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SA Health

# Policy

## Criminal and Relevant History Screening

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Government  
of South Australia

SA Health

# Contents

1.	Name of policy .....	3
2.	Policy statement.....	3
3.	Applicability.....	3
4.	Policy principles .....	3
5.	Policy requirements .....	3
6.	Mandatory related documents.....	5
7.	Supporting documents .....	5
8.	Definitions .....	5
9.	Compliance.....	7
10.	Document ownership .....	8
11.	Document history .....	8
12.	Appendices .....	8
Appendix 1: Criminal and Relevant History Screening Mandatory Instruction .....		9
1.	Mandatory compliance and applicability .....	9
2.	Working with children checks (WWCC) .....	9
3.	Registered National Disability Insurance Scheme (NDIS) worker checks.....	10
4.	Approved provider positions – Aged Care .....	11
6.	Protective security clearances – for high risk positions.....	12
7.	General employment probity and vulnerable person-related screening.....	12
8.	Prospective workers from overseas.....	12
9.	Non-employee workers.....	13
10.	Recruitment information.....	14
11.	Timing and renewal of assessments.....	14
12.	Portability of screenings.....	15
13.	Consent to screenings and failure to obtain a required screening .....	15
14.	Costs of assessments.....	16
15.	Assessments of criminal and relevant records.....	16
16.	Obligations to notify SA Health of any criminal charges.....	17
17.	Confidentiality .....	18
18.	Record keeping.....	18
19.	Reporting to the Chief Executive or Chief Executive Officers .....	18
20.	Screening-related grievances, appeals and disputes.....	19
21.	Roles and Responsibilities.....	19

## 1. Name of policy

SA Health Criminal and Relevant History Screening Policy

## 2. Policy statement

The purpose of this Policy is to assist with minimising risks to clients, patients, employees, other workers and SA Health organisations resulting from the employment or engagement of unsuitable persons to work in or for SA Health.

The intention of the Policy is to ensure that:

- SA Health complies with the requirements of legislation and SA Government regarding criminal and relevant history screening of persons working in or providing services to or on behalf of SA Health.
- An appropriate criminal and relevant history screening is obtained for all employees and non-employee workers prior to the commencement of their services to or on behalf of SA Health; and prior to them accessing SA Health premises or information systems for work, study or research.

This Policy should be read with the applicable legislation and documents listed in section 6 and 7 below.

## 3. Applicability

This Policy applies to all SA Health employees and must be made applicable to non-employee workers through their contractual arrangements and the conditions associated with authorising them to work in or to provide services on behalf of SA Health or accessing SA Health workplaces or information systems.

## 4. Policy principles

SA Health's approach to worker screening is underpinned by the following principles:

- > We comply with all legal requirements regarding screening of employees and other workers in SA Health.
- > We minimise risk to SA Health organisations and all persons within SA Health workplaces by implementing measures to screen all employees and non-employees for their suitability to work within or provide services on behalf of SA Health.
- > We are conscious of the financial impact of screening costs on SA Health organisations and/or on their employee and non-employee workers; and minimise any unnecessary costs by due consideration of appropriate screening for each role in the context of relevant risks; and whether any current screenings of workers appropriate for their roles exist.
- > We comply with the *Information Privacy Principles* by, among other obligations, not gathering screening information, which is not necessary for the safe and effective performance of SA Health's services and functions; and by maintaining confidentiality of personal information.

## 5. Policy requirements

### 5.1. All SA Health workers must be screened to reduce risk and comply with legislation

SA Health organisations have a duty of care to ensure that risk of harm to clients, patients, employees, other workers and the organisation is minimised through, amongst other processes, sound practices for the engagement of persons working in or providing services to, or on behalf of SA Health, or accessing SA Health workplaces and information systems for work, study or research.

SA Health organisations must also comply with legislation regarding screening of workers for their suitability to work with specific cohorts of SA Health patients or clients. Legislation requires that all persons who seek to work, or are working, in:

- > *Work with children / prescribed positions* (WWCC position) must - pursuant to the *Child Safety (Prohibited Persons) Act 2016* and *Child Safety (Prohibited Persons) Regulations 2018* - provide a current Department for Human Services (DHS) working with children check before employment/ engagement and every five years after the date of issue.
- > *Registered National Disability Insurance Scheme* (NDIS) *risk assessed roles* must provide a current DHS NDIS worker check before employment and every five years after the date of issue as required by the *National Disability Insurance Scheme Act 2013* (NDIS Act) and the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*. (See section 3 in the attached Mandatory Instruction regarding

other interim acceptable screenings.)

- > Approved provider positions under the *Aged Care Act 1997 (Cth)* (AC Act), provide a NPC before employment and every three years thereafter.

SA Health positions not covered by the CS Act or NDIS Act, require a satisfactory NPC from SAPOL or from an accredited CrimTrac Provider, which is appropriate to the work / placement / activities undertaken, e.g. a NPC for Aged Care / Vulnerable Groups and/or for General Probity purposes.

More than one type of DHS screening and/or a relevant NPC may be required for a role, depending on factors such as the nature of duties performed; categories of clients/patients; and access to certain work locations. As DHS screenings do not give visibility of a worker's criminal history, SA Health organisations must consider - consistent with their duty of care obligations – whether they must also assess a worker's criminal record (NPC) to prevent or minimise risks to patients or clients (e.g. of theft, fraud or exploitation).

For brevity, NPCs and DHS working with children checks (WWCCs) or DHS screenings to work in risk assessed roles in NDIS organisations are hereafter referred to as *screenings*.

## 5.2. Key actions and processes required for local implementation of this Policy

To implement this Policy and Mandatory Instruction across SA Health, the following local actions are mandatory:

- > Ensure screening requirements of this Policy and Mandatory Instruction are communicated, implemented and compliance monitored across the SA Health organisation.
- > Implement and maintain operational procedures and systems - applicable to both employees and non-employee workers - to ensure ongoing compliance with screening legislation and this Policy and Mandatory Instruction.
- > Identify positions requiring screenings consistent with:
  - The *Aged Care Act 1997 (Cth)* [AC Act] and the *Aged Care Accountability Principals* issued under section 96-1 of the *Aged Care Act 1997* and legally binding on SA Health.)
  - The *Child Safety (Prohibited Persons) Act 2016* [CS Act] and the *Child Safety (Prohibited Persons) Regulations 2019* [CS Regulations].
  - The *National Disability Insurance Scheme Act 2013* [NDIS Act] and the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018* [NDIS Practice Standards].
  - The *Disability Inclusion Act 2018*; the *Disability Inclusion (NDIS Worker Check) Regulations 2020* (SA) and The *Disability Inclusion (Transitional Arrangements) Regulations 2018*.
  - The SA Health *Protective Security Policy*.
- > Ensure that the requirement for a screening is included in Role Descriptions and recruitment information - as relevant.
- > Ensure that required screenings are completed prior to appointment or engagement.
- > Ensure that legally required screenings are renewed before their expiry.
- > Register an interest in the prospective employee, student or volunteer with the Central Assessment Unit (CAU) of the Department of Human Services (DHS) or with the NDIS Commission where a DHS screening is required to work in a SA Health role.
- > Take appropriate action in consultation with the Directors of Workforce (or equivalent) where an adverse NPC or DHS screening indicates unsuitability for employment or for continued employment of a current employee.
- > Notify other relevant LHNs and Health Services (via CHRIS and credentialing site check) when an employee became a *prohibited person* under the CP Act; a *disqualified individual* under the AC Act; a *disqualified person* or *presumptively disqualified person* under the NDIS Act; or when an employee's DHS screening to work with children, in NDIS services or in Aged Care is revoked.
- > Report to the NDIS Commission reportable incidents relevant to an incumbent of a *risk assessed role*.
- > Liaise with relevant contract managers, volunteer coordinators or clinical placement coordinators where circumstances indicate that a non-employee worker is unsuitable for engagement in SA Health; or unsuitable to access SA Health workplaces or information systems.
- > Liaise with the Protective Security Executive of DHW, the LHN or Health Service, where a NPC or security check indicates a person is unsuitable for (continued) employment / engagement in a SA Health position requiring security clearance (e.g. in their Job Description); or is unsuitable to access sensitive security classified information systems or resources in SA Health.

## 6. Mandatory related documents

The following documents must be complied with under this Policy, to the extent that they are relevant:

### 6.1. Legislation and related publications

- > *Aged Care Act 1997* (Cth),
- > *Aged Care Accountability Principals and Record Principles 2014* issued pursuant to the AC Act
- > *Australian Human Rights Commission Act 1986* (Cth)
- > *Child Safety (Prohibited Persons) Act 2016*
- > *Child Safety (Prohibited Persons) Regulations 2019* (SA)
- > *Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017*
- > *Disability Inclusion Act 2018* and *Disability Inclusion (NDIS Worker Check) Regulations 2020* (SA).
- > *The Disability Inclusion (Transitional Arrangements) Regulations 2018*
- > *Fair Work Act 1994* (SA)
- > *Health Care Act 2008* (SA)
- > *PC 012 – Information Privacy Principles (IPPs) Instruction of Premier and Cabinet - Effective from May 2020*
- > *National Disability Insurance Scheme Act 2013* (Cth)
- > *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*
- > *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*
- > *Privacy Act 1988* (Cth)
- > *Public Sector Act 2009* (SA)
- > *State Records Act 1997* (SA) and *General Disposal Schedule No. 30, V2*

### 6.2. Relevant SA Government or SA Health policies/publications

- > *Code of Ethics for the South Australian Public Sector*
- > *Premier and Cabinet Circular: PC030 – Protective Security in the Government of South Australia – July 2020*
- > *Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme*
- > SA Health [Employees Charged with Criminal Offences Policy Directive](#)
- > SA Health (Health Care Act) *Human Resources Manual*
- > SA Health *Protective Security Policy*

## 7. Supporting documents

This Policy should be read in conjunction with:

- > *NDIS Worker Check Guidelines*
- > *Working with Children Check Guidelines*- Department of Human Services (SA)
- > *Working with Children Check Guidelines - July 2019* Department of Human Services (SA)
- > Australian Government Department of Health: *Recognising NDIS worker screening for Aged Care providers that are registered NDIS providers*

## 8. Definitions

In the context of this document:

- > **Aged Care key personnel** (in Commonwealth funded Aged Care organisations) are as defined in Division 8-3A of AC Act.
- > **assessment – of a screening or a National Police Check (NPC)**- means consideration of the NPC of a (prospective) employee or non-employee worker to determine the potential risk of harm the person might pose if employed/engaged or remain employed/engaged in the relevant role considering the duties and circumstances of the role. If the role is an *approved provider* position, assessment includes consideration of the provisions of the AC Act.
- > **Aged Care related work** means *approved provider* roles where individuals are reasonably likely to have access to Aged Care recipients or work in *key personnel* roles.
- > **approved provider** means Commonwealth funded Aged Care services.
- > **approved provider positions** (under the *Aged Care Act 1997*): refer to definitions in the AC Act, (particularly *Key personnel*) and s4 of the *Accountability Principles 2014* (e.g. definition of a *staff member*).

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- > **conviction** means the complete orders made by a court after finding an accused person guilty of an offence, including both the finding of guilt and the sentence passed as a consequence.
- > **CrimTrac Accredited Provider** is an organisation accredited with the Australian Criminal Intelligence Commission to provide a National Police Certificate/Check to an individual.
- > **disqualified individual (under section 10A-1 of the AC Act)** means an individual that:
  - has been convicted of an indictable offence; or
  - is an insolvent under administration; or
  - is of unsound mind.

For the purposes of this Policy, an indictable offence is an offence against a law of the Commonwealth or of a State or Territory; or an offence that:

- is an offence against a law of a foreign country or a part of a foreign country; and
- when committed, corresponds to an indictable offence against a law of the Commonwealth or of a State or Territory.

For the purposes of this Policy, an individual who is one of the key personnel of an applicant (under section 8-2 of the AC Act) is taken to be of unsound mind if, and only if, a registered medical practitioner has certified that he or she is mentally incapable of performing his or her duties as one of those key personnel.

- > **disqualified person (under section 12 of the *National Disability Insurance Scheme (Worker Screening) Act 2020*)** means a person that have been convicted of a Class 1 offence as an adult, which resulted in them being excluded/prohibited from NDIS work.
- > **Line Manager** means: the person who is responsible for overseeing a worker's day-to-day activities, performance and conduct in a SA Health workplace. This also includes managers of labour hire agency staff and co-ordinators of volunteers or students on clinical placements in SA Health.
- > **National Police Certificate - (NPC)** means: a summary of an individual's offender history in Australia and a record of their criminal history relating to convictions, findings of guilt or pending court proceedings - often referred to as a 'police check'. It does not assess the relevance or significance of these records in relation to the duties and circumstances of the role that the person may have applied for or is engaged in.
- > **non-employee worker** means: any person, who through their contractual or licencing arrangements, is providing services within or on behalf of SA Health to its clients or patients; or is accessing SA Health's workplaces or information systems for work, study, research or other authorised purposes; but is not a SA Health employee.
- > **prescribed position** means: a position requiring a WWCC under s17 of the CS Act. It includes:
  - a position in which a person works with children
  - a position in which, during the ordinary course of their duties, it is reasonably foreseeable that a person will work with children
  - a position set out in the *Prohibited Persons Regulations*.
- > **principal authorised officer – external provider** means the Principal Authorised Officer of a service provider to SA Health that has the responsibility to assess screening assessments, e.g. education providers for student placements.
- > **principal authorised officers – SA Health** means: employees of SA Health who are the key contacts for all confidential concerns regarding screening of applicants or current employees. The *Principal Authorised Officers* in SA Health are the Directors of Workforce (or equivalent) of Local health Networks (LHNs) or the Department for Health and Wellbeing (DHW); and relevant Executive Directors in the South Australian Ambulance Service (SAAS).
- > **prohibited person** means: a person to whom a prohibition notice has been issued and who is under a law of the Commonwealth or of another State or Territory prohibited from working with children.
- > **prospective employee** means a person who is a (preferred) applicant to be an employee of SA Health - including a current employee of SA Health who has applied for a position in another incorporated hospital or another unit in the same incorporated hospital; SAAS, or in DHW.
- > **relevant history** means: a person's relevant history based on information considered by the Department of Human Services (DHS) in addition to criminal records.
- > **risk assessed roles** are NDIS roles requiring NDIS worker checks including:
  - key personnel (as defined in s11A of the NDIS Act);
  - any role for which normal duties include the direct delivery of specified supports or specified services to a person with disability; and
  - roles for which the normal duties are likely to require more than incidental contact with people with disability, which contact includes:

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- physically touching a person with disability; or
- building a rapport with a person with disability as an integral and ordinary part of the performance of normal duties; or
- having contact with multiple people with disability as part of the direct delivery of a specialist disability support or service, or in a specialist disability accommodation setting.

For the purposes of determining whether the normal duties of a role will require more than incidental contact with a person with disability, contact includes physical contact; face-to-face contact; oral communications; written communication or electronic communication.

- > **satisfactory assessment or screening** means: an assessment by the DHS Screening Unit; the Principal Authorising Officer of DHW, LHN, SA Ambulance Service; or SA Health service provider concluding that the criminal and relevant records of an individual does not contain any records that are relevant or significant enough to indicate a risk to the organisation, patients, clients or others in SA Health workplaces.
- > **volunteer** means: a person who:
  - is not a SA Health paid employee; and
  - offers his or her services to SA Health; or
  - provides care or other services as authorised by SA Health; and
  - has turned 16 or, if the person is a full-time student, has turned 18.
- > **vulnerable adult** means: an **adult client or patient** who is:
  - An adult with serious physical illness; or with a physical disability / mental disability which includes intellectual disability, mental impairment, or mental illness.
  - An adult who suffers social or financial hardship and may be vulnerable to exploitation as a result of this hardship. (Social hardship includes a wide range of situations and experiences such as a history of homelessness; domestic or family violence; bullying; sexual abuse; racial abuse; problem gambling; drug and alcohol abuse; torture or other trauma.)
  - An adult who cannot communicate, or who has difficulty communicating in English.
- > **work with children position** - refer to section 6 of the CS Act.
- > **worker(s)** means: all persons working under SA Health supervision, e.g. all employees and non-employee workers. non-employee workers includes: agency staff; service providers; contractors and sub-contractors; students and the tertiary institutions' supervisors of these students; volunteers; persons undertaking research involving SA Health clients or patients, workplaces, services or information systems; persons hiring SA Health sites or working on such sites; and members of SA Health related councils or management committees.
- > **workplace** means: the work environment where SA Health workers perform their duties; whether on SA Health premises or elsewhere in the community.

## 9. Compliance

The SA Health-wide compliance indicators for this policy are set out below. These indicators are required to be met across all SA Health services and Attached Offices. Any instance of non-compliance with this policy should be reported to the Domain Custodian for the Risk, Compliance and Audit Domain.

Indicator	Description
Staff awareness	All Executives, Line Managers and employees are aware of the requirements of this Policy and Mandatory Instruction.
Operational measures, procedures and systems	Local organisational measures, operational procedures and systems - applicable to both employees and non-employee workers - are implemented and maintained to ensure ongoing compliance with screening legislation, this Policy and Mandatory Instruction.
Screenings before working in SA Health.	All prospective SA Health employees and other workers from inside or outside SA Health provide the necessary DHS screenings and/or NPCs before commencing in a new role in SA Health.
DHS screenings for roles under the CS Act or NDIS Act.	All persons working in roles under the CS Act or NDIS Act have a relevant current DHS screening and their screenings are systematically renewed before the expiry thereof.
Minimising unnecessary DHS screening expenditure	Before a DHS screening is required or applied for, there is due consideration of the duties and circumstances of a role to determine whether the role in fact requires a DHS screening under the CS Act or NDIS Act; and sufficient enquiry is made to

Indicator	Description
	determine whether a worker has an applicable and current DHS screening before an application is made for a DHS screening.
NPCs for Aged Care Provider roles.	All workers in roles under the AC Act have a current and satisfactory NPC and their NPCs are renewed before the expiry thereof..
Screenings stated in Role Descriptions	Screening requirements are included in all Role Descriptions
Recruitment	Screening requirements are routinely included in recruitment documentation.
Action in response to unsatisfactory screenings.	Immediate and effective action is taken to minimise risks to patients, clients, other workers and the SA Health organisation where the organisation becomes aware of an unsatisfactory criminal or relevant history or incident of significant concern involving actions of an employee or non-employee worker; and other LHNs, the DHS and/or NDIS Commission are notified as required by this Policy and Mandatory Instruction.

## 10. Document ownership

**Policy owner:** Executive Director Workforce as Domain Custodian for the Employment, Work Health and Safety Domain.

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**Contact for enquiries:** Employees must contact their local HR work unit for advice on the implementation of this Policy and Mandatory Instruction. Workforce/People and Culture leaders are welcome to contact the Principal Workforce Policy Consultant, Department for Health and Wellbeing; by email [zylia.dewet@sa.gov.au](mailto:zylia.dewet@sa.gov.au) or by telephone 08 82267370.

## 11. Document history

Version	Date approved	Approved by	Amendment notes
V.5.1	../02/2021	Deputy Chief Executive	Updated to give effect to <i>National Disability Insurance Scheme Act 2013</i> and <i>National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018</i> ; and to extend the period of acceptance of a NPC to up to 12 month from issue.
V.5	19/10/2020	Deputy Chief Executive	Revised to give effect to the <i>Disability Services Act 1993</i> ; <i>Disability Services (Assessment of Relevant History) Regulations 2014</i> ; and <i>National Disability Insurance Scheme Act 2013</i> and <i>National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018</i> ..
V.4	09/06/2019	SA Health Policy Committee	Revised to give effect to the <i>Child Safety (Prohibited Persons) Act 2016</i> and <i>Regulations 2018</i> .
V.3	27/02/2017	Portfolio Executive	Revised to apply consistent approach to non-employee workers engaged within SA Health. Revised to include National Police Certificates accepted through an accredited CrimTrac Provider.
V.2	21/04/2015	Portfolio Executive	Revised to reflect government policy of DCSI screening only for child-related roles.
V.1	11/07/2014	Portfolio Executive	Re-drafted Policy Directive in line with 1-5 years scheduled timeline for review.

## 12. Appendices

### 1. Criminal and Relevant History Screening Mandatory Instruction

## Appendix 1: Criminal and Relevant History Screening Mandatory Instruction

### 1. Mandatory compliance and applicability

This Instruction supplements the SA Health Criminal and Relevant History Policy. Implementing this Instruction is mandatory to ensure screening practices across SA Health are consistent and comply with legislation.

### 2. Working with children checks (WWCC)

Current screening requirements for working with children checks are provided for by:

- > The [Child Safety \(Prohibited Persons\) Act 2016](#)
- > The [Child Safety \(Prohibited Persons\) Regulations 2019](#)
- > [The Children's Protection Law Reform \(Transitional Arrangements and Related Amendments\) Act 2017](#)

The following provisions apply within SA Health regarding positions under the CS Act:

- > A current DHS WWCC<sup>1</sup> must be obtained for each SA Health employee and non-employee worker prior to their commencement or engagement in a *work with children / prescribed position* [as defined by the CS Act]; and renewed every five years after the date of issue.
- > The term *work with children* includes positions in health services where the person:
  - provides a service or undertakes an activity in the course of their employment / engagement is child-related work<sup>2</sup> as defined in s6(1) of the CS Act; or
  - carries on a business in the course of which an employee works with children (whether or not the individuals themselves works with children); or
  - provides any other service or undertakes any other activity declared by the CS Regulations to be included in the ambit of this subsection.

(For more information on positions requiring a WWCC, refer to the CS Act and CS Regulations and the [DHS WWCC webpage](#).)

- > Only DHS WWCCs are accepted by SA Health for a WWCC prescribed position under s6 of the CS Act.
- > WWCCs remain valid for five years and are portable between roles and positions across South Australia.
- > Where a DHS WWCC is current at the time of appointment (i.e. issued less than five years before and no prohibiting notice has been posted since the WWCC has been issued) the WWCC must be accepted - unless there is clear justification why the WWCC should be renewed.
- > Child-related DHS (previously the Department for Communities and Social Inclusion/DCSI) screenings issued prior to 1 July 2019 remain valid until the date of expiry.
- > The WWCC status of a person can be ascertained online by the individual and SA Health (where the organisation is registered as a relevant employer) by referencing the person's "unique identifier".
- > An [application for a WWCC](#) may be made by individuals themselves or by the SA Health organisation on behalf of its workers (if registered as a relevant employer).
- > Before requesting renewal of a DHS WWCC, hiring managers must:
  - Consider whether the specific role is indeed a WWCC position as defined by the CS Act.
  - Establish whether the individual has a current DHS WWCC issued less than five years before and a prohibiting notice has not been posted since the WWCC has been issued.
- > WWCC must not be requested for incumbents of or applicants for positions that are not *work with children / prescribed positions* under the CS Act.
- > It is an offence to employ a person or volunteer for a *work with children / prescribed position* that doesn't have a valid WWCC or is prohibited from working with children.

<sup>1</sup> A working with children check assesses whether a potential employee or worker could pose a risk to the safety of children based on the individual's criminal history and child protection information.

<sup>2</sup> Any person providing health services to/for children - where in the ordinary course of their duties it is reasonably foreseeable that they will work with children.

### 3. Registered National Disability Insurance Scheme (NDIS) worker checks

New disability screening arrangements: The requirement for workers of South Australian government-funded providers to have a DHS disability services worker screening ceased on 31 January 2021. From 1 February 2021, new legally mandated screening requirements for registered NDIS workers in “risk assessed roles” came into effect in South Australia. A current DHS disability screening can be used for NDIS work until it expires or is revoked. DHS will continue to monitor the disability screenings. Employers can still verify that a screening is valid until 31 March 2024 via their DHS employer portal.

Current legislation requiring a DHS NDIS screening to work in risk assessed roles within NDIS services include:

- > The *Disability Inclusion Act 2018* and *Disability Inclusion (NDIS Worker Check) Regulations 2020* (SA).
- > The *Disability Inclusion (Transitional Arrangements) Regulations 2018*.
- > The *National Disability Insurance Scheme Act 2013* (Cth).
- > The *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth) (NDIS Worker Screening Rules) -applying to registered NDIS providers in SA Health.

NDIS screening requirements are as follows<sup>3</sup>:

- > A DHS NDIS worker check must be obtained prior to employment/engagement of anyone in SA Health to work in a NDIS ‘risk assessed role’; and this screening must be renewed every five years after the date of issue throughout the period the person works in a NDIS risk assessed role.)
- > Registered NDIS employers are responsible for identifying which roles are risk-assessed roles.<sup>4</sup> NDIS roles requiring NDIS worker checks includes:
  - key personnel<sup>5</sup>;
  - any role for which normal duties include the direct delivery of specified supports or specified services to a person with disability; and
  - roles for which the normal duties are likely to require more than incidental contact with people with disability, which contact includes:
    - physically touching a person with disability; or
    - building a rapport with a person with disability as an integral and ordinary part of the performance of normal duties; or
    - having contact with multiple people with disability as part of the direct delivery of a specialist disability support or service, or in a specialist disability accommodation setting.
- > For the purposes of determining whether the normal duties of a role will require more than incidental contact with a person with disability, contact includes physical contact; face-to-face contact; oral communications; written communication or electronic communication.
- > Workers include employees and non-employee workers such as volunteers, workers engaged through third parties (such as labour hire agencies) and sole traders who for the NDIS worker check are both the provider and the employee.
- > Currently (until they expire or are revoked) the following existing DHS checks are accepted for workers providing NDIS supports and services:
  - a Disability Services Employment Screening;
  - Child-related Employment Screening issued before 1 July 2019; or
  - Working with Children Check.
- > Workers of registered NDIS providers who are not engaged in risk assessed roles do not need a NDIS worker check. However, registered NDIS providers may choose to ask those workers to apply for and obtain an NDIS worker check. (An obligation to comply with such a request could be included in Role Descriptions or employment contracts of NDIS workers before engagement.)
- > Before requesting a DHS NDIS worker check, hiring managers must consider whether the specific role is indeed a ‘risk assessed role’ requiring a DHS NDIS worker check; and must establish whether the individual has a current DHS check valid for the role. Where a DHS NDIS worker check (or other acceptable DHS

<sup>3</sup> For more information refer to the [DHS web page](#).

<sup>4</sup> Refer to NDIS Commission website [How to identify which roles in your organisation are risk-assessed roles \(NDIS Commission\)](#)

<sup>5</sup> As defined in s11A of the NDIS Act.

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check) is not expired at the time of appointment; the DHS screening must be accepted (unless there is clear justification why the DHS screening should be renewed).

- > The status of a NDIS worker check can be ascertained online by the individual. The relevant NDIS provider could also confirm whether a person has a valid NDIS check by logging on to their organisation portal and performing a person search.
- > Where a role includes working with children with disability, both a DHS WWCC and a DHS NDIS worker check are required.
- > NDIS providers must report to the NDIS Commission reportable incidents relevant to an incumbent of a risk assessed role. (Refer to the NDIS (Incident Management and Reportable Incidents) Rules 2018.)
- > It is an offence to work in a risk assessed role within registered NDIS services without a valid NDIS worker check.

(For more information on NDIS worker checks, refer to the [DHS web page](#).)

Applying for a NDIS worker check: An individual requiring an NDIS worker check has to initiate the application for this check online via the DHS screening unit's [website](#). If the NDIS provider starts an online application on behalf of a worker, the DHS Screening Unit will email the worker to complete the application form.

The individual must be working or intend to work in South Australia. Their (intended) employer's NDIS number is required and the application must be verified by the NDIS employer through the employer portal with the NDIS Commission. NDIS employers receive notification of the outcome of an NDIS worker check from the NDIS Commission, not the DHS Screening Unit. (Refer to the DHS screening unit's [website](#) for more information on applying for this check.)

## 4. Approved provider positions – Aged Care

The AC Act requires that Commonwealth funded Aged Care providers obtain criminal history screenings for individuals who are reasonably likely to have access to Aged Care recipients, whether supervised or unsupervised.<sup>6</sup> *Key personnel* (as defined under Division 8-3A of AC Act) must not be a disqualified person as defined in Division 10A of that Act.

The provisions regarding AC Act positions also apply to non-employee workers providing services to, within or on behalf of SA Health with access to Aged Care recipients.

All prospective<sup>7</sup> employees and non-employee workers for Aged Care related work must present a satisfactory NPC from SAPOL or from an accredited CrimTrac Provider for Aged Care Related Work prior to being engaged or appointed to work in an *Approved Provider* position. Application for a NPC can be made to South Australia Police through SAPOL [www.police.sa.gov.au](http://www.police.sa.gov.au), or through an accredited CrimTrac Provider as listed in the [National Police Checking Service \(NPCS\)](#).

SA Health organisations may risk assess a prospective employee's NPC internally, or alternatively, obtain a DHS Aged Care sector screening consistent with the Aged Care Accountability Principles. These checks are continually monitored by DHS. (Refer to section 15 below regarding risk assessments done by SA Health based on NPC.)

A prospective worker who has been a citizen or permanent resident of a country other than Australia at any time after turning 16, must - before an offer for employment / engagement is made - also provide a statutory declaration that they have never been convicted of murder or sexual assault, or have not been convicted of and sentenced to imprisonment for any other form of assault.

Further satisfactory screening assessments are required every three years after receipt of the initial assessment.

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<sup>6</sup> This may include (among others):

- key organisational personnel
- carers, including in residential, community and in-home settings
- allied health professionals
- service support workers, for example, kitchen, cleaning, laundry, maintenance and office staff
- consultants, trainers and advisors working for the organisation.

<sup>7</sup> Refer to section 8 of this Policy for the definition of *prospective employee*.

## 6. Protective security clearances – for high risk positions

To protect Government assets and resources, all SA public sector agencies must comply with the *Premier and Cabinet Circular: PC030 – Protective Security in the Government of South Australia – July 2020*. This Circular requires that all persons accessing sensitive security classified information and resources be ‘security cleared’ in accordance with the system and minimum standards described in the *Australian Government Protective Security Policy Framework*. (For more information refer to the *SA Health Protective Security Policy*.)

Agency Security Executives or Agency Security Advisors of DHW, LHNs and Health Services can assist with advice on identifying high security risk positions and vetting of incumbents.

## 7. General employment probity and vulnerable person-related screening

Prior to appointment/engagement in a role not under the CS Act or NDIS Act, all prospective employees or non-employee workers – whether from inside or outside SA Health - are required to provide a satisfactory NPC from SAPOL or through an accredited Crimtrac Provider for the category of role they are considered for. The date of issue of the NPC for general employment probity must not be more than twelve months before the date of application. SA Health organisations may require the NPC in addition to a DHS NDIS check or WWCC.

All new or current employees working with vulnerable adults may be requested to provide a vulnerable person-related NPC for assessment. Consent to these NPC assessments must be obtained from current employees (unless the screening or assessment is required by legislation; or where included in their Role Descriptions or employment contract at the time of appointment).

There is no legislative requirement to renew the criminal history assessments of incumbents of positions not under the CS Act, AC Act or NDIS Act.

## 8. Prospective workers from overseas

Obtaining a DHS screening or a NPC may not be an immediate practical option to assess the suitability of prospective workers from overseas who have not (recently) resided in Australia. In such circumstances the arrangements below apply to both employees and non-employee workers intending to provide services within or on behalf of SA Health.

### 8.1 All prospective workers from overseas in any SA Health role

Prior to employment/engagement in any SA Health role candidates from overseas must provide a satisfactory criminal history record from each of the overseas countries in which they have resided for more than one year within the last 10 years since their 18th birthday.

A worker returning to SA Health, who has worked or resided overseas for more than one year, is required to provide a satisfactory criminal history check from each of the overseas country/countries where they have worked/resided in within the last 10 years prior to their employment or returning to duties in SA Health.

Overseas criminal history checks conducted by ‘Fit2Work’ on behalf of the Australian Health Practitioner Regulation Agency (AHPRA) are accepted by SA Health for overseas applicants.

Where only the above checks are available, employment/engagement must be conditional on the provision of a satisfactory NPC to SA Health within a reasonable period, but no more than three months of residence in Australia. Checks provided must comply with the SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.

### 8.2 Prospective workers in roles under the CS Act or NDIS Act

Applicants from overseas for positions under the CS Act or NDIS Act must obtain a DHS Screening before engagement.

An application for a DHS screening may be commenced and submitted while an applicant is still overseas. This can be done through the DHS Screening Unit’s webpage by the applicant themselves (or by the SA Health organisation on behalf of applicants requiring WWCCs). Applicant must complete and sign the consent forms and declarations themselves. The Screening Unit’s online system permits an applicant to submit a current overseas residential address and ten years of address history.

In these circumstances, an Australian postal address is required to allow the Screening Unit to contact the person. An overseas applicant can meet these requirements by providing a postal address where the applicant will be residing while in Australia or the address of their employing organisation. The postal address may be inserted at the point of completing details for a residential address.

Such an applicant may have their identity documents verified overseas by visiting an Australian Consulate or arrange to verify the documents remotely by requesting their intended employer to Skype or video the applicant to view their passport and Australian visa to confirm their identity.

### **8.3 Statutory declaration for positions under the Aged Care Act 1997 (Cth) – regarding convictions overseas**

The *Accountability Principles 2014* outlines additional conditions for persons who were, at any time after turning 16 years of age, a citizen or permanent resident of a country other than Australia, i.e. that such person may not be engaged in a position under the AC Act unless the person has made a statutory declaration stating that they have never been convicted of murder or sexual assault; or been convicted of, and sentenced to imprisonment for any other form of assault.<sup>8</sup>

### **8.4 Engagement without a NPC assessment - exceptional circumstances**

In exceptional cases, where the relevant role is not covered by the CS Act or NDIS Act, applicants from overseas may commence employment with a statutory declaration confirming they have no relevant criminal record. In such an instance, their employment will be conditional on them providing satisfactory criminal history record(s) from relevant countries to SA Health within a reasonable period, but no more than three months after their starting date.

No-one may commence work in a position under the CS Act or NDIS Act before obtaining a relevant DHS screening.

## **9. Non-employee workers**

### **9.1 Students on clinical placements**

Students seeking clinical placement in more than one LHN must, prior to the commencement of their placement, obtain:

- > Current relevant DHS screenings, as required by the CS Act or NDIS Act; and
- > NPC assessments relevant to the role/activities undertaken - such as a NPC through SAPOL or through an accredited CrimTrac Provider.

### **9.2 Staff of external service providers/agencies**

The screening requirements of SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction must be made applicable to non-employee workers through their contractual arrangements and the conditions associated with authorising them to work in or to provide services on behalf of SA Health or accessing SA Health workplaces or information systems.

External providers/agencies are required to ensure screenings relevant to the activities undertaken are completed for all non-employee workers prior to them commencing services and/or obtaining access to SA Health workplaces and information systems. These may be a DHS WWCC or DHS NDIS worker check and/or a NPC from SAPOL (or from an accredited CrimTrac Provider) - as required by this Policy and Mandatory Instruction.

The terms and conditions of contractual arrangements or agreements authorising working in, renting, or accessing SA Health workplaces or information systems must include the provisions below (as appropriate to the type of agreement). These provisions should be included in contracts, licencing arrangements or agreements authorising working in or accessing SA Health workplaces or information systems.

- > Contracted or authorised parties must comply with all criminal and relevant screening and assessment requirements of legislation and SA Health policies ensuring that appropriate screening assessments has been undertaken for all individuals engaged to provide services to, or on behalf of SA Health, and/or accessing SA Health workplaces or information systems for work, study or research purposes.
- > Contracted or authorised parties must meet all costs associated with complying with legislative, contractual and SA Health screening policy requirements.
- > Screenings must be undertaken prior to individuals accessing SA Health workplaces or information systems, or prior to non-employee workers providing services to or within SA Health. Students and staff of education providing organisations, who are nominated by the organisation to attend a SA Health facility to undertake a clinical placement, must complete and sign a Clinical Placement Deed Poll prior to attending the placement. When requested, a copy of the signed Deed Poll must be provided to SA Health. The Deed Poll is in addition to the screening requirements of legislation.

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<sup>8</sup> Part 4, subsection 1.20.

## OFFICIAL

- > NPCs and DHS WWCCs or DHS NDIS worker checks must remain current while non-employee workers are engaged to provide services for or on behalf of SA Health, and while having access to SA Health workplaces and information systems.
- > Where
  - an adverse NPC record has been found for a non-employee worker, or
  - if a non-employee worker has been charged with a criminal offence during their placement/engagement within SA Health,the contracted agency or authorising parties (Clinical Placement Coordinators or Volunteer Coordinators) must:
  - for staff in a role under the CS Act or NDIS Act– determine whether the worker’s relevant DHS screening is still valid (i.e. check the person’s status online with *Unique Identifier*); and if the screening is no longer valid, ensure that the worker does not commence or continue working in a role requiring this DHS screening; and
  - for staff in a role not under the CS Act or NDIS Act- consult with the Principal Authorising Officer of the SA Health organisation about appropriate action.
- > Provisions that will enable SA Health access to evidence of compliance to the screening requirements of contracted or authorised parties/persons providing services to SA Health.

This may include a requirement - before and/or after a person commences services or accesses SA Health workplaces or information systems - to provide to the relevant SA Health representative the person’s Unique Identifier, declarations or other evidence regarding their criminal and relevant history status and suitability for work in SA Health.
- > Provisions that will facilitate effective remedial action by SA Health (including termination of the contract or licensing/authorising agreement) where:
  - there is doubt about the suitability of a person providing services in SA Health or accessing SA Health workplaces or information systems;
  - there has been an adverse incident involving the non-employee worker; or
  - it is considered there has been a breach of a requirement of the contract or agreement; or of legislation and relevant SA Health policy.
- > Provisions that will enable SA Health in the above circumstances to take reasonable action to prevent harm to or protect clients, patients, staff and SA Health interests, (without incurring liability), e.g.:
  - to require that the contracted, licensed or authorised person exits SA Health workplaces; loses access to SA Health workplaces and information systems; and remains absent until cleared to resume duties; and
  - to obtain all information from the contracted or authorised parties, which is required to determine appropriate further action.

## 10. Recruitment information

All SA Health recruitment advertisements and Role Descriptions must clearly articulate the DHS screening and/or NPC assessment requirements for the role.

Prospective employees and non-employee workers must apply for a relevant DHS screening through the DHS online system if they do not have a valid relevant DHS screening.

Hiring managers must advise (prospective) employees and volunteers to apply for a relevant DHS screening and/or NPC where this is required to work in the advertised position. This advice may be before or during the shortlisting/interview stage. However, individuals may apply for a relevant screening earlier to be job-ready as DHS screenings are portable between positions that require the same category of screening.

## 11. Timing and renewal of assessments

The provisions below apply to both employee and non-employee workers providing services within or on behalf of SA Health.

### 11.1 Working with Children Checks

A valid DHS WWCC must be obtained for all *work with children / prescribed positions*:

- > *before* an employee/non-employee worker or a prospective worker is appointed/engaged in a *work with children / prescribed position* under the CS Act; and

- > at *maximum intervals of five years* from the date each WWCC has been issued for the duration of the period a person works within such a role.

### 11.2 DHS NDIS worker check

A valid DHS NDIS worker check<sup>9</sup> must be obtained for all risk assessed roles of registered NDIS service providers<sup>10</sup>:

- > *before* an employee/non-employee worker or a prospective worker is appointed/engaged; *and*
- > at *maximum intervals of five years* from the date each DHS NDIS screening has been issued for the duration of the period a person works within such a role.

### 11.3 Approved provider positions –Aged Care

A NPC must be obtained for *approved provider* positions under the AC Act (including *key personnel*):

- > *before* an employee/non-employee worker or prospective worker is appointed/engaged in positions covered by the AC Act; and
- > at *maximum intervals of three years* during the period the individual works within an *approved provider* position or *key personnel* role.

### 11.4 Positions not requiring screening under legislation

Before the commencement of an employee or non-employee worker in SA Health, a satisfactory NPC appropriate to the category of role must be provided. The date of issue of this NPC must not be more than twelve months before the date of application. DHW, LHNs and SAAS may seek agreement from existing employees for a NPC assessment during the course of their employment.

## 12. Portability of screenings

A DHS WWCC or a DHS NDIS worker check is valid for five years. During this period the DHS screening is transferable / portable between roles requiring a similar category of screening (i.e. a WWCC or a NDIS worker check). NDIS worker checks are portable across Australian States and Territories. A relevant NDIS provider can confirm whether a person has a valid NDIS check by logging on to their organisation portal and performing a person search.

Similarly, a NPC that has been issued within the previous twelve months (and is applicable to the role) may be accepted (unless there is sufficient reason to justify requiring renewal of the NPC).

Transitional arrangements allow acceptance of a NDIS screening to work in a key personnel role of approved Aged Care providers that are also NDIS service providers. (Refer to Australian Government Department of Health: *Recognising NDIS worker screening for Aged Care providers that are registered NDIS providers* in section 7 of this Policy).

## 13. Consent to screenings and failure to obtain a required screening

The requirement for a screening must be included in Role Descriptions and communicated to applicants during the recruitment process.

Consent of current employees for the renewal of their screening is not required if legislation and/or their Role descriptions or employment contract require such renewals. However, current employees must be notified when renewal of their screening is due.

Prospective and current employees / non-employee workers not willing to obtain a relevant DHS screening and/or NPC assessment (if required for their role) will be precluded from appointment/engagement; or, where they are already employed or engaged in a role requiring a DHS screening or NPC assessment, must not be allowed to continue working in the position.

Other relevant LHNs must be notified (via CHRIS and credentialing site check) when an employee became a *prohibited person* under the CP Act; a *disqualified individual* under the AC Act; a *disqualified person* or *presumptively disqualified person* under the *Disability Inclusion Act 2018* or an employee's DHS screening to work with children, in NDIS services or in Aged Care is revoked.

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<sup>9</sup> Refer to 3.3 of this Policy.

<sup>10</sup> Currently (until they expire or are revoked) the following existing DHS checks are accepted for risk assessed workers of registered NDIS providers:

- a Disability Services Employment Screening Check;
- Child-related Employment Screening Check issued before 1 July 2019; or
- Working with Children Check.

## 14. Costs of assessments

All prospective employees, who are not current employees of SA Health, are responsible for the cost of the necessary NPC and/or DHS screening. Other prospective employees (not employees of SA Health), who refuse to pay for the NPC and/or DHS screening, will be precluded from appointment.

Current employees of SA Health without an applicable and valid DHS screening or NPC, who apply for another position in SA Health requiring a DHS screening or NPC assessment, are responsible for the cost of the necessary screening. Notwithstanding the above, SA Health may meet the cost of obtaining a screening, if this is deemed necessary to attract staff.

SA Health is responsible for the cost of any required DHS screening and/or NPC, where a current employee is to be placed in or allocated to another position in SA Health as a result of a direction by a SA Health delegate, because of an organisational restructure, or on account of becoming redeployed.

SA Health is responsible for the on-going costs of mandatory renewals of NPCs and/or DHS screening of current employees.

SA Health is responsible for the cost of NPCs required from volunteers. DHS screenings for volunteers are free of charge.

Non-employee workers, (e.g. contractors, agency staff, students, etc.) and organisations sponsoring or applying for them to provide services within SA Health, are responsible for the initial and ongoing cost of maintaining appropriate screenings.

## 15. Assessments of criminal and relevant records

### 15.1 Assessment of the suitability of a person for a position

Screening decisions by the DHS Screening Unit relating to positions under the CS Act or NDIS Act are binding. SA Health and other employers do not have opportunity to assess any relevant history that has been revealed during the processes of the Screening Unit. DHS screenings only determine that a person's prior conduct does not indicate that they pose a risk to children or to clients of NDIS providers (as relevant). Therefore, a current DHS screening must not be viewed as a *clearance* that the person is not a risk to children, people with disability, to others in the workplace or to SA Health. The suitability of employees for engagement must still be assessed by the SA Health organisation.

Positions requiring a satisfactory NPC: The Principal Authorised Officer of DHW, the LHN or SAAS is the delegate to determine a person's suitability to work within SA Health based on an adverse record in their NPC. The Principal Authorised Officer must consider the NPC consistent with section 3.14.

Where the NPC of a non-employee worker (including agency staff and volunteers) reveals an adverse record, the contractor/agency or volunteer co-ordinator may liaise with the relevant Principal Authorised Officer to assist with the determination of the person's suitability to work, study or research within SA Health.

For students on clinical placement, the education provider may (in exceptional circumstances) liaise with the relevant Clinical Placement Coordinator to assist with the determination of an individual's suitability to be placed within SA Health.

### 15.2 Precluding offences or failure to obtain or maintain a required screening

Aged Care: The Accountability Principles 2014 issued under the AC Act exclude individuals from working in *approved provider* positions if they have been convicted of murder or sexual assault; or convicted of, and sentenced to, imprisonment for any other form of assault (whether wholly or partially suspended). Any person with a conviction for a precluding offence must not be employed, contracted, hired, retained, or accepted to work or continued to work in *approved provider* Aged Care positions.

Where DHW, a LHN or SAAS becomes aware that a person working in an *approved provider* position has been charged or convicted of a precluding offence under the AC Act, or their renewed NPC is not satisfactory; the worker must not be allowed to continue working in the role and advice must immediately be sought from the local Human Resource work unit on appropriate action.

- > Working with children or in risk assessed NDIS roles: In circumstances where a worker's WWCC or NDIS worker check cannot be renewed or has been revoked due to adverse information; the person must not be allowed to continue working in their role and advice must immediately be sought from the local Human Resource work unit regarding termination of their employment / engagement or other relevant actions.
- > Notification of other relevant LHNs: Other relevant LHNs must be notified (via CHRIS and credentialing site check) when an employee became a *prohibited person* under the CP Act; a *disqualified individual* under the AC Act or an employee's DHS screening to work with children, in NDIS services or in Aged Care is revoked.

### 15.3 SA Health's consideration of National Police Checks

Not all criminal or adverse records are relevant to employment / engagement decisions. For a criminal or other adverse record to be relevant to an employment decision, it must relate to, or have a logical link to the inherent requirements of the person's particular position.

The record must also be **significant** enough to lead to a reasonable assumption of potential risk of harm to clients, patients (including *vulnerable adults*), employees, other workers and the organisation, if the person would be engaged or appointed within a particular role.

Where a NPC or other information reveals a significant and relevant offence, and the offence is not a precluding offence, it may still be acceptable for a person to work in a role depending on the circumstances of the offence and the relative risk associated with the role.

Convictions that indicate a risk that will most likely lead to a refusal to employ, engage or continue to employ an individual in SA Health are:

- > Convictions for crimes of a violent or sexual nature.
- > Any offences against a child (including drug offences).
- > Convictions for dealing or trafficking illegal drugs.
- > Convictions for crimes of dishonesty.
- > Offences relating to cruelty to animals.
- > Convictions that resulted in a 12 month or longer prison sentence (whether wholly or partially suspended)

The specific contextual factors surrounding the conviction and the situational factors relating to the role must be considered on a case by case basis to determine the likely risk of harm to the SA Health organisation and others in the workplace. Factors that must be considered include:

- > the seriousness and context of the offence;
- > the relevance of the offence to the inherent requirements of the position (i.e. the essential duties, circumstances and requirements of the role);
- > the possible impact of the risk on the clients, patients (including vulnerable adults), employees, other workers and the organisation;
- > the possible consequences of a similar incident; and
- > the availability of preventative strategies that could limit risks.

Any decision not to engage, employ or continue to employ a person based on their criminal or other adverse record must be defensible and evidence based (as above).

### 15.4 Applying procedural fairness to National Police Check assessments

Principal Authorised Officers must ensure that the principles of procedural fairness are adhered to throughout the assessment and decision-making process regarding the relevance and significance of a criminal or other relevant record within a NPC. This requires that:

- > The decision-making process must be transparent, fair and equitable.
- > Individuals must be given the opportunity to confirm their identity and confirm the accuracy of any associated criminal and relevant history screening; or dispute its contents.
- > Individuals must be invited to provide contextual and/or other information, (such as references or details of the conviction or offence and the circumstances surrounding any offence) before a decision on the criminal and relevant history information is made.
- > The reasons for any decision not to employ/engage a person with recorded convictions or an adverse relevant history must be defensible and evidence-based.

### 15.5 Burden of proof relating to National Police Checks assessments

Where a person's relevant criminal and/or other history suggests a prima facie risk of harm to clients, patients (including *vulnerable adults*), employees, other workers or the SA Health organisation, the individual being assessed bears the onus of proving they do not pose such a risk.

However, where the criminal and relevant history of an individual does not indicate a prima facie risk, but there are other strong indicators of risk that cause sufficient concern, the Principal Authorised Officer should be able to demonstrate on the balance of probabilities that the individual poses a considerable and unacceptable risk of harm to clients, patients (including *vulnerable adults*), employees, other workers or the organisation.

## 16. Obligations to notify SA Health of any criminal charges

Under the *Code of Ethics for the South Australian Public Sector*, SA public sector employees must, at the earliest possible opportunity, advise their manager if they are charged with a criminal offence. Non-compliance with the

## OFFICIAL

Code of Ethics may lead to disciplinary action, including termination of employment. Refer also to the [SA Health Policy Directive: Employees Charged with Criminal Offences](#) available on the SA Health intranet policies pages.

A Line Manager of an employee or a non-employee worker, who becomes aware that the worker has been charged with a criminal offence whilst working in a position requiring a DHS screening, must establish online whether the person's DHS screening remains valid. If the person works in a role not requiring a DHS WWCC or NDIS worker check, the processes in 3.14 must be followed to assess the relevance and risk of the offence.

Contracted parties or others authorised to provide non-employee workers to work or access SA Health workplaces or information systems must consult with the relevant Principal Authorised Officer immediately when notified that the WWCC or NDIS worker check of a non-employee worker is no longer valid or the non-employee worker has been charged with a criminal offence. For students on clinical placements, the education provider must consult with the relevant Clinical Placement Coordinator.

### 17. Confidentiality

Regardless of the outcome of a DHS screening or NPC assessment, all related information must be treated in a confidential manner and may not be used for any purpose other than to determine suitability for employment/engagement. [Refer to Information Privacy Principles (IPP) and *Privacy Act 1998* (Cth)]

*Approved providers* must comply with the *Privacy Act 1998 (Cth)* and the related *Records Principles 2014* describing the categories of records that need to be kept by *approved providers* to meet the legislative requirements, and the duty to keep records in accordance with the *Privacy Act 1998*.

### 18. Record keeping

Nominated liaison officers/contact officers must maintain records of screenings in the Complete Human Resource Information System (CHRIS). These records must include the employee name, the type of screening assessment undertaken and the date of assessment.

This screening information must also be included in the Credentialing and Scope of Clinical Practice System.

Following receipt of a NPC and related material; or a confidential assessment briefing on an adverse record, the Principal Authorised Officer must document the determination on the individual's suitability to work within SA Health. This document must be retained on a confidential and secure file and must include:

- > the date the decision was made
- > the reasons for the decision, and
- > the people involved/consulted in the decision-making process.

Records must be maintained and disposed of consistent with the provisions of the [General Disposal Schedule No 30](#) Version 2 (GDS 30) of the *State Records Act 1997* (SA) for the disposal of records that may have relevance to the conduct of personal checks on and screening of employees. Criminal history information must be maintained separately from the person's personal file. Copies of Criminal History Checks / NPCs must be destroyed within six months from the completion of the last action. However, personal files may include a summary of actions and outcomes following a criminal history check, medical history check, alcohol or drug use tests, or other employment screening.<sup>11</sup>

### 19. Reporting to the Chief Executive or Chief Executive Officers

Line Managers must report to the Chief Executive in DHW or the Chief Executive Officers in LHNs or SAAS:

- > any adverse incident involving an employee or non-employee worker that may significantly impact SA Health's interests or may have caused harm to the organisation, client, patient, employee or others in the workplace; or
- > if termination of a significant contractual arrangement is contemplated due to non-compliance with the provisions of the contractual arrangements relating to this Policy and Mandatory Instruction.

Chief Executive Officers must report to the Chief Executive any adverse incident involving an employee or non-employee worker that may have caused significant harm to SA Health, a client, patient, employee or others in the workplace due to non-compliance with this Policy and Mandatory Instruction.

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<sup>11</sup> Refer to Part 3—Record keeping requirements for workers under the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*.

## 20. Screening-related grievances, appeals and disputes

### 20.1 Deferring employment decisions pending outcome of grievance

Where the reason for a decision not to appoint a prospective employee is based on an adverse NPC assessment; and the applicant is from a position within SA Health or elsewhere in the SA Public Sector and seeks a review or lodges a grievance - appointment to the position must not be made until the review of the decision or the grievance has been concluded.

### 20.2 Department for Human Services screening appeals

A person may appeal a screening decision of the DHS Screening Unit. This review must be requested through DHS. (Refer to the [DHS webpage](#).)

### 20.3 Applicants from outside the public sector

Where a non-public sector applicant has not been appointed due to an assessment of a NPC, they may lodge a request for the decision to be reviewed with the relevant SA Health delegate within seven days of being notified of the decision. The basis for the request for review of the decision must be stated with sufficient detail to be considered appropriately. The relevant facts pertaining to the decision must be reviewed by the Chief Executive (for positions of the Department for Health and Wellbeing) or by the Chief Executive Officer (for positions in a LHN or SA Ambulance Service). The aggrieved party must be advised of the outcome in writing.

### 20.4 Public Sector Act 2009 positions

Employees or preferred public sector applicants for positions under Part 7 of the PS Act, who are directly affected by a management decision based on their NPC, may apply for a review of the decision in accordance with the *Public Sector Act 2009*, sections 59 to 63 and the *Public Sector Regulations 2010*, Regulations 26 to 28. This provision applies to *Health Care Act 2008* (HC Act) employees whose employment is covered by Part 7 of the *Public Sector Act 2009* and/or the *SA Modern Public Sector Enterprise Agreement: Salaried 2017* (or later Enterprise Agreement).

### 20.5 Health Care Act 2008 positions

Current employees under the HC Act (and not under Part 7 of the PS Act), who are aggrieved by an employment decision based on their NPC assessment, may write to the relevant Chief Executive Officer or delegate to request a review of this decision within seven days of being notified of the decision. If the matter is not resolved at the local level, HC Act employees may lodge an application to have their grievance reviewed by a Grievance Appeal Panel within DHW. (Refer to Part 3 Grievances and Disputes in the *SA Health (Health Care Act) Human Resources Manual*.)

### 20.6 Disputes arising from screenings of existing employees

Where an employee disputes an adverse management decision based on a NPC or DHS screening and provides reasonable evidence to support their assertions, consideration must be given to appropriate interim arrangements to enable the employee to maintain their employment while the matter is being reviewed (e.g. providing them alternative paid employment; access to paid leave or special leave with/without pay; or, if it is legal and deemed appropriate, continue in their substantive role under supervision).

### 20.7 Alleged discrimination based on criminal records

If a person considers that an employment decision discriminated against them based on their criminal record, they may make a complaint to the Australian Human Rights Commission. Under the *Australian Human Rights Commission Act 1986*, the Australian Human Rights Commission has the authority to inquire into discrimination in employment based on a criminal record.

## 21. Roles and Responsibilities

### 21.1 Chief Executive

The Chief Executive, DHW, as System Leader is responsible for:

- > Taking reasonably practical steps to develop and issue a system-wide policy to ensure that Local Health Networks (LHNs), the SA Ambulance Service (SAAS) and the Department for Health and Wellbeing (DHW) minimise risks to clients, patients, employees, other workers and the SA Health organisation by obtaining legally required or otherwise appropriate criminal and relevant history screening for all employees and non-employee workers prior to engaging them; and prior to them accessing SA Health premises or information systems for work, study or research.
- > Reviewing management decisions relating to the employment of a prospective or current employee due to an adverse National Police Certificate (NPC) assessment by SA Health, where the person seeks a review or lodges a grievance.

## 21.2 Governing Boards

Governing Boards must take reasonably practical steps to ensure that effective clinical and corporate governance frameworks (where relevant) are in place to ensure the LHNs are compliant with SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.

## 21.3 Chief Executive Officers and Deputy Chief Executive Officers

The Chief Executive Officers (CEOs) of each LHN and SAAS; and the Deputy Chief Executives of DHW are responsible for the implementation of SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction, including:

- > Taking reasonably practicable steps to ensure SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction is communicated, implemented and compliance monitored within their areas of responsibility.
- > Reviewing management decisions relating to the employment of a prospective or current employee due to an adverse NPC assessment by SA Health, where the individual seeks a review or lodges a grievance.
- > Reporting to the Chief Executive any adverse incident involving a worker that may have caused significant harm to SA Health as an organisation or to a client, patient, employee or others in the workplace, which is related to non-compliance with SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.

## 21.4 Directors of Workforce (or equivalent), Executives and other Line Managers

Directors of Workforce and Line Managers (including Executives) across SA Health must take reasonably practicable steps to ensure SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction is communicated, implemented and compliance monitored within their areas of responsibility, including:

- > Identifying positions requiring screenings consistent with:
  - The *Aged Care Act 1997* (Cth) [AC Act] and the *Aged Care Accountability Principals*<sup>12</sup>.
  - The *Child Safety (Prohibited Persons) Act 2016* [CS Act] and the *Child Safety (Prohibited Persons) Regulations 2019* [CS Regulations].
  - The *National Disability Insurance Scheme Act 2013* [NDIS Act] and the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018* [NDIS Practice Standards].
  - The *Disability Inclusion Act 2018* and *Disability Inclusion (NDIS Worker Check) Regulations 2020* (SA).
  - The *Disability Inclusion (Transitional Arrangements) Regulations 2018*.
  - The *SA Health Protective Security Policy*.
- > Ensuring that the requirement for a screening is included in Role Descriptions, where relevant.
- > Ensuring that required screenings are completed prior to appointment or engagement.
- > Ensuring that legally required screenings are renewed before their expiry.
- > Liaising with the Director of Workforce (or equivalent) where an adverse screening indicates unsuitability for continued employment of an employee.
- > Report to the NDIS Commission reportable incidents relevant to an incumbent of a risk assessed role.
- > Liaising with the relevant contract manager, volunteer coordinator or clinical placement coordinator where circumstances indicate that a non-employee worker is unsuitable for engagement in SA Health; or unsuitable to access SA Health workplaces or information systems.
- > Liaising with the Protective Security Executive of DHW, the LHN or Health Service, where a security check indicates a person is unsuitable for (continued) employment/engagement in a SA Health position requiring security clearance; or is unsuitable to access sensitive security classified information systems or resources in SA Health. (Refer to the *SA Health Protective Security Policy* for more information.)

## 21.5 Workforce Managers and Consultants

Workforce employees must take reasonably practicable steps to ensure SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction is implemented and compliance monitored within their areas of responsibility, including:

- > Ensuring SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction is communicated, implemented and compliance monitored.
- > Implementing and maintaining operational procedures and systems that support SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.
- > Assisting with identifying positions requiring screenings consistent with legislation and SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction; and ensuring that the relevant screening requirement is included in the Role Description.
- > Ensuring that the requirement for a relevant history screening is articulated in vacancy advertisements.
- > Ensuring that the required screening (assessment) is completed prior to appointment.

<sup>12</sup> The *Accountability Principles 2014* are issued under section 96-1 of the *Aged Care Act 1997* and are legally binding.

## OFFICIAL

- > Assisting Executives and Line Managers with advice where an adverse NPC or DHS screening indicates unsuitability for employment or for continued employment of a current employee.
- > Registering an interest in the prospective employee, student or volunteer with the Central Assessment Unit (CAU) of the Department of Human Services (DHS) or with the NDIS Commission where a DHS screening is required to work in a SA Health role.
- > Notifying any other relevant LHN (via CHRIS and credentialing site check) when an employee became a *prohibited person* under the CP Act; a *disqualified individual* under the AC Act ; a *disqualified person* or *presumptively disqualified person* under the *Disability Inclusion Act 2018* or an employee's DHS screening to work with children, in NDIS services or in Aged Care is revoked.

### 21.6 Principal Authorised Officers (applicable to NPC assessment)

Principal Authorised Officers are responsible for:

- > Assessing suitability for employment where an adverse record is found within a NPC.
- > Considering a non-employee worker's suitability to work within SA Health or access SA Health workplaces and information systems when consulted on an adverse record of the non-employee worker.
- > Considering the nature of the duties of the position and the extent to which the report findings may be relevant to the position.

### 21.7 Hiring Managers / Selection Panel Chairpersons

Hiring Managers / Selection Panel Chairpersons are responsible for:

- > Ensuring that the requirement for the relevant history screening is clearly articulated in Role Descriptions and communicated to applicants during the recruitment process.
- > Ensuring that the prospective employee has fully completed the pre-employment screening questions on eRecruitment and the responses have been assessed by the delegate as indicating no discernible risk to the organisation.
- > Ensuring that all prospective employees who are shortlisted are aware they must provide a NPC, and/or relevant DHS screening as required by legislation and/or this Policy and Mandatory Instruction.

### 21.8 Clinical Placement Coordinators

Clinical Placement Coordinators are responsible for:

- > Liaising with education providers regarding compliance with the requirements of SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction. (Education providers are responsible to ensure relevant history screenings are obtained for students 18 years and above before clinical placement in SA Health.)
- > Ensuring that authorisation for clinical placement in SA Health includes the screening provisions outlined in SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.
- > Taking reasonable steps to monitor that SA Health screening requirements are complied with (e.g. through regular audits of NPCs and/or DHS screenings).
- > Ensuring that screenings of students are current and appropriate to their roles.<sup>13</sup>
- > Ensuring that any breaches of the screening obligations are appropriately acted on.

### 21.9 Volunteer Coordinators/Line Managers facilitating volunteer placements

Volunteer Coordinators/Line Managers facilitating volunteer placements are responsible for:

- > Ensuring that authorisation for volunteers to work in SA Health includes the screening provisions outlined in SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.
- > Taking reasonable steps to monitor that SA Health screening requirements are complied with (e.g. through regular audits of NPCs or DHS screenings).
- > Ensuring that screenings of volunteers are current and appropriate to their roles.
- > Ensuring that any breaches of the screening obligations are appropriately acted on.

### 21.10 Contract Managers

Contract Managers are responsible for:

- > Ensuring that contracts to work, to provide services and/or to access SA Health workplaces or information systems include the screening provisions outlined in SA Health *Criminal and Relevant History Screening Policy* and Mandatory Instruction.
- > Taking reasonable steps to monitor that SA Health screening requirements are complied with.
- > Ensuring that screenings of non-employee workers are current and appropriate to their role (through regular audits of NPCs or DHS screenings).
- > Ensuring that, when requested, evidence is provided to SA Health of relevant NPC or DHS screenings of contractors, agency staff, and other service providers working in or for SA Health, or having access to SA Health workplaces or information systems.
- > Ensuring that any breaches of the screening obligations are appropriately acted on.

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<sup>13</sup> This includes monitoring the Training Medical Officers have the appropriate screenings for their roles.