

# National Police Checking Service Screening Unit General Information Guidelines



Government of South Australia

Department for Families  
and Communities

## DTEI ACCREDITATION AND LICENSING CENTRE

The Screening Unit encourages applicants to refrain from printing this document. If printing is required, we recommend that you print double sided. This information sheet does not need to be forwarded to the Screening Unit along with the Informed Consent Form.

### General Information

If you are an employee, volunteer, agent or contractor in a South Australian Government organisation (or are about to be engaged in one of these roles) and if that role brings you into regular contact with children or into close proximity to children on a regular basis, the organisation is required by the *Children's Protection Act 1993* (SA) to obtain a national criminal history check. The organisation must also conduct a national criminal history check if you manage or supervise persons regularly in contact with children or working close to children, or if you have access to children's records.

Under the *Aged Care Act 1997* (Cth), organisations ("approved providers") which have staff or volunteers who work in aged care services subsidised under the Act and who are "reasonably likely to have unsupervised access to care recipients", are required to conduct a national criminal history check. The Australian Government *Police Certificate Guidelines for Aged Care Providers* (2006, Department of Health and Ageing) provide more information about this requirement and are available on the Commonwealth Department's website at: [www.health.gov.au/OACQC](http://www.health.gov.au/OACQC).

SA DFC will conduct a national criminal history check for staff and volunteers working in the organisation and may, by agreement, provide this service to other Government agencies or non-government organisations. In some cases, even though not obliged by legislation, an organisation may request that you undergo a national criminal history check as part of its general duty of care to its staff or clients, where it believes that such a check is an inherent requirement of the job or that the nature of the position requires this in order to minimise a reasonably foreseeable risk to persons.

Standards and guidelines recommend that national criminal history check's are to be conducted every three years for people working with children and vulnerable groups.

The information provided in your application and consent form and any further information received by the Screening Unit is used by SA DFC as part of the assessment process to determine whether a person is suitable for accreditation as an accredited driver with the Accreditation and Licensing Centre, Department of Transport, Energy and Infrastructure (DTEI).

Unless statutory obligations require otherwise, the information provided in your application and consent form and any further information received by the Screening Unit will be treated confidentially and with regard to individual privacy and will not be used without your prior consent for any purpose other than in relation to the assessment of your suitability or unless required by law. Information received through these processes will be securely stored in the

Screening Unit or the Accreditation and Licensing Centre. Under agreed standards, all criminal history information provided by CrimTrac must be destroyed within three months of receipt from CrimTrac.

### **National Criminal History Check**

A national criminal history check is an integral part of the assessment of your suitability.

Information extracted from this Form will be forwarded to the CrimTrac Agency and other Australian police services for checking action. By signing the Form you are providing your consent to these agencies:

- a) disclosing criminal history information that pertains to you from their own records to SA DFC for onward transmission to the Accreditation and Licensing Centre DTEI and/or
- b) accessing their records to obtain criminal history information that in turn will be disclosed to SA DFC for onward transmission to the Accreditation and Licensing Centre DTEI.

Such criminal history information may include outstanding charges, and criminal convictions/findings of guilt recorded against you that may be disclosed according to the laws of the relevant jurisdiction and, in the absence of any laws governing the release of that information, according to the relevant jurisdiction's information release policy.

It is usual practice for an applicant's personal information to be disclosed to Australian police services for them to use for their respective law enforcement purposes including the investigation of any outstanding criminal offences.

### **Spent Convictions Schemes**

Child-related employment screening is being conducted around Australia for many years in an attempt to minimise the risk of harm to children from persons responsible for their care and supervision. A key component of this is the provision of criminal history information (including "spent" convictions and findings of guilt of prescribed/specified offences) to employers and authorised screening organisations. In New South Wales, Victoria, Queensland and Western Australia child-related employment screening processes are governed by legislation.

#### **South Australia**

South Australia does not have Spent Convictions legislation, but South Australia Police (SAPOL) has developed a policy based on the Spent Convictions provisions of the Crimes Act 1914 (Cth) and the State's Information Privacy Principles.

A conviction will be regarded as being "spent" or "inactive" and will not be released if:

- at the time of the offence being committed, the person was an adult (18 years or over) and 10 years have elapsed since the conviction of the offence, and no further convictions have been incurred; OR
- in the case of a person who was a child (under 18 years) at the time the offence was committed and 5 years have elapsed since the conviction of the offence, and no further convictions have been incurred; OR
- in the case of a conviction that has been quashed or set aside, a pardon was issued in respect to that conviction. The conviction will be disregarded from the date that it is quashed, set aside or a pardon issued.

If an individual re-offends within the above waiting period, all prior findings of guilt are released including juvenile convictions. Convictions recorded in other jurisdictions may be

used to reactivate South Australian convictions. Convictions from other jurisdictions will be released in accordance with that jurisdiction's spent conviction/rehabilitation legislation/policies.

A serious conviction can never be regarded as "spent" or "inactive" and will always remain on an offender's criminal history unless quashed or pardoned. A serious offence is one where the sentence imposed was a fine, bond, community service order or imprisonment for a period of not less than 30 months. Serious offences that cannot become "spent" or "inactive" only activate findings of guilt for the usual waiting period.

"Spent" or "inactive" convictions are not released unless required by an Act, Registration Board, requested for court purposes, or the individual has largely unsupervised contact with vulnerable groups. Traffic offences under the Road Traffic Act are not considered for release unless they result in a prison sentence or suspended sentence.

SAPOL will release all "proven" court outcomes ("active" convictions, findings of guilt) and charges that have not been heard or finalised by a Court (pending matters are released with a warning stressing that they must not be regarded as "proven".) SAPOL will also release "inactive" and "not proven" court outcomes if the individual is employed or is being considered for employment/placement with vulnerable groups.

Relevant offences may include offences against the person, drug offences and some firearm offences. Relevant offences with an unproven result by reason of insanity or mental impairment may be considered for release in the interest of public safety.

### **Other Australian police services**

Where a criminal history record with another Australian police service has been obtained, any relevant legislation (and/or release policy) affecting that police service will be applied before that record is released. Under various pieces of Commonwealth, State and Territory legislation a person has the right, in particular circumstances or for a particular purpose, to not disclose certain convictions/findings of guilt over a certain age. Such convictions (widely referred to as "spent" or "rehabilitated" convictions) will be released in accordance with relevant legislation (and/or release policy). Please contact individual police services directly for further information about their release policies and any legislation that affects them.

### **Consent to Obtain Personal Information**

You are requested to provide your informed consent to SA DFC conducting a national criminal history check. By signing this Application/Consent Form you are providing your "informed consent", that is you are aware of what you are agreeing to when submitting your application.

Where the law requires the organisation to conduct a national criminal history check because you work with children or vulnerable groups, a refusal to consent to a national criminal history check (or provide a statutory declaration where applicable) can result in your application not being processed and you being unable to continue in that role.

By signing the Application/Consent Form you are certifying that the personal information you have provided on this Form relates to you and is correct. If it is subsequently discovered, for example as a result of a check of police records, that you have provided false or misleading information, you may be assessed as unsuitable for the position or role in question.

You should note that the existence of a record does not mean that you will be assessed automatically as being unsuitable. Each case will be assessed on its merit, so it is in your interests to provide full and frank details in the form.

### **100 Point Identification Check**

You need to provide original documentary evidence to a verifying officer to prove your identity sufficient to satisfy the '100 Point Check' referred to in the *Financial Transaction Reports Act 1988* (Cth). Please refer to the Application/Consent Form for a list of documents which can be produced to satisfy the '100 Point Check'.

Each of the documents provided to satisfy the '100 Point Check' should display the same name (ie name on birth certificate must be the same as the name on the driver's licence). If the documents display a different name (ie maiden name on birth certificate and married name on driver's licence) then proof of the change of name must be evidenced by the production of a marriage certificate, deed poll or decree nisi. These documents do not contribute towards the '100 points', but are compulsory in order to satisfy the '100 Point Check'. If you have ever been known by a different name but both of your documents are in the same name (ie married name on passport and married name on driver's licence) you do not need provide change of name documentation.

Applications failing to meet the '100 Point Check' will not be accepted.

### **Verification of Identity**

Photocopies of identification documents do not need to be provided with the Application/Consent Form. The onus is on the verifying Managers to ensure that you meet the requirements of the '100 Point Check' and to ensure that all personal details provided on the Form are accurate, legible and correspond with the original documentation provided.

### **Assessment**

As part of the assessment of your application, SA DFC may access other relevant information concerning you which is lawfully available within SA DFC or other government agencies, including relevant child protection information. Information may be obtained from police, courts, prosecuting authorities and professional registration bodies or from referees that you may nominate (but only if requested to do so).

The procedures for obtaining information on applicants and for making an assessment on that information will be consistent with natural justice, procedural fairness and equity principles. You will have the opportunity to dispute the accuracy of any criminal history information before a determination is made. You will also be informed of a decision, the reasons for the decision and can have the final assessment decision independently reviewed.