



Delivering a **Healthy WA**



Government of **Western Australia**
Department of **Health**

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
- Peel Health Service
- 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 on 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 (CACCP).
- 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 criminal records of all individuals who work in or provide services to WA Health will be screened. These include:

- employees (including permanent, temporary, casual and sessional employees, persons on secondment, persons who are redeployed from other public sector agencies and appointees from overseas)
- independent contractors (including tradespeople and training consultants), their employees, self-employed clinicians (including those from overseas)
- private agency staff/consultants
- students on placement (excluding persons under 18 on work experience)
- persons engaged in any other capacity (e.g., 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 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
- 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 persons 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 for employees of WA Health.

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 people applying for criminal record checks must sign a consent form before the check can be undertaken by DoH. Any person refusing to complete and sign a consent form or meet the cost of the criminal record check will be precluded from appointment.

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 and relevant legislation and policies. All WA Health employees involved in tasks related to criminal record screening are required to declare potential, perceived or actual conflict of interest.

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

Persons employed from overseas

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

- (a) A criminal record check from their country of origin and from any other country in which they have lived for one (1) year or more in the last ten (10) years
- Any criminal record check in a language other than English must also be accompanied by a 'certified copy' of an English translation of the criminal record.
 - Certified copies are copies authorised, or stamped as being true copies of originals, by a person or agency recognised by the law of the country in which the person is currently residing as having the authority to authorise or stamp such documents.
All Department of Immigration and Citizenship (DIAC) offices outside Australia have the facility to certify or witness documents. A 'Service Delivery Partner' may be able to provide this service on behalf of the department if there is an agreement in place with the Australian Office. Applicants can visit the DIAC website for more information on offices outside Australia: www.immi.gov.au/contacts/overseas/
 - The original criminal record check must also be provided with the translated certified copy.



Further information regarding criminal record screening and specific country information can be found on the DIAC website at: www.immi.gov.au

- (b) An Australia-wide National Police Certificate.
Where an individual has not already obtained an Australia-wide Police Certificate, the DoH, Criminal Record Screening Office (the CRS Office) can arrange the required criminal record screening check.

All certificates need to be forwarded to the WA Health CRS Office for assessment in accordance with the WA Health's CRS Policy.

It is the individual's responsibility to obtain a criminal record screen from overseas. The cost of meeting WA Health's requirements to provide criminal record screening rests with the employee. Any employment contract will be contingent upon the individual supplying this information and the information being assessed as indicating no barrier to appointment.

Persons Found to have a Criminal Record

A Decision Making Committee comprising the Manager of the employing area and the relevant Workforce Director or their delegate (e.g., HR Manager) 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 CRS Coordinator will provide an advisory role to inform and facilitate this decision making process.

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.

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.

See the WA Health Criminal Record Screening Guidelines for more information on the decision making process.

Recording and Reporting

The CRS Office will maintain reports on:

- details of applicants who are not to be employed because of a criminal record
- details of applicants who will be employed but have a criminal record
- previous employees who are not to be re-employed due to a criminal record.

Printed copies can only be valid at the time of printing.



Record Keeping

The CRS Office will maintain records of:

- the criminal record of employees. The contract between WA Health and CrimTrac requires that any information relating to criminal history is to be kept only by the CRS Coordinator in accordance with the contract between WA Health and CrimTrac; and
- the original certified copy of the overseas translated criminal record check.

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.

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 judge 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 and provided there have been no further convictions.



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

Supporting Documentation

- WA Health Criminal Record Screening Guidelines

Accessing Policies

- Policies are located on Holii
(<http://intranet.health.wa.gov.au/>)

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



Authority

Endorsed by:	Director General
Review Date:	March 2012 This document has been developed in accordance with the WA Health Workforce Policy Development Framework. This policy remains effective until a subsequent version is endorsed by the Director General. CRS Policy Final March 2010
Link to Policy page:	via the Whole of Health Holii Policies link at: http://intranet.health.wa.gov.au/policies/doh_policy.cfm
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This information is available in alternative formats upon a request.

