

Policy Directive



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Improper Conduct - Procedures for Recruitment/Employment of Staff and Other Persons

Document Number PD2005_109

Publication date 25-Jan-2005

Functional Sub group Personnel/Workforce - Employment Screening
 Personnel/Workforce - Recruitment and selection

Summary Probity screening of employees and reporting and managing allegations of assault etc.

Author Branch Employment Screening & Review Unit

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Community Health Centres, NSW Ambulance Service, Public Health Units, Public Hospitals

Distributed to Public Health System, Community Health Centres, Divisions of General Practice, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Tertiary Education Institutes

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Status Rescinded

Rescinded By PD2008_029

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

CIRCULAR

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|-------------|------------------------------|
| File No | A14107/1 |
| Circular No | 97/80 |
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| Contact | John Greville (02) 9391 9439 |

PROCEDURES FOR RECRUITMENT AND EMPLOYMENT OF STAFF AND OTHER PERSONS - VETTING AND MANAGEMENT OF ALLEGATIONS AND IMPROPER CONDUCT

INTRODUCTION

This circular **rescinds and replaces** Departmental Circular **96/27** "Guidelines for the Management of Allegations of Sexual Assault, Physical or Emotional Abuse of a Child by a NSW Health Employee". **Related** Departmental Circulars are:

- **97/14** "Notification of Suspected Child Abuse and Neglect and Exchanging Information in Child Protection Investigations"

This circular applies to all organisations within NSW Health, namely Area Health Services, incorporated hospitals listed in the Second Schedule of the Public Hospitals Act, institutions and services listed in the Third and Fourth Schedule of the Public Hospitals Act and the Ambulance Service of NSW. The circular also applies as a condition of funding to Non Government Organisations receiving grants from NSW Health.

Health Services have a duty of care to all patients and clients receiving services.

This circular includes **policy** and **procedures** in respect of:-

1. probity screening of all persons working in any capacity in the NSW Health System;
2. reporting and managing allegations of sexual, physical and emotional abuse of children and other patients/clients by staff, students, volunteers or any other person employed or engaged in any capacity in a health service.

These procedures are a critical part of ensuring the safety of patients/clients and are to be the subject of regular workplace discussions and training.

Distributed in accordance with circular list(s):

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| A 74 | B | C 71 | D | E | |
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Relevant criminal record checks are to be conducted on:

- **all new staff and visiting practitioners;**
- **all current employees and visiting practitioners;**
- **students undertaking placements;**
- **volunteers;**
- **persons engaged in any other capacity (eg academics, board members, clergy, union officials, contractors, official visitors);**
- **persons engaged in any capacity who are either unsupervised or on limited supervision (eg. employed through related Non-Government Organisations)**

Checks will be conducted for the following convictions:

- **sexual offences;**
- **serious offences involving a threat or injury to another person; and**
- **other serious offences but only where directly relevant to the duties of the position (eg. embezzlement/larceny for financial positions)**

The reference to "serious offences" in this circular means:

- offences committed in New South Wales which are punishable by penal servitude or imprisonment for 12 months or more; and
- offences committed outside New South Wales which, if they had been committed in New South Wales would be punishable by penal servitude or imprisonment for 12 months or more.

Health Services are to advise all relevant persons that criminal record checks on a routine annual basis will be conducted on all current employees, visiting practitioners and persons engaged in any other capacity in the NSW Health System.

This circular has been prepared having regard to privacy considerations relating to criminal record checking of individuals.

PART 1 - ADVERTISING AND SELECTION PROCEDURES

ADVERTISEMENTS

- All advertisements for vacant positions or available appointments in the NSW Health System must contain a statement that **“relevant criminal record checks will be conducted on applicants recommended for employment/appointment to positions within the NSW Health System”**.
- Health Services are to ensure that information provided to applicants applying for vacant positions or available appointments contain the following, **“relevant criminal record checks will be conducted on the recommended applicant”**. This statement is to be included in all advertisements and recruitment packages. The convenor of selection panels is to certify that all persons interviewed are aware that the above checks are to be made.
- Applicants for employment/appointment must be informed that structured reference checks (as defined on page 4) will also be conducted and all information obtained will be assessed in light of the duties of the position or appointment being offered.
- All registered health professionals and other health service providers are to provide a written authorisation to obtain relevant information from the Health Care Complaints Commission and/or registration authorities, including any conditions placed on practice, the nature of any outstanding complaints or pending disciplinary action against the applicant.

SELECTION - GENERAL PRINCIPLES

- Decisions concerning selection are to be:
 - fair, consistent, unbiased and based only upon relevant factors;
 - open to review;
 - neither arbitrary nor capricious;
 - free from nepotism, patronage or personal favouritism; and
 - considered as to cost effectiveness.
- Selection processes used should determine the character and probity of staff, eg. questions will be asked of applicants to determine character and conduct and suitability of appointment.
- Applicants for employment/appointment must be informed that a reference check will also be conducted and all information obtained will be assessed in light of the duties of the position or appointment being offered.
- Relevant legislation must be complied with, ie. Area Health Services Act, Public Hospitals Act, Public Sector Management Act, Health Administration Act, Ambulance Services Act, Anti-Discrimination Act.
- Appropriate confidentiality of information received through the selection process must be maintained.

VETTING OF RECOMMENDED APPLICANTS

This applies to recommended applicants for new appointments and includes promotional appointments. Checks will only be performed on the recommended applicants to whom it is proposed to offer the position(s). Recommended applicants are to be required to provide the following documentation to support their true identity (recruitment packages should inform applicants of these requirements):-

- a birth certificate (unless the person is an Isolated Area Aborigine, see Appendix A);
- a passport (where possessed); OR where a person does not have a passport, photo proof of identity certified in the manner required for obtaining an Australian passport will suffice;
- Information on former names or aliases (if any)
- items as listed at Appendix A, to establish a total of 100 points. Any combination from the list may be provided. Copies of the items provided should be retained on the person's personnel file.
- **All registered health professionals must produce proof of current registration, including any conditions on registration.**

STRUCTURED REFERENCE CHECKING

The interview process as a primary source of assessment of applicants is not sufficient. Other assessment techniques should be used to supplement the interview process.

All applicants for positions in the NSW Health Service are required to provide, at the time of application, at least two referees who can be contacted after the interview.

The referees will be asked specific questions to obtain information demonstrating past behaviour and performance of the applicant in situations similar to those which will occur in the position for which they have applied. In the same way that more relevant information can be collected in the interview through a structured approach, so referee reports can be more effective if planned well.

Health Services reserve the right to contact an applicant's previous employer(s) or institution(s) at which previous appointments have been held. This should be discussed with the applicant at the time of interview, prior to any contact. Contact may be desirable with an applicant's current employer. However, no such contact will be made without prior permission of the applicant.

Health Services are to request written authorisation from registered health professionals and other health service providers to obtain relevant information from the Health Care Complaints Commission and/or registration authorities, including any conditions placed on practice. Liaison with the registering authorities is to be undertaken by the Manager, Staff Records Management Unit, NSW Health Department to determine the nature of any outstanding complaints or pending disciplinary action against the applicant. Only complaints/disciplinary information relating to offences covered by this circular are to be conveyed to the Health Services by the Unit.

Written references usually provide information of a general nature and are not normally specific to the position for which the applicant has applied. Structured interviews with referees conducted over the telephone are more effective in obtaining information.

PART 2 - CRIMINAL RECORDS CHECKS

PROCEDURE FOR SUBMITTING REQUESTS

Each Health Service, Non-Government Organisation and Employment Agency which has not already done so, is to nominate a contact person through whom all criminal records checks within the Organisation are processed. Please advise **the Manager, Staff Records Management Unit [telephone: (02)9391 9439; fax (02)9391 9447]** of the name and contact details.

Third Schedule organisations are to forward requests for criminal record checks to the Health Service in which they are located.

Currently, the NSW Police Service will only accept requests for checks from the Department of Health's Human Resource Management Branch or the NSW Ambulance Service. All requests for criminal record checks from health services and employment agencies should be forwarded to the Manager, Staff Records Management Unit on fax (02) 9391 9447 for submission to the Police Service. **No offers of employment/appointment should be made until the necessary checks have been completed.**

Presently, details must be forwarded to the Health Department on the criminal record check form (Appendix B) together with a brief job description. The form must be completed as appropriate. Please ensure that the details are **typed**, as the Police Service will not accept hand written requests. Font size should not be smaller than 12 point.

Where there is an emergency, and the Chief Executive Officer or delegate considers that it is essential to fill a position prior to the results of the criminal record check being obtained, a conditional offer of employment/appointment may be made to the recommended applicant. The letter of offer must include a statement that the continuation of employment is subject to a satisfactory criminal record check being received.

EMPLOYMENT AGENCIES

The Department of Health has already established arrangements with current Recruitment Agencies. Health Services are to inform the Manager, Staff Records Management Unit when new Recruitment Agencies are contracted to provide services for temporary staff. The Department will then make arrangements to ensure the agency concerned is made aware of the requirements to screen persons employed or engaged in any capacity in a Health Service. This process allows for agency staff to be screened by NSW Health in advance of employment. Area Health Services should inform agencies that staff who present for duty without evidence of proper screening will not be allowed to commence duty. Agencies should inform Health Services of the identity of any staff scheduled for duty.

NON-GOVERNMENT ORGANISATIONS (NGO's)

The Department has contacted all NGO's funded from Central Office and advised them of the screening requirements. These requirements including the management of confidentiality of records will be included as a condition of future funding. Where Health Services fund Non-Government Organisations directly they are to ensure that screening is conducted and conditions of funding reflect these requirements.

¹ In the near future, criminal records checks will be conducted via electronic means by Health Services to the Dept. which will reduce the turn around time. Training in this procedure will be supported by the NSW Health Dept.

STUDENTS

Universities will advise students upon enrolment that the Department will conduct a criminal record check prior to their placement within the Health System. The Universities will distribute to enrolling students a letter from the Department setting out the Department's policy; the reasons for the policy; the procedures for the policy's implementation; the requirement that a form should be returned to the Department to assist the criminal record checking process ; a form to collect the information required for the criminal record check to be undertaken. The Department of Health will supply the University with a list of students who have received clearance. This will enable the University to contact any remaining students and ensure they complete the necessary application with the Department.

In taking action to refuse a placement, the Department will:

- (a) comply with any Department policy or guidelines dealing with criminal records checks as issues by the Department from time to time;
- (b) advise the affected student directly of the refusal

The Department will also advise the Universities of the names of any students who are refused clinical placement, but will not provide the University or inform the University of the reason for refusal.

Those students who have been cleared will be provided with a clearance letter. That letter is to be shown to the respective Health Services where placement is sought.

RESULTS OF CRIMINAL RECORD CHECKS

Whilst each matter is to be determined on a case by case basis, as a general rule NSW Health policy is that persons convicted of sexual offences against children and other vulnerable people will not be employed/appointed.

Presently, the Police will return the list of names with information specifying those on which there are *no recorded convictions*. Those names which require further investigation will be identified by a thick black line drawn through the name in question. Checked lists will be returned to Health Services, Employment Agencies, NGO's etc. as soon as they are received by the Staff Records Management Unit.

When the lists are returned, unmarked names may be made an immediate offer of employment/appointment.

Information pertaining to names not cleared immediately will be retained by the NSW Police Service, and the Staff Records Management Unit will liaise with the Police Service regarding the release of details of the criminal record. The Staff Records Management Unit will then contact the relevant nominated contact person regarding this information.

No offers of employment/appointment are to be made until the details of recommended applicants with criminal records have been reviewed unless an emergency situation exists as detailed above.

Details of recommended applicants with criminal records are to be reviewed by the Chief Executive Officer or delegate (who must be a senior officer).

Contact between a designated senior officer and the applicant should be personal (visit by officer, or telephone call). This is preferable, but if written contact is necessary, the conviction should not be specifically mentioned because of the risk of disclosure to other parties. Instead it should only indicate that a "query" has arisen in regard to the application and an offer made to discuss this "query".

The applicant's records should be discussed in a personal interview unless the applicant specifically requests some other form of communication such as telephone discussion or is unable to attend for interview. At the interview, the full details of the record should be read to the applicant and shown to the applicant if requested.

A final decision on the application (or to take any other adverse action against the person because of his/her record) should not be made until the person has been given adequate opportunity to discuss the record in order to:

- (a) verify that it relates to him/her;
- (b) check it for accuracy; and
- (c) provide details in writing within 5 working days of any relevant matters that they wish considered in relation to the matter.

Where employment/appointment is ultimately refused, applicants should be told if there are any similar positions for which their record might not be a barrier, and after what period of time (if any) a further application by the applicant might be reconsidered.

Disclosure of a candidate's criminal convictions is to be strictly on a "need to know" basis, ie. Chief Executive Officer or designated senior officer.

The Staff Records Management Unit is available to provide advice regarding the employment/appointment of any person with a criminal record. [Telephone: (02)9391 9439; Fax: (02)9391 9447].

PENDING CHARGES

Where there are pending charges, where a date has been fixed for hearing, or where convictions have appeals pending, it may be possible to employ/appoint the candidate on a temporary basis, subject to the nature of the position and the nature of the charge, or else defer the decision regarding employment/appointment pending the resolution of the outstanding matter(s) by the Court.

Where a charge is pending against a person, who, if convicted would be refused employment/appointment, then:-

- (a) wherever possible, the offer should be deferred until the charge is heard; or
- (b) if appropriate safeguards for patients/clients are possible, temporary employment/appointment may be considered; or
- (c) if neither is possible then the Department should give preference to an applicant who has been subsequently acquitted (over equally qualified applicants) when a similar vacancy occurs.

REVIEW**Applicants for Employment/Appointment - Request for Review**

If a Health Service decides not to employ/appoint an applicant because of a criminal conviction, the applicant should be informed of the reason for the decision, as well as the fact that they can request a review of the decision by the Health Service. Any such request must be made within 5 working days.

By Director-General, NSW Health Department

Where an organisation wishes to make an offer of employment/appointment to an applicant notwithstanding a criminal conviction(s), the relevant contact person is to:

- advise the Staff Records Management Unit;
- forward to the Department marked "Confidential" and "Attention: Manager, Staff Records Management Unit", the applicant's written submission (if any);
- a written submission from the Health Service, Employment Agency, NGO etc. as to why an appointment should be made.

Where the Director-General does not support the employment/appointment of the person, the matter will be subject to further discussion and if appropriate, a direction "not to employ/appoint" will be made by the Director-General.

Conversely, where an organisation does not wish to make an offer of employment/appointment to an applicant on the grounds of the criminal conviction(s), the relevant contact person is to:

- advise the Staff Records Management Unit;
- forward to the Department marked "Confidential" and "Attention: Manager, Staff Records Management Unit", the applicant's written submission (if any);
- a written submission from the Health Service, Employment Agency, NGO etc. as to why an appointment should not be made.

Where the Director-General does support the employment/appointment of the person, the matter will be subject to further discussion and if appropriate, a direction "to employ/appoint" will be made by the Director-General.

Current Employees/Appointees - see Part 3

PRIVACY CONSIDERATIONS**(1) Spent Convictions**

The Criminal Records Act 1991 limits the effect of a person's conviction for a relatively minor offence if the person completes a period of crime-free behaviour, and makes provision with respect to quashed convictions and pardon. On completion of the ten year period, the conviction is to be regarded as "spent" and, subject to some exceptions, is not to form part of the person's criminal history. This means that the Criminal Records Unit of NSW Police Service will not disclose to any other person for any purpose, information in regard to the conviction.

In accordance with this Act, convictions are considered as capable of becoming “spent” except:

- a) convictions for which a prison sentence of more than 6 months has been imposed;
- b) convictions for sexual offences;

Convictions may be spent in accordance with the Act whether it is a conviction for an offence against a law of New South Wales or a conviction for an offence against any other law.

(2) Openness

Interviewees are to be reminded of the requirement in regard to probity screening at the interview and invited to contact the convenor of the panel or the Health Service Human Resource Manager should they have any concerns.

(3) Discussion - *No adverse decisions should be taken without giving the subject the opportunity for prior discussion and where appropriate, written submission. (Please see "Results of Criminal Record checks" for further details.)*

(4) Review - *All adverse decisions should be subject to an appropriate review.*

(5) Destruction - *Health Services are to maintain confidentiality and destroy criminal record information after it has been used. Criminal record information will be retained by the Staff Records Management Unit under strict security. All positive criminal records are to be destroyed by Area Health Services, Non-Government Organisations and Agencies once they have been actioned. (Refer 'Confidentiality' for further details).*

FACTORS CONSIDERED IN DETERMINING CASES

The main factors to be taken into account in determining individual cases are:

Nature of Offence/s - Any decision on employment/appointment should have regard to the nature and frequency of the offence/s and the relevance of the offence/s to the particular position for which the applicant is being considered.

Age at which Offence/s are Committed - The age at which offences are committed can often be an important factor. Certain offences committed during youth may be viewed in an entirely different light to the same offences committed by a person of mature years.

Recency of Offences - As a general rule, persons under a good behaviour bond or probation for offences of any seriousness are scrutinised very closely before being accepted for employment/appointment. Trouble free completion of bond or probation period should be taken into consideration when assessing degree of rehabilitation.

Contact by the Manager Staff Records Management Unit may be made with the Probation and Parole Service or the Department of Courts Administration to ascertain if information is available on the attitude and behaviour of the applicant for employment/appointment. *However, this action must not be taken without prior knowledge and approval of the applicant.* Community Corrections can provide an appraisal of the person and give some indication of the likelihood of the applicant not offending in the future. This information can be of considerable assistance in the decision-making process.

Mitigating or Extenuating Circumstances - Where possible, consideration should be given to any mitigating or extenuating circumstances which might be revealed in relation to the offence(s) committed. This might include provocation, peer group pressure at the time of the offence and the circumstance/s in which the offence was committed.

General Character Since the Offence/s - This aspect can also have an important bearing in some cases. The following factors may be relevant:

- (a) Where the applicant was or is employed/appointed in the Public Sector and, if so, reports on his/her service with departmental recommendation.
- (b) Steady employment record/satisfactory appointment history.
- (c) Favourable reports by past employers/institutions, interviewing officers, or officers of Probation and Parole, Department of Courts Administration.

PART 3 - MANAGEMENT OF ALLEGATIONS AND CONVICTIONS AGAINST CURRENT EMPLOYEES/APPOINTEES

The NSW Health System has a duty of care to all patients and clients receiving services, as reflected in the Health Services' Codes of Conduct. **Any person, upon being engaged in any capacity in the NSW Health System is to be provided with a copy of the Health Service's Code of Conduct.** The culture of NSW Health should be one which prevents any form of abuse of patients and clients by staff and ensures that all staff actively seek to protect children and other vulnerable persons from abuse and provides effective counselling and medical services to victims.

Allegations of sexual, physical or emotional abuse by employees, students or any other persons in a Health Service in any capacity, must be addressed promptly and appropriately to ensure further abuse does not occur and legal or disciplinary action is pursued, where appropriate. Confidentiality concerning any allegation is to be strictly maintained to protect the privacy of both the alleged victim and alleged offender and to avoid any subsequent investigation being compromised. The following procedures must be observed:

Allegations of sexual assault, physical or emotional abuse by a NSW Health employee/appointee, staff member of a Non-Government Organisation, volunteer or student/clinician undertaking a placement etc, must be addressed promptly.

Allegations of sexual assault, physical or emotional abuse by employees, students or any other person in a Health Service which:

- (a) do not arise from incidents within a NSW Health Service; and
- (b) are the subject of current investigation by the police

are to be assessed as to the risk to patients/clients involved, (if any) and appropriate action taken.

PROCEDURES TO BE FOLLOWED WHEN AN ALLEGATION IS MADE OF PATIENT/CLIENT ABUSE

Where appropriate, the Hospital/Health Service is to advise the employee/appointee of the allegation made against them and the duty of the Hospital/Health Service to investigate the matter. The employee/appointee is to be advised that they may make contact with their union, legal representative, staff counsellor or, where applicable, an employee assistance program. However, no such persons have a right to impede an investigation.

The following steps are to be taken immediately when an allegation is made against a staff member/appointee/student/volunteer/NGO employee.

1. Assessment

The allegation is to be assessed as to its relevance to the current duties of the person.

2. Supervision, Relocation or Suspension

If appropriate, the person is to be placed under direct supervision or relocated at once, on a without prejudice basis, to a work area where they do not have direct patient contact. If this is not possible, employees of Health Services/NGO's should be suspended with pay pending assessment of the allegation. In the case of the suspension of a Visiting Medical Officer, the Health Service should refer to the service contract under which they are appointed.

3. Notification

The following organisations are to be notified by the Health Service/Non-Government Organisation:

- NSW Police Service;
- If the alleged victim is under the age of 18 years, the Department of Community Services;
- Staff Records Management Unit, Department of Health
- Health Care Complaints Commission

The following information is required to be notified :

- the name, medical record number and current location of the alleged victim;
- the name, position and contact number of the person making the complaint;
- the name and position of the alleged offender;
- the nature, time, date and location of the alleged abuse;
- the name of the DOCS officer and Police officer contacted, the notification number and the date notified and any action anticipated by DOCS; and/or police and
- the name of the CEO advised and date and time of advice.

4. Investigation by Health Service

Management should initiate an independent investigation immediately and take appropriate disciplinary action as deemed necessary. Liaison with the other investigative agencies is to occur to ensure their procedures are not compromised. Health Services/Non-Government Organisations are to liaise regularly with the Manager, Staff Records Management Unit.

5. Counselling and Treatment

Appropriate counselling and medical services should be arranged immediately for the victim and family.

PROCEDURES TO BE FOLLOWED WHEN A HEALTH SERVICE/NON-GOVERNMENT ORGANISATION BECOMES AWARE OF A CRIMINAL CHARGE AGAINST A PERSON WORKING IN THE HEALTH SYSTEM

These procedures apply whether the offence is alleged to have occurred on duty or otherwise.

The following steps are to be taken immediately when the Health Service or NGO relevant to a health service provider becomes aware of a charge:

1. Assessment

The charge is to be assessed as to its relevance to the current duties of the person.

2. Supervision, Relocation or Suspension

If appropriate, the person is to be placed under direct supervision or relocated at once, on a without prejudice basis, to a work area where they do not have direct patient contact. If this is not possible, employees of Health Services/NGO's should be suspended with pay pending assessment of the charge. In the case of the suspension of a Visiting Medical Officer, the Health Service should refer to the service contract under which they are appointed.

3. Notification

The following organisations are to be notified of the details of the charge:

- Staff Records Management Unit, Department of Health, directly;
- Health Care Complaints Commission
- Where relevant, Health Professional Registration Board and Registering authorities.

4. Liaison with Investigative Agencies

Liaison with other investigative agencies is to occur. Liaison with the NSW Police Service should generally occur through the HR Managers. Special inquiries to the Police Service will be conducted through the Manager, Staff Records Management Unit. Area Health Services/Non-Government Organisations are to liaise regularly with the Manager, Staff Records Management Unit.

5. Action by Health Service/NGO

If a prolonged delay is likely to occur before the matter comes to court, the Health Service/NGO may undertake its own inquiries to determine the future employment/appointment of the person. The person must be afforded an adequate opportunity to discuss the circumstances surrounding the charge and put forward to the employer any matters he/she considers relevant before any action is taken.

PROCEDURES TO BE FOLLOWED WHEN A HEALTH SERVICE/NON-GOVERNMENT ORGANISATION BECOMES AWARE OF A CRIMINAL CONVICTION AGAINST A PERSON IN THE HEALTH SYSTEM

The following steps are to be taken immediately when a Health Service/NGO becomes aware of a conviction for any other serious offence against a person working in the NSW Health System:

1. Assessment

The conviction is to be assessed as to its relevance to the current duties of the person, including interview with the employee/appointee in order to :

- verify that the conviction relates to him/her;
- check it for accuracy; and
- discuss the circumstances surrounding the conviction.

2. Supervision, Relocation or Suspension

If appropriate, the person is to be relocated at once, on a without prejudice basis, to a work area where they do not have direct patient contact. If this is not possible, employees of Health Services/NGO's should be suspended with pay pending assessment of the conviction. In the case of the suspension of a Visiting Medical Officer, the Health Service should refer to the service contract under which they are appointed.

3. Opportunity for Worker to be heard

The Health Service/NGO is to afford the person an opportunity to put forward in writing (within 72 hours) such matters as the person wishes considered in determining their future employment/appointment.

4. Action proposed by the Health Service/NGO

Whilst each matter is to be determined on a case by case basis, as a general rule NSW Health policy is that persons convicted of sexual offences against children and other vulnerable people will not be employed/appointed.

Where an employee/appointee is convicted of a serious offence, the Health Service/NGO may propose to:

- (a) Take no action;
- (b) Place conditions upon the person's work concerning supervision of, or reporting by, or limitations upon the duties performed by, the person;
- (c) In addition to or as an alternative to (b) above, transfer the person provided there is suitable alternative employment; or
- (d) Terminate the person's appointment/employment.

5. Notification

The Staff Records Management Unit of the Department of Health is to be provided with:

- details of the conviction;
- any written submission of the worker;
- the action proposed by the Health Service/NGO.

Notification of the details of the conviction is also to be made to the Health Care Complaints Commission.

6. Review by Department of Health

The Staff Management Unit will seek advice from relevant areas of the Department, eg. Human Resources Management, Legal, relevant clinical areas, and Industrial Relations. The Unit will then recommend to the Director-General whether the action proposed by the Health Service/NGO should be confirmed.

If the Director-General does not support the proposed action, further consultation with the Health Service will occur, and if appropriate, the Director-General will issue a direction to the Health Service as to the action to be taken/not to be taken by it.

In the case of workers who are not employed or appointed by the Health Service (eg, employees of NGO's) the Department will make a recommendation to the employing body who will have obligations in relation to the management of probity of staff under their funding agreements.

BEHAVIOURS TO BE REPORTED

All staff are required to report to their supervisor or appropriate senior manager behaviours or circumstances which lead them to suspect improper conduct is taking place. **Staff are to be advised that they may report matters to the Manager, Staff Records Management Unit, Department of Health, if they so wish.**

CONFIDENTIALITY

In order to maintain the strictest confidentiality in the keeping of criminal records the following procedures should be followed:

- (a) details of criminal records should under no circumstance be kept on the applicant's personnel file. Details of criminal records and related documents should be kept separately from normal filing systems under secure arrangements with only limited access from authorised officers. Health Services should record the Department of Health List Number (top right hand corner of the Criminal Record Check Form) and date that the check was performed on the staff member's personnel record/file as a reference.
- (b) under no circumstances should details of criminal records be given to a third party for transmission unless they are securely bound and sealed;
- (c) files should be kept secure at all times when not being actioned;
- (d) officers authorised to receive criminal record information should sign a statement indicating they are aware of the penalties for unauthorised disclosure;
- (e) disciplinary action should be undertaken against any officer giving out unauthorised details of criminal records;
- (f) criminal record information should not be used for a purpose other than for determining eligibility for appointment to a position or continuing employment.
- (g) destruction of criminal records information after it has been used.

AUDIT

From time to time, the Staff Records Management Unit will be required to audit requests made for criminal records checks and decisions made to employ persons in light of criminal convictions. Areas must be in a position to supply records to establish adherence to the requirements of this circular including:

- authorisations by applicants
- records or requests by Area Health Services and Non-Government Organisations
- establishment records to verify employment
- selection process outcomes

Any enquiries relating to this circular should be directed to the relevant Human Resource personnel in the Health Service. Only Human Resource personnel from Health Services should contact the Department direct.

Michael Reid
Director-General

RESCINDED

APPENDIX A

DOCUMENTARY EVIDENCE OF IDENTIFICATION TO BE SUBMITTED BY RECOMMENDED APPLICANTS PRIOR TO APPOINTMENT TO POSITIONS IN THE NSW HEALTH SYSTEM.

NB. The point score of documents produced must total at least 100 points.

| <i>Item</i> | <i>Point Score</i> |
|--|--------------------|
| Passport | 100 |
| Child under 16 years (any one of the following) | 100 |
| <ul style="list-style-type: none"> • birth certificate • citizenship certificate • passport | |
| Recent arrival in Australia (less than 6 weeks) | |
| <ul style="list-style-type: none"> • valid passport and visa (resident) | 100 |
| Isolated Area Aborigine | |
| <ul style="list-style-type: none"> • a written reference signed by two acceptable referees | 100 |
| Citizenship Certificate | 70 |
| Birth certificate | 40 |
| Licence issued under law (eg driver's licence, professional's licence to practise) | 40 |
| Public Service ID (photo) | 40 |
| Social Security Card (photo) | 40 |
| Tertiary Education ID (photo) | 40 |
| Employment ID (photo) | |
| <ul style="list-style-type: none"> • ID Card issued by Employer (Name & Address) • ID issued by employer (Name only) | 35 25 |
| Rates Notice | 35 |
| Credit/Debit Cards, Pass Books (one only per institution) | 25 |
| Medicare Card | 25 |
| Membership Card | 25 |
| <ul style="list-style-type: none"> • union or trade, professional bodies • educational institution | |

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APPENDIX A**16**

DOCUMENTARY EVIDENCE OF IDENTIFICATION TO BE SUBMITTED BY RECOMMENDED APPLICANTS PRIOR TO APPOINTMENT TO POSITIONS IN THE NSW HEALTH SYSTEM.

APPENDIX B**17**

CRIMINAL RECORD CHECK REQUEST FORM