least one of the following 'grounds of eligibility':

- A mental illness
- An intellectual disability or cognitive impairment
- A serious addiction to drugs, alcohol, or volatile substances
- Homelessness
- Acute economic hardship.

The Resource Kit provides further detail in relation to grounds of eligibility, including expanded definitions, applying under exceptional circumstances and information about supporting evidence.

² A person on a permanent or temporary visa may be eligible for a WDO. However, participation in certain WDO activities may breach visa conditions. Relevant legal advice should be sought.

B. Experiencing Hardship

A WDO applicant must declare that they are experiencing hardship. An applicant may be experiencing hardship if they:

- Have low income or limited access to income or assets, and/or
- Cannot afford or must go without basic items or services, and/or
- Lack capacity, opportunities or choices to improve their situation, and/or
- Are experiencing difficulty in participating in economic, social or cultural activities.

The Resource Kit provides further guidance on how to determine whether a person is experiencing hardship, including information and tools to assist sponsors to retain appropriate records.

Revenue NSW may also undertake searches to confirm whether a person is in hardship, which may impact a person's eligibility for a WDO.

C. Does not possess substantial assets

A WDO applicant must declare that they do not possess or have access to substantial assets. Substantial assets include but are not limited to investment properties or luxury vehicles or vessels (as defined by the Australian Tax Office), savings, and liquid assets. An applicant's principal place of residence will generally not be considered a substantial asset.

Revenue NSW holds information about Land Tax assessments and may undertake data-matching or public searches with Land Registry Services or other agencies to identify possible sources of income or substantial assets that may impact a person's eligibility for a WDO.

3.4 Which activities may be included on a WDO?

A WDO is an order made by agreement between Revenue NSW and a sponsor on behalf of a WDO applicant that enables an eligible person to do any one or more of the following activities to satisfy all or part of their fine:

- Undertake unpaid work for, or on behalf of, an approved organisation
- Undergo medical or mental health treatment in accordance with a health practitioner's treatment plan
- Undertake an educational, vocational or life skills course
- Undergo financial or other counselling, including case management
- Undergo drug or alcohol treatment
- Undertake a mentoring program.

If a person is eligible for a WDO solely on the ground that they have a serious addiction to drugs, alcohol or volatile substances, they must undertake drug or alcohol treatment and/or counselling as part of their WDO.

Applications for WDOs should be made having regard to the age, needs, family obligations, capacity and overall situation of the applicant and the potential benefit of the proposed activities for the applicant. It is the responsibility of the sponsor (not Revenue NSW) to ensure that the activities proposed to be undertaken on a WDO are suitable and appropriate for the WDO applicant.

Permissible activities

The fact that an activity of a kind listed above is *also* required for some other reason (for example, an activity ordered by a court) does not preclude it from being included on a WDO.

More detail about activities that may be included on a WDO is in the Resource Kit.

3.5 Maximum value of WDO activities

The maximum amount of fines that may be satisfied through a WDO is \$1,000 per month.

Depending on the type of activity, WDOs may be entered for hourly attendance at an activity or monthly compliance with programs.

Hourly rates

- Unpaid work
- Educational, vocational or life skills courses
- Financial or other counselling or case management

These activities are cleared per hour of participation up to a maximum of \$1,000 per month.

Compliance with programs

- Medical or mental health treatment in accordance with a health practitioner's treatment plan
- Drug or alcohol treatment
- Mentoring programs.

These programs are counted on a compliance rate. Participants undertaking such activities may clear up to \$1,000 per month for full compliance with the program during that period. If a person partially complies with the program a proportion of the \$1,000 may be cleared from their fines.

More information about WDO reporting and clearance rates is in the Resource Kit.

3.6 Effect of a WDO

In most cases, no enforcement action will be taken against a person, in respect of a fine to which a WDO relates, while a WDO is active. When a WDO is in place, any driver licence or vehicle sanctions or other enforcement action imposed on that person due to fine default will generally be lifted.

The stay of enforcement action will only apply to existing fines included on the WDO at the time it is made. Recovery action on new fines referred to Revenue NSW after the WDO is made will not be automatically stopped. In this case, it is the responsibility of the applicant to advise their sponsor and Revenue NSW of any new fines to be added to a WDO to prevent further recovery action.

3.7 The WDO application and reporting process

The WDO process is a three-stage process. The three stages are:

- **Stage 1** – lodge application and commence WDO activities (activities cannot be backdated)
- **Stage 2** – supervise and report monthly on participation in WDO activities
- **Stage 3** – finalise and close the WDO.

At any time while a WDO is open, a sponsor can add, remove and/or modify the WDO activities, or add any new fines through the SSP.

A summary of the WDO application and reporting process is below. Further guidance, including a step-by-step guide, is in the Resource Kit.

Stage 1: Apply for the WDO

When applying for a WDO a sponsor should:

- Identify if the applicant has NSW fines.
- Provide privacy information and record client consent.
- Assess if the applicant is eligible for the WDO scheme and keep proof of eligibility.
- Decide on the activity that the applicant will participate in.
- Enter the WDO onto the Self-Service Portal (SSP) including details about the WDO applicant, grounds of eligibility and proposed WDO activities.

Stage 2: Supervise and report on participation in WDO activities

After the WDO has been entered onto the portal a sponsor should:

- Supervise activities and keep records of participation in activities being provided directly or on referral to a third party. Activities may be included from the date of the application.
- Enter a monthly report on WDO compliance on the Self-Service Portal.

Stage 3: Finalise the WDO

A sponsor should finalise a WDO when:

- All fines included on the WDO have been cleared. The WDO will close automatically and the sponsor should print out a Certificate of Achievement for the participant.
- Unpaid fines remain but the WDO participant has stopped engaging in the activity or the WDO activity has ended. In this case, the sponsor should add a closing activity report on the Self-Service Portal and refer the participant back to Revenue NSW to manage the remaining fines balance. A sponsor may support a person to find a new sponsor, apply for a payment plan, or write off any remaining fines balance.

3.8 Variation or revocation of WDO applications

Revenue NSW may vary or revoke a WDO in the following circumstances:

- If requested to do so by a WDO applicant or sponsor
- If satisfied that the WDO applicant has failed to comply with the WDO, and on request, has failed to provide a reasonable excuse
- If Revenue NSW has reason to believe that information provided in the WDO application is false or misleading
- If Revenue NSW has reason to believe that information provided by a sponsor in the WDO application, or client activity report, is false or misleading
- Revenue NSW has reason to believe that the WDO applicant did not meet the WDO eligibility criteria at the time of applying for a WDO or no longer meets the eligibility criteria.

In all cases Revenue NSW must grant the WDO applicant or sponsor procedural fairness before varying or revoking a WDO. If in dispute with this decision, the WDO applicant or sponsor may request a review of the decision in accordance with section 4.3.

Part 4 – Investigations, audits and reviews

4.1 Quality assurance, investigations and audits

Sponsors must administer the WDO scheme in accordance with the Fines Act, WDO Guidelines and the Resource Kit. Regular training is available and sponsors will receive updated resources via email.

Sponsors must agree to co-operate with any quality assurance, investigation or audit process that may be conducted by Revenue NSW, DCJ or external consultants appointed for this purpose. Sponsors must agree to provide, with reasonable notice and within specified timeframes:

- Evidence of records demonstrating compliance with any of the sponsor obligations
- Copies of WDO records as requested
- Any other requirements described in the Fines Act, WDO Guidelines or Resource Kit.

Quality Assurance process

To ensure the integrity of the WDO scheme is maintained, Revenue NSW undertakes a regular quality assurance process to monitor sponsor compliance with their obligations. This process may flag anomalies that warrant further investigation. For example, a case manager entering a WDO for a colleague without declaring a conflict of interest, or a case manager entering multiple WDOs for one person nominating the same activity, may be flagged for further investigation.

Investigations

If a sponsor is suspected of breaching their obligations under the WDO Guidelines, they may be investigated in accordance with the procedures set out in section 4.2. Suspected breaches may be identified through the quality assurance process, or in response to external feedback or a complaint (e.g. from a WDO applicant or an industry funding or governance body). The investigation may relate to any aspect of a sponsor's administration of the WDO scheme.

Audits

Audits of the WDO scheme may be undertaken from time to time. With reasonable notice, DCJ, Revenue NSW or an independent auditor appointed on behalf of the WDO Governance Group may request sponsors to provide records as part of an audit process.

A WDO may be subject to audit for up to five (5) years after it has been closed. A sponsor's withdrawal from the scheme does not remove the requirement to participate in the audit process. The audit process will follow the process set out in section 4.2.

4.2 Sponsor investigations

If DCJ or Revenue NSW receive a complaint, an allegation of misconduct or non-compliance about a sponsor, an investigation will be undertaken in accordance with the rules of procedural fairness.

Grounds for investigation

The investigation will consider whether the sponsor has failed to comply with:

- Their sponsor obligations as set out in the WDO Guidelines and Resource Kit
- Their conditions of approval
- Any other law related to ethical misconduct
- Recommendations arising from an investigation or audit.

Investigation process

During the investigation:

- The sponsor will be notified of the allegations or complaints and given an opportunity to respond and provide documents or further explanation
- Other relevant NSW government agencies or industry compliance bodies may be consulted as appropriate
- Any WDO applications that are open or pending may be closed or declined
- Access to the Self-Service Portal may be temporarily suspended pending the final outcome of the investigation.

Investigation Outcome

Once the investigation is complete, a report will be prepared making recommendations regarding the outcome of the investigation. Recommendations may include that:

- The suspected breach has not been substantiated and no further action is required
- The suspected breach has been adequately addressed and no further action is recommended
- The suspected breach has been adequately addressed, and the sponsor should be permitted to continue as a sponsor on the condition that they:
 - Attend compliance training with Legal Aid NSW
 - Improve administrative WDO procedures and accept support e.g. from Legal Aid NSW
 - Undertake a probation period.
- The suspected breach has not been adequately addressed and the sponsor should be suspended to afford them an opportunity to address the allegations
- The suspected breach has not been adequately addressed, and is so serious, that the sponsor should be revoked.

Any sponsor or individual who makes a false or misleading statement in a WDO application or report may be liable to criminal prosecution under the *Crimes Act 1900* or other action determined by the WDO Governance Group. This may include revocation of sponsor status, revocation of an individual WDO, or recommencement of enforcement action for an individual fine.

Any sponsor, person or individual who provides information (whether orally or in writing) or a document that the person knows to be false or misleading in a material particular may be liable to be fined up to \$11,000.³

³ Fines Act, section 129.

After the investigation process is complete, the sponsor will be notified of the outcome of the investigation and provided with reasons for the decision.

There is no right of appeal against this decision. However, if a sponsor is aggrieved by an investigation outcome decision they may request that the decision be re-considered by the WDO Governance Group.

More information about sponsor rights and responsibilities are in the Resource Kit.

4.3 Seeking review of decisions about WDOs

A WDO applicant or sponsor may seek a review of any decision made by Revenue NSW to make, fail to make, vary or revoke a WDO. The appeal may be lodged by a WDO applicant or a sponsor. A review may be requested in relation to:

- The making of, the failure to make or the varying or revocation of, a WDO
- The making of, or the failure to make, a payment plan
- The writing off or the failure to write off, the whole or part of, an unpaid fine.

Applications for review may be made to the Hardship Review Board, who may determine how the review is conducted.⁴

Application forms can be found on the Revenue NSW website.

4.4 General feedback and complaints

To provide feedback or make a complaint relating to the WDO scheme, sponsors and clients can access an online feedback form on the Revenue NSW website.

Prior to submitting a complaint, the individual is encouraged to contact the person, organisation, health practitioner, social worker or agency involved to try and resolve the issue. If the issue is not resolved, a formal complaint can be made using the online form. All complaints about the WDO scheme will be considered in a confidential and timely manner.

Complaints will be reviewed by Revenue NSW, DCJ and Legal Aid NSW to identify systemic issues and inform improvements to the WDO scheme.

⁴ Fines Act, section 101B.

4.5 Document history

Version	Date	Reason for amendment
1	1/07/2009	-
2	12/03/2012	To implement recommendations made by the evaluation of the WDO pilot
3	11/05/2017	To update the guidelines following program audit and evaluation
4	03/02/2025	To update the guidelines following legislative change, program audit and stakeholder feedback

4.6 Approval by Attorney General and commencement

I hereby approve the Work and Development Order Guidelines 2024 to commence on the day of publication on the NSW legislation website on 3 February 2025.

The Hon Michael Daley MP
Attorney General

Date: 25/6/2024

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