

# Employment Screening Policy

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## 1 Purpose

The Department of Communities & Justice (DCJ) is committed to promoting a safe, ethical, and professional work environment. DCJ must be satisfied that anyone seeking to be engaged or employed, in a paid or unpaid role, meets the highest standard of integrity and suitability to provide quality services for clients and a safe environment for employees.

In addition to the usual recruitment checks, DCJ must also meet its legislative obligations. This includes, but is not limited to, the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#), other requirements of the Office of the Children's Guardian (OCG) and Section 15 "Employment in certain occupations" of the [Criminal Records Act 1991 \(NSW\)](#) regarding employment screening. DCJ is also able to rely on various exemptions in the [Privacy and Personal Information Protection Act 1998 \(NSW\)](#) ('the PPIP Act') relating to the collection, use and disclosure of information for employment screening purposes and because of its status as a law enforcement agency

The purpose of this policy is to outline the employment screening checks that DCJ may require a potential candidate or a current employee transferring to a new role to undertake and DCJ's approach to employment screening.

## 2 Scope

This policy applies to:

- prospective candidates (executive and non-executive for ongoing, temporary, casual and contingent employment)
- current employees being assigned to a new role, where additional checks may be required
- volunteers, student placements and work experience participants
- interns and graduates
- council and committee members
- serious young offender review panel (SYORP) panel members
- consultants (where appropriate)
- commissioners of the Court.

Please refer to the [DCJ Employment Screening Matrix](#) for an overview of the checks that apply.

**This policy does not apply to the NSW Judiciary and the New South Wales Civil and Administrative Tribunal Members.**

### 3 Policy statement

Under this policy, DCJ will ensure:

- any person/s employed or engaged, in a paid or unpaid role, to work within DCJ are screened in compliance with relevant legislation and policies, including privacy and confidentiality requirements
- that all relevant information is considered when assessing a person's suitability to perform a role, and
- fairness to employees and preferred candidates.

### 4 National criminal record check (NCRC)

A NCRC is a mandatory requirement for anyone seeking to be employed or engaged by DCJ. It is a search against the criminal records of each Australian state and territory that lists all disclosable court outcomes recorded against an individual.

DCJ considers the details of any disclosable court outcomes appearing on a person's NCRC when deciding whether they are suitable for a particular role and will not engage or employ a person if they don't consent to a NCRC.

The fact that a person has a criminal record is not a reason to refuse a person's employment, rather a risk assessment will be undertaken to determine suitability for a specific role.

Additionally, the OCG requires accredited agencies who provide or arrange residential care services to children in statutory out-of-home care (OOHC) in NSW to conduct pre-employment NCRCs for all workers, contractors and volunteers who do child-related work within these services.

Some roles may require candidates to undertake fingerprint checks through Talent Acquisition or the NSW Police Force.

The fingerprint check provides DCJ with added assurance regarding the candidate's identity. Fingerprint checks can determine if an individual has been known by more than one name in some cases. This check, when processed through NSW Police, grants full access to any spent convictions (refer to 4.11).

For specific requirements related to Corrective Services NSW (CSNSW) roles, refer to [Annexure 1](#).

A person may make a complaint to the Australian Human Rights Commission if they believe they have been discriminated against purely because they have a criminal record. For more information about unlawful discrimination, refer to the [Australian Human Rights Commission](#) website.

Refer to the [National Criminal Records Check Procedure](#) for more information.

#### 4.1 Spent convictions

Spent convictions are convictions that no longer appear on NCRC results, which means that a person is not required to declare them or that the employer is not able to consider these convictions unless specific exclusions apply to the nominated role.

Convictions for minor offences under NSW law may become spent if a person has been crime-free and not been in prison for 10 years (or 3 years if a juvenile) from date of conviction.

Certain roles are excluded from spent convictions legislation (see Section 15 “*Employment in certain occupations*” of the [Criminal Records Act 1991 \(NSW\)](#)). It is lawful to request and use information about convictions that have been spent when considering applications for employment for certain roles. Where specific exclusions apply to the nominated role, applicants must also disclose spent convictions, which will form part of an overall risk assessment.

## 5 Standard recruitment practice checks

As part of the standard recruitment practice, anyone seeking to be employed, re-employed or change roles will undertake the following checks:

- reference checks
- conduct and service history checks (for existing and past DCJ employees and/or public sector employees), including CSNSW conduct checks.
- health declaration (for new DCJ employees)
- verification of identification and citizenship or residency/visa status (for new and existing employees as required (refer to [section 12](#)))
- verification of other requirements for roles such as drivers’ licence, mandatory qualifications, or professional memberships (where required for a role)
- police character check, where required.

## 6 Working with children check (WWCC)

All employees working in, or candidates for, roles that involve child-related work as defined by DCJ in accordance with the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#) and the [Child Protection \(Working with Children\) Regulation 2013 \(NSW\)](#), must have a Working with Children Check (WWCC) clearance.

This requirement also aligns with the [Children’s Guardian Act 2019 No 25 \(NSW\)](#), and the [Child Safe Standards](#) requirements mandated by the OCG under the Child Safe Scheme for NSW Government Agencies.

Individuals either seeking to work in, or currently undertaking child-related work are responsible for applying for, paying for, and maintaining a WWCC clearance (no fee is payable for volunteers).

DCJ will verify a person's clearance with the OCG prior to allowing them to commence work in a nominated role in accordance with the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#). Any applicant or employee on temporary assignment and employment without a verified current clearance of the relevant classification will not be eligible for employment or engagement in temporary assignments or temporary employment in child-related work.

Exemptions to this requirement will only be in accordance with exemptions as identified in the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#) or the [Child Protection \(Working with Children\) Regulation 2013 \(NSW\)](#).

Any person undertaking child-related work for DCJ who does not have a current WWCC clearance, or who is refused a clearance by the OCG, will not be permitted to remain in a nominated role, and may be subject to a misconduct process and / or action, which may include termination of their employment. Refer to the [Working With Children Check Procedure](#) for more information.

## 7 ChildStory Clearance Checks

ChildStory is a database that the DCJ uses to record child protection-related client information (ChildStory replaced KiDS in 2017/18). Anyone who is in a role that has access to the ChildStory data base, including as an administrator, or accesses information derived from the ChildStory data base will be required to have a ChildStory Clearance Check prior to any offer of employment. This check is in addition to the NCRC and WWCC.

ChildStory Clearance Checks ensure that:

- any risks arising from records held by DCJ are assessed before a decision is made regarding a person's suitability for a role, and,
- the privacy and confidentiality of candidates and employees is safeguarded by identifying and securing records containing sensitive information about an individual and their family.

Where a record is found in ChildStory which indicates that a person has been responsible for, complicity with, or involved in child abuse or neglect in some way other than as an employee (i.e., person has been involved in a case in a personal capacity), a risk assessment must be undertaken.

A candidate will not be employed where a risk assessment indicates that the appointment of a candidate represents an unacceptably high level of risk to DCJ clients or employees.

## 8 Contact with offenders

In addition to the standard checks, some roles in DCJ will be required to complete a contact with offender declaration. Talent Acquisition will request this from candidates where there is a requirement.

Former contact with offenders does not automatically preclude candidates. Where records indicate previous contact with offenders, a risk assessment will be completed.

## 9 Senior executive private interest declaration (SEPID)

In addition to the standard checks described above, the Senior Executive Private Interest Declaration (SEPID) program is mandatory for Senior Executives including those temporarily acting and contractors in a senior executive role. This ensures any potential conflicts of interest are addressed.

The SEPID program may also apply to non-senior executives nominated by the Secretary or their delegate(s).

The SEPID Program is managed by the Business Ethics & Compliance Unit (BECU).

## 10 Medical assessments

Certain roles within DCJ will require the applicant, whether they are a new employee or an existing employee, to undergo a medical assessment as part of the recruitment process. Medical assessments are paid by DCJ and co-ordinated by Talent Acquisition and are completed by an authorised third-party provider.

## 11 Australian security clearances

Security clearances may also be required for certain roles. Under the [Australian Government Protective Security Policy Framework \(PSPF\)](#), individuals who occupy certain roles that require access to security classified resources must hold a security clearance at the appropriate level.

## 12 Overseas applicants

A police character check is required for any candidate who has been in the country for less than five years. This check can be obtained by the candidate through the embassy or consulate.

In the case of other applicants with other Visas, New Zealand citizens, or in instances where candidates have not completed an international check at the time of entering the country, an international police check will be undertaken by DCJ.

When DCJ undertakes targeted recruitment programs for people from specific refugee backgrounds who are eligible to work in Australia or who hold a specific refugee visa type, standard recruitment practice checks, NCRC and Visa Entitlement Verification (VEVO) checks are undertaken by DCJ. The VEVO provides important visa details, including conditions and/or any employment restrictions.

### **13 Risk assessments**

In determining a candidate's suitability for a role, the result of all employment checks need to be reviewed and where there is concern, a risk assessment will be undertaken. The risk assessment considers the harm potential, perceived, actual or future, posed DCJ clients and service users upon themselves, others, the community, and to DCJ. As such, DCJ considers the nature and circumstances of the risk, the candidate's behaviours, patterns, any mitigating factors, character, and service record to assess the level of risk.

Risk assessments will be completed by Talent Acquisition, in partnership with the relevant Delegate.

### **14 Requesting a review**

In the event a decision not to employ a candidate is made on the basis of employment screening checks, the hiring manager must inform the candidate that they can request a review within seven days of the decision. The candidate must submit the request in writing to the relevant delegate. The delegate will respond to the candidate in writing to advise whether the original decision has been endorsed or an alternate decision has been made.

### **15 Confidentiality**

A record/notation that a NCRC has been conducted will form part of a person's employee / candidate record. This will contain information about the date on which the NCRC was undertaken, not the details of what the NCRC revealed.

No details of any disclosable court outcome will be kept on an employee / candidate record.

Under no circumstances should a candidate's criminal record be disclosed to persons not directly involved in determining their suitability for employment. Disciplinary action may be taken against any employee giving unauthorised access to details of criminal records.

### **16 Roles and responsibilities**

**People who work or are applying to work at DCJ are required to:**

- provide consent for any pre-requisite checks that apply to their role

- ensure they have a current WWCC clearance if required
- ensure they have consented to NCRC as required for their role
- notify their manager if they have been charged with having committed, or have been convicted of committing, a serious offence as required by DCJ's Code of Ethical Conduct
- ensure they have appropriate citizenship or residency/visa status (for new and existing employees) as required.

**Note:** A loss of clearance, residency/visa status or notification of a serious offence can be a basis for termination as per S47(1)(b) of the [Government Sector Employment Act 2013 \(NSW\)](#).

**Managers are required to:**

- ensure that they do not employ or engage a person who has not had the pre-requisite checks completed and cleared
- ensure that where a recurrent check is required, the check is undertaken in accordance with the timelines and other requirements
- immediately report an employee to their senior manager and/or Conduct and Professional Standards (CAPS) or Professional Standards and Investigations (PSI) if they have reason to believe that the employee has been charged with having committed, or has been convicted of committing, a serious offence, whether the employee has reported it or not.

**Shared services performance and risk (Payroll):**

- tag roles that require a mandatory WWCC (as identified by departmental policy and the appropriate Deputy Secretary) to ensure that an employee cannot be placed in those roles without having the required checks completed, cleared and recorded
- record employee WWCC clearance details for child-related roles (only)
- record employee NCRC clearance details.

**Talent acquisition:**

- arrange, verify and monitor NCRCs for all candidates, employees and contingent labour engaged via the contractor management system
- verify and monitor WWCC clearance and compliance for relevant candidates, employees and contingent labour as required for child-related roles
- arrange and verify citizenship or residency requirement checks for all candidates, employees and contingent labour engaged via the contractor management system
- initiate ChildStory Checks for potential candidates / relevant employees or on request from the hiring manager



- conduct initial risk assessments for all candidates, where required
- arrange all other required checks as part of the standard recruitment process.

**Contingent labour central / contractor central:**

- arrange and monitor NCRCs for all contingent labour procured through the contractor management system
- refer and monitor WWCC clearances for all contingent labour procured through the contractor management system in child-related roles
- arrange all other required checks as part of standard procurement/recruitment process through the contractor management system.

**For DCJ employees Conduct and Professional Standards (CaPS) Branch and for Corrective Services NSW employees, Professional Standards and Investigations (PSI) Branch:**

- undertake conduct checks as required.

## 17 Related Legislation and documents

- [Anti-Discrimination Act 1977 \(NSW\)](#)
- [Anti-Discrimination exemption \(Gazetted on 16 June 2023\)](#)
- [Australian Human Rights Commission Act 1986](#)
- [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#)
- [Child Protection \(Working with Children\) Regulation 2013 \(NSW\)](#)
- [Children's Guardian Act 2019 No 25 \(NSW\)](#)
- [Crimes \(Domestic and Personal Violence\) Act 2007 \(NSW\)](#)
- [Crimes Act 1900 \(NSW\)](#)
- [Crimes \(Administration of Sentences\) Regulation 2014 \(NSW\)](#)
- [Criminal Records Act 1991 \(NSW\)](#)
- [DCJ Employment Screening Matrix](#)
- [Drug Misuse and Trafficking Act 1985 \(NSW\)](#)
- [Firearms Act 1996 \(NSW\)](#)
- [Government Sector Employment Act 2013 \(NSW\)](#)
- [Government Sector Employment Regulation 2014 \(NSW\)](#)
- [Government Information \(Public Access\) Act 2009 \(NSW\)](#)
- [National Criminal Record Check Procedure](#)

- [Privacy and Personal Information Protection Act 1998 \(NSW\)](#)
- [Privacy and Personal Information Protection Regulation 2019 \(NSW\)](#)
- [Summary of Offences Act 1988 \(NSW\)](#)
- [Working With Children Check Procedure](#)

## 18 Assistance with this policy

Assistance and support regarding this policy is available from:

- employee’s manager or next most senior manager
- People Business Partner representative
- Talent Acquisition.

Employees and Managers may contact DCJ’s [Employee Assistance Program](#), Converge International via 1300 687 327. Converge International, offers DCJ workers, and their immediate family, confidential counselling, coaching and support 24 hours a day, 7 days a week.

## 19 Document information

Document name	Employment Screening Policy
Document reference	D24/2203403
Replaces	Employment Screening Policy Version 1.1
Applies to	Refer to <a href="#">section 2 Scope</a>
Policy administrator	HR Policy and Governance Workforce Strategy, Inclusion and Systems
Approval	People and Engagement Subcommittee 12 August 2024  Annexure 1 – Corrective Services (CSNSW): A/Commissioner CSNSW 31 August 2024.

## 20 Support and advice

Business unit	Workforce Strategy, Inclusion & Systems People, Corporate Services
Email	<a href="mailto:HRPolicyGovernance@dcj.nsw.gov.au">HRPolicyGovernance@dcj.nsw.gov.au</a>

## 21 Version and review details

Version	Effective date	Reason for amendment	Due for review
2.0	2 September 2024	Policy Review Schedule	1 September 2026