



CRIMINAL RECORD SCREENING POLICY

SCOPE

This policy and associated guidelines apply to all persons employed within or providing a service to WA Health. WA Health incorporates the following entities:

- Department of Health
- Metropolitan Health Services (includes Pathwest Laboratory Medicine and Dental Health Services)
- Peel Health Services
- WA Country Health Service

This is a system-wide policy and supersedes all policies and guidelines related to criminal record screening in WA Health.

This policy does not cover the requirements of the *Working with Children (Criminal Records Checking) Act 2004*. All staff and prospective employees should be aware that there are serious implications for anyone working with children or engaging people who will work with children without a Working with Children Check. For more information, see Operational Circular OP 2045/06 or go to the Working with Children Checks website at <http://www.checkwwc.wa.gov.au/default.htm>.

This policy does not cover the requirements for national police criminal record checks of relevant staff in aged care which came into effect from 1 March 2007. These requirements apply to all Australian Government subsidised services, specifically:

- residential aged care
- community aged care services under the *Aged Care Act 1997*: Community Aged Care packages (CACP)
- flexible care services under the *Aged Care Act 1997*: Extended Aged Care at Home (EACH) and Extended Aged Care at Home Dementia (EACHD) packages, Multi-Purpose Service places and Transition Care.

For more information about the Police Certificate for Aged Care Providers, go to <http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-quality-factsheet-policechecks.htm>

POLICY STATEMENT

WA Health has a duty of care to take all reasonable steps to provide protection from harm to all clients receiving health services from:

- government organisations
- non-government organisations funded by government
- volunteer organisations involved in government services
- private contractors providing services to government.

WA Health also has a responsibility to the community to ensure that all necessary measures are taken to ensure employees fulfil their obligations as public officers with integrity.

To assist WA Health to meet these obligations, the screening of criminal records will apply to all individuals who work in or provide services to WA Health. These include:

- employees (full/part time, temporary, casual, sessional, contract, (including secondees, redeployees and appointees from overseas)
- independent contractors (includes tradespeople and training consultants), their employees, self-employed clinicians (including those from overseas)
- private agency staff/consultants
- students on placement (excludes persons under 18 on work experience)
- persons engaged in any other capacity (eg. volunteers, adults on work experience, chaplains, academics).

It has been a requirement since 1 November 1997 that no new appointments to the above categories were to be made without a satisfactory criminal record check. However, in circumstances of urgent workforce demand, a person may commence work pending a satisfactory criminal record. These instances require the approval of the area health service workforce director, their equivalent or delegate.

An individual will not need to apply for a separate WA Health criminal record check if:

- They have been issued with:
 - an Australian National Police Certificate or
 - an Australian National Police Certificate for working in Australian Government subsidised aged care services.**and**
- The certificate has been issued within the previous 12 months.**and**
- The certificate(s) does/do not list any convictions that contravene this policy.

An employee, volunteer, contractor or other people providing a service to WA Health must advise their employer in writing of:

- any change in their criminal record **or**
- any criminal charges that are before the courts.

Failure to provide this advice would constitute a breach of discipline and appropriate action would be taken in accordance with the Misconduct and Discipline Policy.

The relevance of identified convictions, the recency of any convictions and the nature of the employment/position being sought will be taken into account in making employment related decisions where a criminal record check discloses a criminal record. All criminal record information for an individual will be considered including convictions and Western Australian spent convictions. Previous criminal convictions or pending charges will not necessarily preclude appointment or involvement in the provision of services.

The relevant area health service workforce directors or their equivalents are responsible for making decisions on behalf of the Director General on whether criminal convictions are relevant to the position for which a person is being considered or the services to be provided to clients. The Coordinator Criminal Record Screening (CRS) will provide an advisory role to inform and facilitate this decision making process.

A person who has been convicted of a serious sexual offence(s) will not be employed or involved in the provision of services to clients. Other serious offences (for example, those involving threat or injury to another person and serious drug offences) relevant to the duties of the position may also render a person unsuitable for employment and/or provision of services to clients.

People who are to be employed from overseas on either temporary and permanent work visas are required by WA Health to provide evidence of both:

- a 'satisfactory' criminal record check from their country of origin and from any other country in which they have lived for 1 year or more in the last 10 years **and**
- a 'satisfactory' Australian National Police Certificate.

A 'satisfactory' criminal record check or certificate is one that does not contravene this policy. Copies of criminal record certificates must accompany any application to provide services within WA Health.

People need to provide their consent before a criminal record check can be processed. People applying for a criminal record check will be treated fairly, equitably and in accordance with the principles of natural justice. Any action taken will be documented, transparent, legally defensible and capable of review.

All information will be dealt with in the strictest confidence and in accordance with the contract for the provision of criminal history information with the CrimTrac, relevant legislation and policies. All officers involved in tasks related to criminal screening are required to declare potential, perceived and actual conflict of interests.

Unless otherwise agreed by the employer; appointees, applicants, visiting practitioners, students and persons engaged in any other capacity are required to pay for their own criminal record check. Employees coming to WA Health on secondment or through redeployment will pay for their criminal record checks.

The criminal record check for volunteers will be paid for by the relevant health service.

DEFINITIONS

For the purposes of this policy, the following definitions apply:

CrimTrac is a Commonwealth government Agency which delivers and maintains:

- national policing information services
- advanced national police investigation tools
- national criminal history record checks for accredited agencies.

Employer (WA Health):

WA Health employers are Department of Health, Metropolitan Health Services, WA Country Health Service and Peel Health Service.

Health Service:

A health service can be defined as a government health agency, authority or health service which acts as an employing authority and includes the Department of Health.

Natural Justice and Procedural Fairness:

- Natural justice is about the concept of fairness, which can be described as 'justice should be done *and* be seen to be done'.

The principles of procedural fairness are:

- decision makers must act fairly and without bias
- a person should not be judged in his/her own case
- all parties to the matter should have the opportunity to have their case and all relevant arguments considered before a decision is made
- all persons need to be informed of the basis of a decision, where that decision affects them.

Serious Offence:

A 'serious offence' means a crime or crimes committed against a person or persons for which a court has recorded a conviction and has handed down a penalty of at least twelve (12) months imprisonment or a fine of \$15,000.

Spent Conviction:

In Western Australia, the *Spent Convictions Act 1988* provides for certain convictions to be *spent* (expunged from the record) generally after ten (10) years provided there have been no further convictions.

SUPPORTING DOCUMENTS

- WA Health Criminal Record Screening Guidelines

RELEVANT LEGISLATION

- *Public Sector Management Act 1994*
- *Equal Opportunity Act (WA) 1984* as amended
- *Human Rights and Equal Opportunity Act 1986*
- *Freedom of Information Act 1992*
- *Spent Convictions Act (WA) 1988*
- Industrial and workplace relations acts (State and Federal)
- Common law principles of confidentiality, duty of care and negligence

OTHER RELEVANT DOCUMENTS

- Western Australian Public Sector Code of Ethics
www.opssc.wa.gov.au/ethics/codeofethics/index.htm
- WA Health Code of Conduct
- [Public Sector Standards in Human Resource Management](#)
- Contract between Department of Health and CrimTrac
- Corruption and Crime Commission of Western Australia, Notification Guidelines , Third Edition February 2005
- WA Health Criminal Records Screening Guidelines
- WA Health Grievance Resolution Policy
- WA Health Misconduct and Discipline Policy
- Local health service grievance resolution procedures

SUPERSEDED DOCUMENTS

Policies and guidelines related to criminal record screening in WA Health in use prior to 22 December 2008.

ACCESSING POLICIES

Policies are located on:

- Health Workforce Link
http://intranet.health.wa.gov.au/policies/doh_policy.cfm
- Local Intranet

IF YOU HAVE A QUERY

Employees should direct any queries related to criminal record screening to their supervisor in the first instance.

Managers and supervisors with queries should contact their Human Resources Department or the Criminal Record Screening Unit (Crs@health.wa.gov.au).

CONTINUOUS IMPROVEMENT

To maintain continuous improvement in the development of workforce policies, please refer any feedback regarding this policy to the Policy Officer at policyofficer@health.wa.gov.au.

VERSION CONTROL

This document has been developed in accordance with WA Health's Workforce Policy Development Framework. This policy remains effective until a subsequent version is endorsed by the Director General.

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