

Policy

Policy Directive: compliance is mandatory

Criminal & Relevant History Screening Policy Directive

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Summary

The intent of this policy is to ensure that:

- criminal and relevant history screenings are conducted for all employees and non-employees prior to commencement of their services to or on behalf of SA Health, and prior to them accessing SA Health premises or information systems;
- risks to clients, patients, employees and the organisation are minimised;
- SA Health complies with legal requirements for criminal and relevant history screening.

Keywords

Criminal History & Relevant History, Screening Assessment, Employment Screening, Prescribed Positions, Approved Provider, positions, National Police Check, Policy Directive

Policy history

Is this a new policy? *N*

Does this policy amend or update an existing policy? *Y*

Does this policy replace an existing policy? *N*

If so, which policies?

Applies to

All SA Health Portfolio

Staff impacted

All Staff, Management, Admin, Students; Volunteers

EPAS compatible

NA

Registered with Divisional Policy

Yes

Contact Officer

Policy doc reference no.

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| 1.0 | 11/07/2014 | 20/04/2015 | Original Version |
| 2.0 | 21/04/2015 | 26/02/2017 | Revised to reflect government decision for SA Health to only submit working with children checks to DCSI. |
| 3.0 | 27/02/2017 | Current | Revised to apply consistent approach to non-employee workers engaged within SA Health, and to also include National Police Certificates/Checks accepted through an accredited CrimTrac Provider. |



Criminal and Relevant History Screening Policy Directive



Government
of South Australia

SA Health

Document control information

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| Document owner | Executive Director , People and Culture Branch |
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Document history

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| 11/07/14 | Workforce Operations, Workforce, System Performance and Service Delivery. | V.1 | Formally reviewed in line with 1-5 year scheduled timeline for review. |
| 21/04/2015 | Workforce Operations, Workforce, System Performance | V.2 | Revised to reflect government policy of DCSI screening only for child-related roles. |
| 27/02/2017 | Workforce Operations, People and Culture, System Performance and Service Delivery | V.3 | 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. |

Endorsements

| Date | Endorsed by |
|------------|---|
| 27/02/2017 | Deputy Chief Executive, Finance and Corporate Services Division |

Approvals

| Date | Endorsed by |
|------------|---|
| 27/02/2017 | Deputy Chief Executive, Finance and Corporate Services Division |

Criminal and Relevant History Screening Policy Directive

1. Objective

The intent of this policy is to ensure that:

- SA Health complies with legislation and SA Government Policy requirements for criminal and relevant history screening.
- Risks to clients, patients, employees, other workers and the organisation are minimised.
- Appropriate criminal and relevant history screening is conducted for all employees and non-employees prior to 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.

2. Scope

The Policy applies to all workers in SA Health Services as below:

- All employees or prospective employees, as defined, of SA Health.
- All non-employees (as below) 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 sites or information systems:
 - 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, sites, services or information systems;
 - Persons hiring SA Health Sites or working on such sites
 - Members of SA Health related councils or management committees

3. Principles

3.1 SA Health duty of care and compliance to legislation

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

Legislation requires that all persons who seek to work, or are working, in *Prescribed Positions* under the *Children's Protection Act and Regulations 2010 (CP Act)*, or in *Approved Provider* positions under the *Aged Care Act 1997 (Cth) (AC Act)*, undergo appropriate criminal and relevant history screening before employment and every three years thereafter. (For brevity hereafter referred to as *screening*.)

With the exception of checks relating to time spent overseas (see Section 3.5), only Department for Communities and Social Inclusion (DCSI) screening assessments are accepted for working in roles in SA Health covered by the CP Act (i.e. prescribed positions).

The DCSI Screening Unit has access to a very broad range of South Australian (including child protection information) and interstate information for child related employment. In accordance with SA Government instructions, application for a DCSI screening may only be made where a position is a *prescribed position* under the CP Act.

For SA Health positions not covered by the CP Act, a National Police Certificate (NPC) from SAPOL or from an accredited Crimtrac Provider is required appropriate to work/placement/activities undertaken ie Aged/Vulnerable or General Probity.

More than one type of screening may be required depending on a number factors including:

- Nature of duties performed;
- Types of clients/patients;
- Ability to access medical records;
- Locations working

4. Detail

4.1 Child Related Screening Assessment

The provisions below also apply to non-employees providing services within or on behalf of SA Health, or accessing SA Health sites and information systems for work, study, research or clinical placements including students or volunteers who access medical records relating to children.

A DCSI child related screening is required for all individuals, employee and non-employees engaged in *prescribed positions* prior to their commencement and every three years after the DCSI screening has been issued.

Where a DCSI child related screening is still valid at the time of appointment (i.e. issued less than three years before); this screening should be accepted unless there is clear justification why the screening should be renewed. (Refer to Section 4.3 Portability)

Legally, DCSI is only authorised to conduct a child related screening for work in *prescribed positions*. Therefore child-related screening should not be requested for positions which are not *prescribed positions* as defined by the CP Act below:

- have regular contact with children or who work in close proximity to children on a regular basis and are not directly supervised at all times; or
- supervise or manage persons who have regular contact with children or work in close proximity to children on a regular basis; or
- have access to records relating to children in connection with health services, child protection services, education services, disability services and court orders and proceedings.

Before application is made to DCSI for a child-related screening, hiring managers have to:

- consider whether the specific position is indeed a *prescribed position* as defined by the CP Act;
- consider whether current risk prevention strategies (such as supervision) provides sufficient protection from harm to children; and
- establish whether the individual currently has a child-related DCSI certificate issued less than three years ago.

4.2 Aged Care - *Approved provider positions*

The provisions below also apply to non-employees providing services to, within or on behalf of SA Health with access to aged care recipients, including students and volunteers.

The AC Act requires that Commonwealth funded aged care providers obtain criminal history screenings for individuals who are reasonably likely to have access to care recipients, whether supervised or unsupervised. *Key personnel* as defined under Division 8-3A of AC Act must not be a *disqualified individual* as defined in Division 10A of that Act.

All prospective employees and non-employees for aged care related work must present a satisfactory National Police Certificate (NPC) from SAPOL, or through an accredited Crimtrac Provider for Aged Care Related Work.

A satisfactory screening assessment is further required for all current employees and non-employees engaged in aged care related work every three years after receipt of the initial assessment.

Application for a NPC can be made to South Australia Police through SAPOL www.police.sa.gov.au, or through an accredited CrimTrac Provider as listed in the [National Police Checking Service \(NPCS\)](#).

4.3 Other Positions within SA Health

The provisions below also apply to non-employees providing services to, within or on behalf of SA Health, including students and volunteers.

All prospective workers considered for positions not covered by the CP Act are required to provide a satisfactory NPC from SAPOL or through an accredited Crimtrac Provider for the category of the role prior to their commencement within SA Health.

Similarly, all current SA Health employees, who are the preferred applicants for another role not under the CP Act, must present a satisfactory NPC prior to their appointment.

With their agreement, all current employees working with *vulnerable adults* will undergo a screening assessment of their criminal records when requested.

There is no legislative requirement to renew criminal history assessment every three years for positions not under the CP Act or AC Act.

4.4 Overseas prospective workers.

The provisions following also apply to non-employees providing services within or on behalf of SA Health, including students and volunteers.

4.4.1 Overseas prospective employees who have not resided in Australia:

It is noted that a DCSI screening assessment or a NPC may not be applicable to overseas prospective workers who have not resided in Australia. Therefore, prior to employment for any SA Health position they 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.

Overseas criminal history checks conducted by external provider 'Fit2Work' on behalf of AHPRA will satisfy the SA Health requirements for overseas applicants. In such an instance, their employment will be with the understanding that a DCSI screening or NPC will be provided to SA Health within a reasonable period of no more 12 months of residence in Australia. These checks must comply with this policy directive.

In addition, a prospective employee or an employee returning to SA Health who has worked or resided overseas for more than one year is required to provide a satisfactory screening from each of the overseas country/countries they have worked/resided in within the last 10 years prior to their employment or returning to duties in SA Health.

4.4.3 Additional statutory declaration requirement for positions under the *Aged Care Act 1997 (Cth)* regarding offences during international residency:

The Accountability Principles 2014 made under subsection 96-1 (1) of the AC Act outlines additional conditions for persons who, at any time after turning 16 years of age, were a citizen or permanent resident of a country other than Australia. In line with Part 4, subsection 1.20 of the Accountability Principles 2014, SA Health will not allow a person to whom this section applies to become an employee unless satisfied that the person has made a statutory declaration stating that the person has never been convicted of murder or sexual assault or convicted of, and sentenced to imprisonment for, any other form of assault.

4.4.4 Statutory declaration in exceptional circumstances

In exceptional cases, applicants from overseas (for positions not covered by CP Act) may commence employment with a statutory declaration confirming they have no relevant criminal record (refer to 3.5.3). In such an instance, their employment will be with the understanding that a satisfactory criminal history record still has to be provided to SA Health within a reasonable period after their starting date. No-one may commence working in a *prescribed position* covered by the CP Act before international criminal record results have been received.

4.5 Non-Employees

The principles of this policy also apply to non-employees 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 sites or information systems

It should be noted that external providers/agencies are required to ensure screenings relevant to the activities undertaken are completed for all non-employees prior to commencement of services and/or access within SA Health. These may be DCSI screening assessments and/or NPC from SAPOL, or an accredited CrimTrac Provider.

Refer to Appendix 1 regarding provisions to be included in contracts, licencing arrangements or agreements authorising working in or accessing SA Health sites or information systems.

4.5.1 Student Clinical Placements

Students who will be on clinical placements across more than one LHN will require:

- DCSI Working with Children clearance; and
- Other screening assessments relevant to the activities undertaken prior to commencement of placements within SA Health. Other screenings may be DCSI assessments, or NPC through SAPOL, or NPC through an accredited CrimTrac Provider.

4.6 Timing of assessments

The provisions below also apply to non-employees providing services within or on behalf of SA Health, including students and volunteers.

4.6.1 Positions under the CP Act:

Relevant DCSI screening assessment(s) must be conducted for *prescribed positions*:

- Before an employee or a prospective employee is appointed to the *prescribed position* under the CP Act.
- At maximum intervals of three years during the period an individual works within a *prescribed position*.

4.6.2 Positions under the AC Act:

NPC must be obtained for *approved provider* positions under the AC Act:

- Before an employee or prospective employee, including key personnel are appointed in positions covered by the AC Act.
- At maximum intervals of three years during the period an individual works within an *approved provider* position.

4.6.3 Positions not under the above Acts

In the majority of cases it is expected that a NPC is provided and assessed as satisfactory before the commencement of any new employee/non-employee.

There may be exceptional circumstances where a prospective employee is required to commence prior to the assessment of their criminal history record. In such cases the following conditions must be met:

- the prospective employee has fully completed the pre-employment screening questions on eRecruitment and the responses have been assessed by the hiring manager as indicating no discernible risk to the organisation, clients, patients and co-workers; and
- the prospective employee has applied for a NPC and has provided evidence of this to the Hiring Manager.

4.7 Portability of assessments

A DCSI screening assessment and/or National Police Certificate that has been issued within the previous three years; and is applicable to the type of position applied for (e.g. for working with children) must be accepted for positions with the same screening requirements.

4.8 Recruitment information

All SA Health recruitment advertisements and Role Descriptions will clearly articulate the screening assessment requirements for the role.

Hiring managers will be responsible for initiating DCSI child related screening applications through the DCSI online system for prospective employees and volunteers, and will advise prospective employees when to apply for a NPC. This will generally be at shortlisting/interview stage, but could be earlier.

4.9 Failure to consent to screening assessment

In the event that a prospective employee is not willing to consent to a screening assessment, he or she will be precluded from appointment.

4.10 Costs of assessments

- All prospective employees who are not employees of SA Health will meet the cost of the necessary NPC or DCSI screening assessment.
- Prospective employees who are not employees of SA Health, who refuse to meet the cost of the NPC or DCSI screening assessment, will be precluded from appointment.
- Current employees of SA Health who apply for another position in SA Health, which requires a DCSI screening assessment or NPC, will meet the cost of the necessary check.
- Notwithstanding the above, SA Health may meet the cost of obtaining a screening assessment if this is deemed necessary to attract staff.
- Where a current employee is appointed to another position in SA Health as a result of a direction by a SA Health delegate, an organisation restructure or become redeployed, SA Health will pay the cost of a screening assessment necessary for placement in the new position.
- SA Health will meet the on-going costs of mandatory three yearly NPC or DCSI screening assessment for employees.

- Non-employees, contractors, students and organisations sponsoring, or applying for the provision of services within SA Health are responsible for the initial and ongoing cost of maintaining appropriate screening assessments.
- SA Health will meet the cost of screening assessments for volunteers.

4.11 Applying procedural fairness to criminal or relevant history screenings

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

- The rationale for any decision on employment of a person with recorded convictions or adverse relevant history should be defensible and evidence-based.
- The decision-making process should be transparent, fair and equitable.
- Individuals are given the opportunity to confirm their identity, and confirm the accuracy of any associated criminal and relevant history screening or dispute its contents.
- Individuals are 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.

4.12 Privacy and protection from inappropriate disclosure

4.12.1 Regardless of the outcome of a screening assessment, information must be treated in a confidential manner and it may not be used for any purpose other than to determine suitability for employment. Refer to Information Privacy Principles (IPP) and *Privacy Act 1998* (Cth)

4.12.2 Approved aged care providers have to comply with the *Privacy Act 1998 (Cth)* and the *Records Principles 2014* describing the types 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*.

4.13 Offences precluding appointment in prescribed or approved provider positions

4.13.1 Individuals convicted of serious offences against children are prohibited from working with children under the *Child Sex Offenders Registration Act 2006* (SA).

4.13.2 The Accountability Principles 2014 under the AC Act exclude individuals who 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), from working in approved provider positions.

4.13.3 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 prescribed or approved aged care provider positions. In such circumstances advice should be sought from the local human resource unit regarding termination of employment/engagement or other actions relevant to a current employee.

4.14 Consideration of risk and relevance of offences, allegation of offences and/or convictions

4.14.1 For a criminal or other record to be relevant to an employment decision, it has to relate to, or has a logical link to the inherent requirements of the

particular position. Furthermore, the record must be significant enough to lead to a reasonable assumption of potential risk of harm to clients, patients (inclusive of *vulnerable adults*), employees, other workers and the organisation.

4.14.2 Assuming that the offence is not a precluding offence, where a police record or other information reveals a relevant 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. The specific contextual factors surrounding the conviction and situational factors relating to the role have to be considered on a case by case basis to determine the likely risk of harm to clients, patients (inclusive of *vulnerable adults*), employees, other workers and the organisation, and the decision must be defensible and evidence based.

4.14.3 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 (inclusive of *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.

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

- Convictions for crimes of a violent or sexual nature;
- Any other offences against a child (including drug offences);
- Convictions for dealing or trafficking in 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).

4.15 Burden of proof

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

4.15.2 However, where the criminal and relevant history of an individual does not indicate a *prima facie* risk, but where 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 (i.e. the risk is more probable than not) that the individual poses a considerable and unacceptable risk of harm to clients, patients (inclusive of *vulnerable adults*), employees, other workers and the organisation. The decision must be defensible and evidence based.

4.16 Assessing adverse records and suitability for the position

4.16.1 Where screening is completed by DCIS, the Principal Assessment Officer within DCIS will make the final determination regarding an individual's suitability to work within SA Health. A clearance or non-clearance will then be provided to the Requesting Officer and the alternate contact for the Health Network/Service.

- 4.16.2** When employment decisions are made based on NPCs, the SA Health *Principal Authorised Officer* is the delegate to determine an individual's suitability to work within SA Health and will need to consider sections 4.11 to 4.15 above.
- 4.16.3** For **non-employees** including volunteers the contractor/agency may consider it necessary to liaise with the relevant SA Health *Principal Authorised Officer*, to assist with the determination regarding an individual's suitability for work, study or research purposes.
- 4.16.4** For **clinical placement students** the Education Provider may consider it necessary, in exceptional circumstances to liaise with the Better Placed - Clinical Placement Coordination Team for SA Health to assist with the determination regarding an individual's suitability to be placed within SA Health.

4.17 Records and record keeping requirements

- 4.17.1** Nominated Liaison Officers must maintain a record in the Complete Human Resource Information System (CHRIS). This record must include the employee name, the type of screening assessment undertaken and the date of assessment.
- 4.17.2** This information must also be included in the Credentialing and Scope of Clinical Practice System (CoSP).
- 4.17.3** Following receipt of a NPC and related material; or a confidential assessment briefing on an adverse record, the SA Health *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.
- 4.17.4** All confidential material (e.g. NPCs) must be destroyed once the employment decision has been made, and/or within three months of receipt (whichever is the sooner).

4.18 Obligation to notify of 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. Breaches of the *Code* may lead to disciplinary action, including termination of employment. The *Code* is available at: publicsector@sa.gov.au Reference should also be made to the [SA Health Policy Directive: Employees Charged with Criminal Offences](#) which is available on the SA Health intranet policies page.

Contracted or authorised parties must consult immediately with the relevant SA Health Principal Authorised Officer regarding the notification of a non-employee, being charged with a criminal offence, or for Clinical Placement Students, the Education Provider must consult with the Better Placed Clinical Placement Coordination Team,

4.19 Decision Reviews and Grievances

Where the reason for the non-appointment of a prospective employee is an adverse screening assessment and the prospective employee seeks a review or lodges a grievance, an appointment to the role may not be made, until the review/grievance has been addressed.

4.19.1 Request for Review of Assessment by the DCSI Screening Unit

A person may request a review of their relevant history screening assessment by the DCSI Screening Unit. A review may be requested through DCSI – application for review - please refer to the DCSI website: dcsi@sa.gov.au.

4.19.2 Non- public sector applicants who are subsequently not engaged on the basis of a screening assessment may lodge a request for the decision to be reviewed with the relevant 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 are to be reviewed by the Chief Executive Officer (for LHN/SAAS), or Chief Executive (for the Department for Health and Ageing) and the aggrieved party must be advised of the outcome.

4.19.3 For Public Sector Act positions, employees or preferred applicants from positions in the public sector who are directly affected by a management decision based on their DCSI screening assessment or NPC may apply for review of the decision by the Department for Health and Ageing in accordance with the *Public Sector Act 2009*, Sections 59 to 63 and the Public Sector Regulations 2010, Regulations 26 to 28. This provision will, effective 1 July 2016, also apply to **Health Care Act** employees whose employment is covered by the SA Government Wages Parity Enterprise Agreement: Salaried 2014 and Part 7 of the *Public Sector Act 2009*.

4.19.4 For Health Care Act positions, current employees or preferred SA Health internal applicants may write, requesting a review, to the relevant Chief Executive Officer or delegate 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 the Grievance Appeal Panel within the Department for Health and Ageing. Refer to Part 3 Grievances and Disputes, in the SA Health (Health Care Act) Human Resources Manual.

4.19.5 Disputes arising from three (3) yearly reviews for existing employees

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

4.19.6 Discrimination based on criminal records

Under the *Australian Human Rights Commission Act 1986*, the Australian Human Rights Commission has the power to inquire into discrimination in employment on the ground of a criminal record. If a person considers they have been discriminated against based on their criminal record regarding any employment decision, they may make a complaint to the Australian Human Rights Commission. Further information is available at: Australian Human Rights Commission <http://www.humanrights.gov.au/publications/human-rights-record>

5 Roles and Responsibilities

All roles will ensure compliance with privacy and confidentiality requirements as detailed in Clause 4.8.

5.1 Chief Executive

- Ensures policy is monitored for its appropriateness and effectiveness and is reviewed as required.
- Conducts a review of a decision to not appoint a prospective or current employee due to an adverse screening assessment, where such an individual seeks a review or lodges a grievance.

5.2 Chief Executive Officers

- Ensure the recruitment and appointment of employees, and the engagement and access of non-employees are consistent with the policy and relevant legal requirements.
- Conducts a review of a decision to not appoint a prospective or current employee due to an adverse screening assessment, where such an individual seeks a review or lodges a grievance.
- Reports to the Chief Executive any adverse incident involving a non-employee that may have caused significant harm to the SA Health organisation or a client, patient, employee or others in the workplace due to non-compliance with this policy directive.

5.3 Executives, Directors, Senior Managers and Managers

- Identify positions requiring screenings consistent with the AC Act or CP Act and ensure that the relevant requirement for a screening is included in the Role Description.
- Ensure that screening assessment is conducted prior to appointment. Ensure that relevant screenings are renewed, before the expiry of assessments.
- Liaise with the Director of People and Culture/Workforce where an adverse record indicates unsuitability for employment or for continued employment of an existing employee.
- Liaise with the relevant SA Health contract manager, volunteer coordinator where circumstances indicate unsuitability of an individual's engagement in SA Health; or unsuitability to access SA Health sites or information systems.

5.4 Directors of Workforce (may also be Principal Authorised Officer)

- Maintain and implement operational procedures that support this Policy Directive.
- Ensure the requirement for a relevant history screening is clearly articulated in vacancy advertisements.

5.5 Principal Authorised Officer – SA Health

- Assess suitability for employment where an adverse record is found with a NPC, and consider suitability for access to SA Health when consulted on an adverse record for a non-employee including students and volunteers.
- Obtain further information on the nature of the duties and the extent to which the report findings may be relevant to the position.

5.6 Hiring Managers / Selection Panel Chairpersons

- Ensure that the requirement for the relevant history screening is clearly articulated in Role Descriptions and communicated to applicants during the recruitment process.

- Ensure that the prospective employee has fully completed the pre-employment screening questions on eRecruitment and the responses have been assessed as indicating no discernible risk to the organisation.
- Ensure that all prospective employees who are shortlisted are aware to apply for a NPC or, for *prescribed positions* under the CP Act, the Manager has initiated a DCSI on-line application for the prospective employee to complete.

5.7 Better Placed Clinical Placement Coordination Team - SA Health

- Liaise with education institutions regarding compliance with the SA Health Criminal and Relevant History Screening policy directive. Education institutions are responsible for ensuring relevant history screenings are obtained for students (18 years & above).
- Ensure that authorisation for clinical placement in SA Health includes provisions outlined in Appendix 1 (attached).
- Take reasonable steps to monitor that SA Health screening requirements are complied with, ensuring that screening of students are current and appropriate to their roles.
- Ensure that any breaches of the screening obligations are appropriately acted upon.

5.8 Volunteer Coordinators/Managers facilitating volunteer placements

- Take reasonable steps to monitor that SA Health screening requirements are complied with ensuring that screening of volunteers are current and appropriate to their role (e.g. through regular audits of assessments of NPC or DCSI screenings).
- Ensure that any breaches of the screening obligations are appropriately acted upon.

5.9 Contract Managers

- Ensure that contracts to work or provide services or to access SA Health sites or information systems include provisions outlined in Appendix 1.
- Take reasonable steps to monitor that SA Health screening requirements are complied with ensuring that screening of non-employees are current and appropriate to their role (through regular audits of NPCs or DCSI screenings).
- Ensure that, when requested, evidence of relevant screening of contractors, agency staff, and other service providers working in or for SA Health, or having access to SA Health sites or information systems are provided to SA Health.
- Ensure that any breaches of the screening obligations are appropriately acted upon.

6 Reporting

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 a SA Health organisation, client, patient, employee or others in the workplace due to non-compliance with this policy directive. Line managers must report to the Chief Executive Officer:

- any adverse incident involving an employee or non-employee worker that may significantly impact SA Health's interests or may have caused harm to a SA Health 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 thereof.

Appropriate recording of criminal and relevant history screening assessments for employees are to be maintained on CHRIS and the Credentialing and Scope of Clinical Practice System (CoSP).

7 EPAS Considerations

N/A

8 Exemptions (if applicable)

N/A

9 Associated Policy Directives / Policy Guidelines (if applicable)

N/A

10 References, Resources and Related Documents











This Policy Directive should be read in conjunction with:

- *Aged Care Act 1997 (Cth)* with *Accountability Principles 2014* and *Records Principles 2014* issued pursuant to the Act.
- *Australian Human Rights Commission Act 1986 (Cth)*
- *Child Sex Offenders Registration Act 2006 (SA)*
- *Children's Protection Act 1993*, *Children's Protection Regulations 2010*, and *Child Safe Environments Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children (2012)* issued pursuant to the Act.
- *Code of Ethics for the South Australian Public Sector*
- [SA Health Employees Charged with Criminal Offences Policy Directive](#)
- *Fair Work Act 1994 (Cth)*
- *Health Care Act 2008*
- *Privacy Act 1998 (Cth)*
- *Public Sector Act 2009*
- *State Records Act 1997* and destruction schedules issued pursuant to the Act
- *SA Health (Health Care Act) Human Resources Manual*
- *SA Health Directive Code of Fair Information Practice*

11 Other

N/A

12 National Safety and Quality Health Service Standards (if applicable)

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| National Standard 1 | National Standard 2 | National Standard 3 | National Standard 4 | National Standard 5 | National Standard 6 | National Standard 7 | National Standard 8 | National Standard 9 | National Standard 10 |
| Governance for Safety and Quality in Health Care | Partnering with Consumers | Preventing & Controlling Healthcare associated infections | Medication Safety | Patient Identification & Procedure Matching | Clinical Handover | Blood and Blood Products | Preventing & Managing Pressure Injuries | Recognising & Responding to Clinical Deterioration | Preventing Falls & Harm from Falls |
| ✓ | | | | | | | | | |

13 Evaluation of Performance and Compliance

Evaluation of performance will consider:

- Whether all employees in positions covered by the CP Act or the AC Act have a valid and satisfactory DCSI screen or NPC (as respectively required) at all times.
- Whether, before child-related screening applications are made to DCSI, there has been due consideration of the duties and circumstances of a position to determine whether it is in fact a *prescribed position* under the CP Act.
- Whether, before a child-related screening application is made to DCSI, a risk assessment has been done to determine whether a child-related screening is necessary.
- Whether, before application is made for a DCSI screen for *prescribed positions*, sufficient enquiry has been made to determine whether a DCSI child-related screen is still current.

Compliance with this Policy must be monitored by:

- Executives and line managers - regarding all employee and non-employees within their work units.
- The Better-Placed Clinical Placement Coordination Team – SA Health facilitating student placements..
- Volunteer Coordinators / Managers facilitating volunteer placements - regarding all volunteers.
- Contract Managers - regarding compliance of contractual parties (e.g. agencies providing agency staff services) to the policy requirements for screening of agency staff.

14 Attachments (if applicable)

N/A

15 Definitions

approved provider

Commonwealth funded aged care services.

approved provider positions (Aged Care Act 1997)

Key personnel is defined in the Act as follows:

- (a) a member of the group of persons who is responsible for the executive decisions of the entity at that time
- (b) any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the entity at that time
- (c) if, at that time, the entity conducts an *aged care service:
 - any person who is responsible for the nursing services provided by the service;
 - any person who is responsible for the day-to-day operations of the service; whether or not the person is employed by the entity;
- (d) if, at that time, the entity proposes to conduct an aged care service:
 - any person who is likely to be responsible for the nursing services to be provided by the service
 - any person who is likely to be responsible for the day-to-day operations of the service; whether or not the person is employed by the entity.

A **staff** member under the *Aged Care Act 1997* is defined in Section 4 of the Accountability Principles 2014 as a person who:

- has turned 16; and is employed, hired, retained or contracted by the approved provider (whether directly or through an employment or recruitment agency) to provide care or other services under the control of the approved provider; and
- has, or is reasonably likely to have, access to care recipients.

Examples of staff members include:

- key personnel of the approved provider;
- employees and contractors of the approved provider who provide care to recipients;
- allied health professionals contracted by the approved provider to provide care to recipients;
- kitchen, cleaning, laundry, garden and office personnel employed by the approved provider; and
- consultants, trainers and advisors for accreditation support or systems improvement who are under the control of the approved provider.

Examples of persons who are NOT considered staff members include:

- visiting medical practitioners, pharmacists and other allied health professionals who have been requested by, or on behalf of, a care recipient but are not contracted by the approved provider; and
- **trades people** who perform work otherwise than under the control of the approved provider (that is, as independent contractors).

conviction

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

Organisations accredited with the Australian Criminal Intelligence Commission (ACIC) to provide a National Police Check to an individual.

criminal and relevant history screening assessment

An assessment of a prospective employee's 'criminal and relevant history', (as described in the CP Act, or pursuant to the AC Act provisions as applicable), against the inherent requirements of the role applied for, to identify any potential risk of harm the prospective employee might pose if employed.

disqualified individual

For the purposes of this Policy, an individual is a **disqualified individual** if:

- the individual has been convicted of an indictable offence; or
- the individual is an insolvent under administration; or
- the individual 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.

employee

An employee is a person who is employed in SA Health to perform functions in connection with the operation or activities of an incorporated hospital or the South Australian Ambulance Service, as defined in the *Health Care Act 2008*, or the Department for Health and Ageing.

A prospective employee is 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, or the South Australian Ambulance Service, or in the Department for Health and Ageing.

informed consent

The principle of informed consent requires that the individual understands the purpose of the request and the likely outcomes of giving consent when a criminal and relevant history screening is required. It requires signing forms stating:

- what a *criminal and relevant history screening* is and how it will be obtained;
- the purposes for which the criminal history information is being collected ;
- any person to whom, or agency to which, the criminal history information will be disclosed;
- any law which requires that their personal information be collected and the consequences of not complying.

National Police Certificate - (NPC)

A National Police Certificate (NPC), often referred to as a 'police check', documents a National summary of a person's criminal conviction history. It does not assess the relevance or significance of the records in relation to the duties and circumstances of a position that the person may have applied for.

non-employee

means any person through their contractual arrangements providing services within or on behalf of SA Health, to SA Health clients or patients; or accessing SA Health sites or information systems for work, study or research purposes; but is not a SA Health employee.

prescribed position

A position in the organisation that requires or involves prescribed functions, as defined by section 8B (8) of the CP Act.

principal authorised officer – SA Health

A *Principal Authorised Officer* is an employee of SA Health who is the key contact for all confidential concerns regarding applicants. The *Principal Authorised Officers* in SA Health are: the Directors of Workforce (or equivalent) (for LHNs/Health Services); the Chief Operating Officer SAAS; and the Manager, SA Health Workforce Operations (for Department for Health and Ageing).

principal authorised officer – External provider

A Principal Authorised Officer of a service provider to SA Health that has the responsibility to assess screening assessments ie Education Providers for Student Placements

regular contact

A constant or definite pattern of contact or which recurs at short uniform intervals or on several occasions over relatively short periods of time.

relevant history - DCSI

A person's relevant history based on information considered by DCSI in addition to criminal records.

satisfactory assessment or screening

means an assessment by the DCSI Screening Unit, the Principle Authorising Officer of the LHN/HS/SAAS or a service provider 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 the workplace.

volunteer

means a person who:

- is not an 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

For the purposes of this policy a *vulnerable adult* client or patient is anyone who is:

- an adult with serious physical illness or with a physical disability or a mental disability which includes intellectual disability, mental impairment, or mental illness,
- an adult who suffers social or financial hardship who may be vulnerable to exploitation as a result of this hardship. Social hardship includes a wide range of situations and experiences including homelessness, a history of domestic or family violence, of bullying, sexual abuse, racial abuse, problem gambling or drug and alcohol abuse and torture or trauma
- an adult who cannot communicate, or who has difficulty communicating in English.

APPENDIX 1

The terms and conditions of contractual arrangements or agreements authorising working in, renting or accessing SA Health sites or information systems must include the following (as appropriate to the type of agreement):

- 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 sites 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 policy screening and security requirements.
- Screening is undertaken prior to individuals accessing SA Health sites or information systems, or prior to providing services to or within SA Health. Students and Institution Staff who are nominated by the Institution to attend a SA Health Facility to undertake a Clinical Placement must complete and sign a Clinical Placement Deed Poll prior to attending a placement. A copy of the signed Deed Poll must be sighted and retained by SA Health staff when requested.
- DCSI child-related certificates and National Police Certificates (NPC) must remain current while non-employees are engaged to provide services for or on behalf of SA Health, and while having access to SA Health sites and information systems (for work, study or research purposes).
- Contracted or authorised parties must consult with the relevant SA Health Principal Authorising Officer (*Definition in Clause 15*) or for clinical students, the Better Placed Clinical Placement Coordination team regarding the suitability of a non-employee, where a criminal record or relevant history has been found, or if they have been charged with a criminal offence during their placement within SA Health.
- Provisions that will enable SA Health to assess compliance of contracted or authorised parties providing services to SA Health including:
 - The requirement to provide declarations/evidence to SA Health regarding criminal and relevant history status and suitability of individuals before commencing services or accessing SA Health sites and information systems.
- 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 sites 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 in order to prevent harm to or protect clients, patients, staff and SA Health interests, (without incurring liability), e.g.
 - require that the contracted, licensed or authorised person exits SA Health sites and loses access to SA Health information systems and remains absent until cleared to resume duties; and
 - obtain all information from the contracted or authorised parties to determine appropriate further action.