



National criminal history checks (NCHC) procedure HR103

Parent policy

This procedure forms part of the Recruitment and selection policy HR027 and Recruitment and selection procedure HR028.

A National Criminal History Check must be completed for all new employees or a contractor engaged by AHPRA and is a condition of the continuing nature of the relationship.

Scope

A criminal history check will be initiated for an employee or potential employee who is recommended for engagement for any position, at all levels.

Where contractors are engaged via a third party agency, the agency is responsible for ensuring NCHC are completed for each contractor. The third party agency is responsible for providing AHPRA with confirmation of NCHC prior to the commencement of the contractor.

Guidelines

1 National criminal history checks

- 1.1 The requirement for criminal history checking must be clearly stated on the position description and when a role is advertised. A NCHC will only be undertaken, after the HR005 NCHC form is completed and submitted with documentation. This form covers the applicant's consent to check and release criminal history information and proof of identity.
- 1.2 NCHC applications are processed by AHPRA authorised users through CrimTrac National Police Checking Service (CrimTrac) in accordance with the Terms of Service set out in the Service Contract.
- 1.3 AHPRA will consider a previous NCHC completed that is still valid i.e. up to 3 months.

2 Accredited personnel

- 2.1 People & Cultures CrimTrac accredited personnel are People & Culture Coordinators.

3 What is disclosed in a NCHC

- 3.1 Generally the release of criminal history information is done on the basis of findings of guilt at court, and it may also release details of matters currently under investigation or awaiting court hearing. It is important to note that a finding of guilt without conviction is still a finding of guilt and this information will be released. A NCHC may include:
 - 3.1.1 Court appearances
 - 3.1.2 Court convictions, including penalty or sentence
 - 3.1.3 Charges and findings of guilt with no conviction
 - 3.1.4 Good behaviour bonds or other court orders
 - 3.1.5 Matters awaiting court hearing.

4 CrimTrac Contract requirements

- 4.1 AHPRA must comply with any directions, guidelines, determinations or recommendations of CrimTrac, to the extent that they are consistent with the Australian Privacy Principles.
- 4.2 AHPRA will not do any act or engage in any practice which, if done or engaged in by CrimTrac, would be a breach of the *Privacy Act 1988 (Cth)*, in particular, the Australian Privacy Principles.
- 4.3 Not summarise or otherwise will alter NCHC provided by CrimTrac to AHPRA.
- 4.4 Not retain a NCHC result or a HR005 NCHC form (informed Consent) for longer than three months following release of the result in accordance with contract.

4. Selection phase

- 1.4 The P&C BP or Recruitment Team will coordinate documentation and send to the accredited People & Culture Coordinator. The accredited employee will undertake the NCHC for relevant candidate/s.
- 1.5 The accredited People & Culture employees will require original hard copy documentation to undertake the NCHC. Please note that (under the CrimTrac contract the original documents are required for the authorised user to run the NCHC).
- 4.1 The detail of the results of the NCHC are to remain confidential and the outcome will be communicated in confidence to the P&CBP who will act as a point of contact with the recruiting manager.
- 4.2 Where a negative result has been returned, a tiered approach will be adopted to ascertain the relevance of the result to the position and the candidate's suitability to the position. As per the following:
 - 4.2.1 accredited P&C employee will liaise with the relevant Senior P&C BP in the first instance
 - 4.2.2 the Senior P&C BP will liaise with the Executive Director, People & Culture about the negative result, and
 - 4.2.3 Executive Director, People & Culture may seek legal advice and or liaise with the relevant Executive Director.
- 4.3 If a candidate declines to have a NCHC, the individual concerned will be deemed unsuitable for employment.

Procedure

5. Procedure for conducting a NCHC

- 5.1 The procedure is as follows:

Step	Who	Action
1	Hiring Manager	Ensures that prior to commencement of the recruitment process that the NCHC requirement statement is included in position description.
2	Recruitment	Advises shortlisted candidate/s that a NCHC is a requirement for the role and provides the NCHC HR005 form and instructions located in the HR template library together with the invitation to participate in an interview. Proof of identity documents (POI) must be certified documents as per the guidelines or the NCHC cannot be logged. Refer to internal HR procedure for more information. Forwards all documents to the accredited P&C Coordinator.
3	Accredited P&C person	Check the completed form and POI for accuracy in accordance with the instructions and NCHC HR005 form and undertakes the NCHC following the internal HR procedure.

4	Accredited P&C person	Advise P&C BP of the outcome prior to proceeding to offer of employment. Follows internal instruction regarding storage of use and unused NCHC forms.
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6. Outcome of criminal history checking

- 6.1 Where an applicant is being considered for engagement to perform relevant duties or prescribed duties, and the applicant is determined by the recruiting manager to be unsuitable to perform those duties as a result of a NCHC, the recruiting manager is not required to consider the applicant for engagement to perform those duties.
- 6.2 Where a disclosable outcome arises, the P&C BP will assess the applicants NCHC in accordance with all privacy laws, AHPRA's Privacy policy and take into consideration the *Australian Human Rights Act 1986 (Cth)*, *Commonwealth Spent Convictions Scheme* and the *Crimes Act 1914 (Cth)*. P&C BP will also consult with the Senior P&C BP in the first instance.
- 6.3 A disclosable outcome does not automatically exclude an individual from working at AHPRA. Disclosable outcomes will be categorised under the following three sections:
- Section A:** Offences of a serious/extreme nature (e.g. sexual offending, offences against the national interest), regardless of when the offence took place.
- Section B:** Offences of a significant nature (e.g. common assault, fraud) where there is or could be harm to person or property (e.g., common assault, drink driving, fraud).
- Section C:** Minor offences with a finding of guilt and offences with no finding of guilt (i.e. offences that are withdrawn, quashed).
- 6.4 For more detail on the disclosable outcome categories refer to Policy Referral of Criminal History Information to Boards.
- 6.5 AHPRA will not discriminate on the grounds of a NCHC outcome when making a decision. It is not an act of discrimination to find a person unsuitable for a particular role if an applicant's police history means that they are unsuitable to perform the inherent or essential requirements of a role.
- 6.6 AHPRA must maintain confidentiality and protect the applicant's identity at all times and ensure the information about an applicant's NCHC is always used for the purposes for which it is intended.
- 6.7 AHPRA must disclose the outcome of a negative NCHC to the applicant and provide the opportunity to provide additional information and context, or dispute the results.

7. Offer of employment/temporary assignment/higher duties greater than 3 months

- 7.1 A person with a pending charge or conviction can only be appointed to a position after the outcome of the current or pending charge or conviction is known.
- 7.2 In times of urgent workforce demands, a conditional offer of appointment may be made. In such a case, the appointment letter must state that the continuation of employment is subject to a satisfactory NCHC being received. The decision to make a conditional offer of appointment to a person will be made in conjunction with the Senior P&C BP and the relevant Executive Director.

8. Existing employee

8.1 Declaration of criminal history for higher duties arrangements of less than 3 months

An existing employee must advise their manager in writing of criminal history status (via declaration) where the relieving at level or higher duties arrangement is for less than 3 months. The written advice should be in the form of an email and in accordance with AHPRA's Code of Conduct.

8.2 Consent for a NCHC

An existing employee cannot be invited to participate in a recruitment process or be considered for a position unless the recruitment team has received a completed and signed HR005 NCHC form including satisfactory POI.

8.3 Disclosure of criminal charges and convictions

- 8.4 An existing employee has an obligation if charged or convicted of an offence to advise the Senior P&C BP in writing through their manager immediately with the details of the charge or offence and the penalty imposed after being charged and/or convicted by a court of any offence
- 8.5 Failure to disclose any charges and convictions for indictable offences may result in disciplinary action and if charged or convicted of a serious offence, employment may be suspended or the existing employee may be moved to alternative duties. Disciplinary action depending on the seriousness of the offence may include termination of employment.
- 8.6 Refer to the Disclosure of criminal and convictions procedure HR016 for more information.

9. Storage of information

9.1 Unsuccessful applicants

The HR005 NCHC form will be maintained in accordance with AHPRA's Records Management Policy and be stored for 12 months, following the completion of the selection process, in a confidential file and then securely destroyed.

9.2 Successful applicants

All supporting documents relating to NCHC will be maintained in accordance with AHPRA's Records Management Policy on the employee file.

The HR005 NCHC form will be stored in a locked secure location and then destroyed within a 3 month period in accordance with NCHC provider contract.

10. International police check

- 10.1 Where an applicant has lived in a country other than Australia for 12 months or more in the last ten years, they will be required to submit an international police check.
- 10.2 If the applicant is unable to obtain an international police clearance a statutory declaration will be sufficient.
- 10.3 For non-Australian citizens, the NCHC will be conducted by the Department of Immigration and Citizenship and form part of the applicant's visa application, upon which the appointment is conditional.

11. Delivery and timeline

- 11.1 To ensure that recruitment and selection time frames are met, NCHC checks will be processed daily as required.

Related documents

Related documents include:

- [Recruitment and selection policy HR027](#)
- [Recruitment and selection procedure HR028](#)
- Instructions for candidates regarding NCHC
- [Equal employment opportunity HR045](#)
- [Code of conduct HR040](#)

Document control

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