

Employment Screening Policy

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1 Purpose

The Department of Communities & Justice (DCJ) is committed to promoting a safe, ethical, and professional work environment. The Department must be satisfied that anyone seeking to be engaged or employed, in a paid or unpaid role, meets the highest standard of integrity and suitability to provide quality services for clients and a safe environment for employees.

In addition to the usual recruitment checks (refer to section 5.2), the Department must also meet its legislative obligations. This includes but is not limited to the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#), other requirements of the Office

of the Children’s Guardian and Section 15 “Employment in certain occupations” of the Criminal Records Act regarding employment screening.

The purpose of this policy is to outline the employment screening checks that the Department may require a potential candidates or a current employee transferring to a new role to undertake and DCJ’s approach to employment screening.

2 Scope and application

This policy applies to:

- prospective candidates (executive and non-executive for ongoing, temporary, casual and contingent employment)
- current employees being assigned to a new role, where additional checks may be required
- volunteers, student placements and work experience participants
- interns and graduates
- council and committee members
- consultants (where appropriate).

This policy does not apply to the NSW Judiciary and the New South Wales Civil and Administrative Tribunal Members.

3 Legislation:

- [*Child Protection \(Working with Children\) Act 2012 \(NSW\)*](#)
- [*Child Protection \(Working with Children\) Regulation 2013 \(NSW\)*](#)
- [*Crimes Act 1900 \(NSW\)*](#)
- [*Criminal Records Act 1991 \(NSW\)*](#)
- [*Drug Misuse and Trafficking Act 1985 \(NSW\)*](#)
- [*Crime \(Domestic and Personal Violence\) Act 2007 \(NSW\)*](#)
- [*Anti-Discrimination Act 1977 \(NSW\)*](#)
- [*Summary of Offences Act 1988 \(NSW\)*](#)
- [*Firearms Act 1996 \(NSW\)*](#)
- [*Crimes \(Administration of Sentences\) Regulation 2014 \(NSW\)*](#)
- [*Government Sector Employment Act 2013 \(NSW\)*](#)
- [*Government Sector Employment Regulation 2014 \(NSW\)*](#)
- [*Government Information \(Public Access\) Act 2009 \(NSW\)*](#)
- [*Privacy and Personal Information Protection Act 1998 \(NSW\)*](#)

- [Privacy and Personal Information Protection Regulation 2019 \(NSW\)](#).

4 Policy links and related documents

- National Criminal Record Check Procedure
- Working With Children Check Procedure
- Employment Screening Matrix.

5 Policy statement

Under this policy, the Department will ensure:

- any person/s employed or engaged, in a paid or unpaid role, to work within the Department are screened in compliance with relevant legislation and policies, including privacy and confidentiality requirements
- that all relevant information is considered when assessing a person's suitability to perform a role and;
- fairness to employees and preferred candidates.

5.1 National criminal record check (NCRC)

A NCRC is a mandatory requirement for anyone seeking to be employed or engaged by the Department. It is a search against the criminal records of each Australian state and territory that lists all criminal convictions recorded against an individual.

The Department considers the details of any disclosable court outcomes appearing on a person's NCRC when deciding whether they are suitable for a particular role and will not engage or employ a person if they don't consent to a NCRC.

The fact that a person has a criminal record is not a reason to refuse a person employment, rather a risk assessment will be undertaken to determine suitability for a specific role.

Additionally, the Office of the Children's Guardian requires accredited agencies who provide or arrange residential care services to children in statutory out-of-home care (OOHC) in NSW to conduct pre-employment NCRCs for all workers, contractors and volunteers who do child related work within these services.

Some Corrective Services NSW (CSNSW) roles may require candidates to undertake fingerprint checks through Talent Acquisition or the NSW Police Force. All CSNSW roles are rated as either a security risk level 1 or level 2 which determines this requirement.

The fingerprint check provides the Department with added assurance regarding the candidate's identity. Fingerprint checks can determine if an individual has been known by more than one name in some cases. This check, when processed through NSW Police, grants full access to any spent convictions (see 5.1.1).

A person may make a complaint to the Australian Human Rights Commission if they believe they have been discriminated against purely because they have a criminal record. For more information about unlawful discrimination, refer to the [Australian Human Rights Commission](#) website.

5.1.1 Spent convictions

Spent convictions are convictions that no longer appear on NCRC results, and means that a person is not required to declare them or the employer able to consider these convictions unless specific exclusions apply to the nominated role.

Convictions for minor offences under NSW law may become spent if a person has been crime-free and not been in prison for 10 years (or 3 years if a juvenile) from date of conviction.

Certain roles are excluded from spent convictions legislation (see Section 15 “*Employment in certain occupations*” of the [Criminal Records Act 1991 \(NSW\)](#)). It is lawful to request and use information about convictions that have been spent when considering applications for employment for certain roles. Where specific exclusions apply to the nominated role, applicants must also disclose spent convictions, which will form part of an overall risk assessment.

5.2 Standard recruitment practice checks

As part of the standard recruitment practice, anyone seeking to be employed, re-employed or change roles will undertake the following checks:

- reference checks
- conduct and service history checks (for existing and past departmental employees and/or public sector employees)
- health declaration (for new departmental employees)
- verification of identification and citizenship or residency/visa status (for new and existing employees as required (refer also to section 5.9 Overseas Applicants)
- verification of other requirements for roles such as drivers’ licence, mandatory qualifications, or professional memberships (where required for a role)
- police character check (where required see section 5.9 below).

5.3 Working with children check (WWCC)

All employees working in, or candidates for, roles that involve child-related work as defined by DCJ in accordance with the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#) and the [Child Protection \(Working with Children\) Regulation 2013 \(NSW\)](#), must have a Working with Children Check (WWCC) clearance.

Individuals either seeking to work in, or currently undertaking child-related work are responsible for applying for, paying for, and maintaining a WWCC clearance (no fee is payable for volunteers).

The Department will verify a person's clearance with the Office of the Children's Guardian (OCG) prior to allowing them to commence work in a nominated role in accordance with the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#). Any applicant without a verified current clearance of the relevant classification will not be eligible for employment in child-related work.

Exemptions to this requirement will only be in accordance with exemptions as identified in the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#) or the [Child Protection \(Working with Children\) Regulation 2013 \(NSW\)](#).

Any person undertaking child-related work for the Department who does not have a current WWCC clearance, or who is refused a clearance by the Office of the Children's Guardian, will not be permitted to remain in a nominated role, and may be subject to a misconduct process and / or action, which may include the termination of their employment.

5.4 ChildStory clearance check

ChildStory is a database that the Department uses to record child protection related client information (ChildStory replaced KiDS in 2017/18). Anyone who is in a role that requires a WWCC or has access to child sensitive information will be required to have a ChildStory Check prior to any offer of employment. This check is in addition to the NCRC and WWCC.

ChildStory Checks ensure that:

- any risks arising from records held by the Department are assessed before a decision is made regarding a person's suitability for a role
- the privacy and confidentiality of candidates and employees is safeguarded by identifying and securing records containing sensitive information about an individual and their family.

Where a record is found in ChildStory which indicates that a person has been responsible for, complicit with, or involved in some way other than as an employee (i.e. person has been involved in a case in a professional capacity), reporter (i.e. person who has made a child protection report) or victim of child abuse or neglect, a risk assessment must be undertaken.

A candidate will not be employed where a risk assessment indicates that the appointment of a candidate represents an unacceptably high level of risk to DCJ clients or employees.

5.5 Senior executive private interest declaration (SEPID)

In addition to the standard checks described above, the Senior Executive Private Interest Declaration (SEPID) program is mandatory for Senior Executives including those temporarily acting and contractors in a senior executive role. This ensures any potential conflicts of interest are addressed.

The SEPID program may also apply to non-senior executives nominated by the Secretary or his delegate/s.

The SEPID Program is managed by the Business Ethics & Compliance Unit (BECU).

5.6 Medical assessments

Certain roles within the Department will require the applicant, whether they are a new employee or an existing employee, to undergo a medical assessment as part of the recruitment process. Medical assessments are co-ordinated by Talent Acquisition and are completed by an authorised third party provider.

5.7 Contact with offender checks

Some roles within the Department require a declaration of contact with offenders. Talent Acquisition will request this from candidates where there is a requirement.

5.8 Australian security clearances

Security clearances may also be required for certain roles. Under the Australian Government Protective Security Policy Framework (PSPF), individuals who occupy certain roles that require access to security classified resources must hold a security clearance at the appropriate level.

5.9 Overseas applicants

A police character check is required for any candidate who has been in the country for less than five years. This check is conducted at the time of permanent residency and can be obtained by the candidate through the embassy or consulate.

6 Risk assessments

In determining a candidate's suitability for a role, the result of all employment checks need to be reviewed and where there is concern a risk assessment will be undertaken. The risk assessment considers the harm - potential, actual or future - posed by the candidate upon themselves, others, the community and to the Department. As such, it considers the nature and circumstances of the risk, candidate's behaviours, patterns, character, and service record.

Risk assessments will be completed by Talent Acquisition, in partnership with the relevant Director.

7 Requesting a review

In the event a decision not to employ a candidate is made on the basis of employment screening checks, the hiring manager must inform the candidate that they can request a review within seven days of the decision. They must submit the request in writing to the relevant Director. The Director will respond to the candidate in writing to advise whether the original decision has been endorsed or an alternate decision has been made.

Should the Director endorse the decision not to employ the candidate, the candidate may seek an external review by the NSW Civil and Administrative Tribunal.

8 Confidentiality

Anyone employed/engaged must not disclose any information obtained via a NCRC or reveal details of a disclosable court outcome/s to any person.

A record/notation that a NCRC has been conducted will form part of a person's employee / candidate record. This will contain information about the date on which the NCRC was undertaken, not the details of what the NCRC revealed.

No details of any disclosable court outcome will be kept on an employee / candidate's record.

Under no circumstances should a candidate's criminal record be disclosed to persons not directly involved in determining their suitability for employment. Disciplinary action may be taken against any employee giving unauthorised access to details of criminal records.

9 Roles and responsibilities

People who work or are applying to work are required to:

- provide consent for any pre-requisite checks that apply to their role
- ensure they have a current WWCC clearance if required
- ensure they have consented to NCRC as required for their role (for new employees only)
- notify their manager if they have been charged with having committed, or have been convicted of committing, a serious offence
- ensure they have appropriate citizenship or residency/visa status (for new and existing employees) as required.

Note: A loss of clearance, residency/visa status or notification of a serious offence can be a basis for termination as per S47(1)(b) of the [Government Sector Employment Act 2013 \(NSW\)](#).

Managers are required to:

- ensure that they do not employ or engage a person who has not had the pre-requisite checks completed and cleared
- ensure that where a recurrent check is required, the check is undertaken in accordance with the timelines and other requirements
- immediately report an employee to their senior manager and/or Conduct and Professional Standards (CAPS) or Professional Standards Branch (PSB) if they have reason to believe that the employee has been charged with having committed, or has been convicted of committing, a serious offence, whether the employee has reported it or not.

Shared services performance and risk (Payroll):

- hardcode roles that require a mandatory WWCC (as identified by departmental policy and the appropriate Deputy Secretary) to ensure that an employee cannot be placed in those roles without having the required checks completed, cleared and recorded
- record employee WWCC clearance details for child related roles (only)
- record employee NCRC clearance details.

Talent acquisition:

- arrange, verify and monitor NCRCs for all candidates, employees and contingent labour engaged via the contractor management system
- verify and monitor WWCC clearance and compliance for all candidates, employees and contingent labour as required for child related roles
- arrange and verify citizenship or residency requirement checks for all candidates, employees and contingent labour engaged via the contractor management system
- initiate ChildStory Checks for potential candidates / relevant employees or on request from the hiring manager
- conduct initial risk assessments for all candidates, where required
- arrange all other required checks as part of the standard recruitment process.

Contingent labour central / contractor central:

- arrange and monitor NCRCs for all contingent labour procured through the contractor management system
- refer and monitor WWCC clearances for all contingent labour procured through the contractor management system in child related roles
- arrange all other required checks as part of standard procurement/recruitment process through the contractor management system.

Conduct and professional standards unit and professional standards branch (CSNSW):

- undertake conduct checks as required.

10 Assistance and support

Assistance and support regarding this policy is available from:

- Advice - employee’s manager or next most senior manager
- Advice - People Business Partner representative
- Advice - Talent Acquisition
- Support - Employee Assistance Program (EAP).

11 Document information

Document name	Employment Screening Policy
Applies to	<p>Department of Communities and Justice:</p> <ul style="list-style-type: none"> • prospective candidates (executive and non-executive for ongoing, temporary, casual and contingent employment) • current employees being assigned to a new role, where additional checks may be required • volunteers, student placements and work experience participants • interns and graduates • council and committee members • consultants (where appropriate)
Replaces	<p>Department of Family and Community Services Employment Screening Policy</p> <p>Department of Family and Community Services Working With Children Policy</p> <p>Department of Family and Community Services National Criminal Record Check Policy</p> <p>Corrective Services NSW Pre-employment Screening Guidelines</p> <p>Corrective Services NSW Security Criminal Records Check Policy and Guidelines</p>
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Version	1.1

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Policy owner	Workforce Strategy, Inclusion and Systems

12 Support and advice

Who can people go to if they need more advice?

Business unit	Workforce Strategy, Inclusion & Systems People Corporate Services
Email	HRPolicyGovernance@fac.s.nsw.gov.au

