

Criminal History Assessments

1. Purpose

The purpose of this policy is to outline the Centre's commitment to the protection and safety of children and all vulnerable people as demonstrated by conducting Criminal History Assessment on all staff and volunteers.

2. Responsibilities

It is the responsibility of the Centre's Board to ensure that this policy is implemented.
It is the shared responsibility of the Centre's Board and CDO to ensure that the procedures are implemented.

3. Principles

This policy aims to ensure the policies and procedures of the Centre are in accordance with the provision of a safe environment for children and vulnerable people and that the Centre complies with the relevant legislation.

4. Definitions

Prescribed Position

Under the Children's Protection Act 1993, a prescribed position is a position that involves one or more prescribed functions. The Centre is legally obliged to assess the job descriptions and duty statements for all paid and unpaid positions in their organisation and identify those positions that involve one or more prescribed functions, the potential or expected degree of access to the Centre's funds, confidential or private information and intellectual property.

5. Policy

The Centre will conduct criminal history assessments for people working with children, as set out in Section 8B of the *Children's Protection Act 1993*. The Centre will ensure that criminal history information is dealt with in accordance with the standards developed by the South Australian government.

Criminal history assessments help us to decide who is suitable to work with children and to manage the risks around engaging people to work in positions of trust with children. However, they cannot be solely relied on to protect children from people who may harm them, therefore this policy should be read in conjunction with our Protecting Children and Vulnerable Persons Policy, Code of Conduct and Risk Management policies.

6. Procedures

The Centre will act in accordance with the '*Standards for dealing with the criminal history of people working with children*'.

Before a person is appointed, or engaged to act in, a prescribed position within the Centre, whether as an employee, volunteer, agent, contractor or subcontractor, a criminal history assessment must be conducted.

Where a person has been appointed to, or engaged to act in, a prescribed position within the Centre whether as an employee, volunteer, agent, (or a contractor or subcontractor, if appropriate due to work timeframe and client contract e.g. crèche/vulnerable clients) a criminal history assessment must be conducted every two years after appointment. For staff and volunteers working with children, the elderly and other vulnerable people, it will be repeated every year.

Any non-active volunteer who returns to the Centre after an absence of 4 months without reasonable explanation must be rechecked.

The Board of Management reserves the right to conduct a Criminal History assessment on a relevant person any time as it thinks necessary or desirable for the purposes of establishing or maintaining a child safe environment. This applies to any person who either;

- occupies or acts in a prescribed position (whether as an employee, volunteer, agent, contractor or subcontractor).
- carries out, or is to carry out, as an indirect service provider, prescribed function for the organisation.

The Board of Management requires any person, whether as an employee or volunteer, to notify the Community Development Officer if they have had a change in their criminal history at any time before the renewal date for their next criminal history assessment

The Board of Management may, if deemed appropriate, accept the following types of evidence, obtained within the last 6 months, when assessing criminal history information;

- National Police Certificate
- Criminal History record check undertaken and clearances provided in other Australian jurisdictions i.e. the Blue Card (Qld), Work with Children Check (Vic, WA).
- Statutory declarations from individuals who have lived in countries other than Australia.

When accepting other forms of evidence the Board of Management will ensure that the evidence is compatible with the person's current position. Factors such as spent convictions schemes and the purpose for which a criminal history report has been sought will influence the criminal history information that is included in a report or assessment. The Board will ensure that the previous criminal history report or assessment is appropriate to use as evidence of a person's suitability to work with children.

The Board will ensure;

- that a 100 point identify check has been conducted to confirm the identity of the applicant.
- that appropriate records are maintained to provide that evidence was accepted and validated.

In accepting other evidence, there must be compatibility between the roles of the Centre (based on risk assessment) and the criminal history reports obtained. (i.e. a check to work with children).

In the event that an employee, volunteer or applicant is not willing to consent to a criminal history assessment, or does not have a valid assessment of their Criminal History, (as accepted by the Board of Management), the Centre will preclude the individual from participating, whether as an employee, volunteer, agent, contractor or subcontractor.

In the event that it is urgent for an individual to be engaged to act in a position the Board of Management will require the individual to complete a Statutory Declaration relating to their suitability to work with children and vulnerable groups in addition to the National Police Check Application form. The Centre may then accept the individual to undertake certain duties, but the person must be under direct supervision at all times until the National Police Certificate has been received by the Community Development Officer and the individual has been deemed as appropriate to work with children and vulnerable groups.

Cost of Conducting Criminal History Checks:

The Centre is eligible for a Volunteer Organisation Authorisation Number (VOAN), which means there is no cost for applying for a National Police Certificate. In the event the Centre is no longer eligible for a VOAN then the cost of conducting criminal history checks will be carried by the Centre and not by staff or volunteers.

Criminal History Register:

A 'Criminal History Register' will be kept to ensure that regular criminal history assessments are conducted for all current employees and volunteers of the Centre. The record will also include records of any contractors, sub-contractors or agents engaged by the organisation to work with children in a prescribed position.

All contracts with external providers will contain a clause that requires the external organisation to provide evidence that criminal history assessment have been conducted on relevant personnel in accordance with our standards and will be recorded in the 'Criminal History Register'.

Assessing criminal history reports (National Police Certificate)

Where a person has no criminal history of concern, the Centre will still undertake comprehensive recruitment processes to ensure the most suitable person is selected to work with children.

Where a person does have a criminal history of concern, we will undertake an assessment of the potential harm to children posed by the person and position. Harm in the child protection context is defined as the detrimental impact on the physical, psychological, emotional or social safety, wellbeing and development of a child as a result of the actions or inactions of another person.

Risk of harm is the likelihood of inflicting harm (either directly or as a consequence of other actions and the severity of that harm).

Offences that Indicate a Prima-Facie Risk of Harm

In South Australia, 'relevant criminal history' is not defined in law. However, there are specific categories of criminal convictions that present a prima-facie risk of harm to children. A person will be considered unsuitable to be employed, contracted or hired, retained, accepted as a volunteer, or allowed to undertake prescribed positions working with children or vulnerable groups if he or she has been convicted of:

- murder or sexual assault
- violence in relation to a child
- an offence relating to child pornography
- an offence involving child prostitution
- a child abuse offence, for example criminal neglect.

Relevant Offences that potentially indicate unsuitability to undertake prescribed functions

The Board acknowledge there are other relevant offences where 'there can be a presumption that there is a presenting risk of harm to children but further assessment is necessary before a decision to exclude a person can be made'. In general, these types of criminal offences include;

- sexually-motivated offences
- violence offences/assault including
- any form of assault which has resulted in a sentence of imprisonment
- offences relating to cruelty to animals
- any other offences against a child (including drug offences).

In addition, other criminal offences may be relevant to specific, prescribed function, including: dishonesty offences, serious drug-related matters or serious traffic offences. None of these offences will automatically preclude an individual from being engaged to undertake prescribed function.

Risk Assessment on an individual:

Further assessment of risk and suitability will be conducted by the Community Development Officer in conjunction with the Board of Management, on a case-by-case basis when assessing risk of harm to children in organisational settings.

The Community Development Officer will document the assessment procedure, including:

- context of the offending, and
- situational factors, including the nature of the prescribed function and the nature and vulnerability of the children receiving the services.

The Board will ensure that the process of assessment is transparent and that opportunities are provided for individuals to understand the basis upon which criminal history is assessed.

Before conducting a risk assessment of an individual with a criminal history, we must allow the individual the opportunity to provide further information on criminal history information and contextual factors.

Where the relevant criminal history suggests a prima-facie risk of harm to children the individual bears the onus of proving they do not pose such a risk.

Where the relevant criminal history of an individual does not indicate a prima-facie risk but where there are other strong indicators of risk that cause concern, the Community Development Officer, in conjunction with the Board of Management, will be required to decide on the balance of probabilities that the individual poses a risk of harm to children.

The Community Development Officer, in conjunction with the Board of Management, will maintain written evidence (e.g. minutes of assessment meetings; risk assessment procedures) that show consideration of individual cases rather than automated clearances or preclusions.

7. References

- Children's Protection Act 1993
- Protection of Children and Vulnerable Persons Policy
- Prescribed Persons Policy
- Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children (Families SA).
- Duty of Care

8. Forms or Attachments

- National Police Check Application form

9. Approvals

	Policy	Procedure
Approving Authority	Board of Management	Board of Management
Approval Date		
Next Review Due		

