

 Procedure

Criminal history check

Implementation date: 11/06/2018
Version: 4.0

Audience

All Department of Education employees (excluding classroom teachers, school leaders and heads of programs) and individuals applying for employment with the department.

Purpose

This procedure outlines the department's procedure for conducting criminal history checks on current employees and individuals applying for employment and who have been recommended for engagement.

This procedure does not cover circumstances where an employee's criminal history changes due to charges or conviction for an offence.

Overview

Under the [Employment screening \(Directive 07/11\)](#) the Director-General may conduct a criminal history check of an employee or applicant. A criminal history check may only be conducted on an individual who has given written consent and provided satisfactory proof of identity.

Engagement cannot commence with the department until a determination has been made regarding the relevance of the criminal history to the work being undertaken.

For recognised positions, a criminal history check **will** be initiated for an employee or applicant who is:

- recommended for engagement (permanent, temporary or casual); or
- is undertaking higher duties or is relieving at, below or above level; and
- is in a recognised position for a total accumulated period of greater than six months; and
- has not previously undergone a criminal history check with the department in the past two years.

For non-recognised positions, a criminal history check may be initiated for any reason at the discretion of the selection panel. Where a panel chooses to initiate a criminal history check for appointment to a non-recognised role for any period, the selection report should state the reason a criminal history check was undertaken.

Responsibilities

Employee and applicant for employment

- Provide consent for a criminal history check.
- Provide relevant proof of identity to accompany the request for a criminal history check.

Human Resources branch

- Ensure all documentation in relation to criminal history checks is managed in accordance with the [information privacy and right to information](#) procedure.
- Ensure the departmental requirement for conducting a criminal history check is included in role descriptions for all positions.
- Determine whether further criminal history checks are required for current employees who have changed employment circumstances and who have previously undertaken a criminal history check during their employment with the department.
- Coordinate the invoicing of business units for the cost of conducting criminal history checks.
- Ensure information provided to the Queensland Police Service is complete.
- Update the department's human resource information system as required.

Manager, principal, supervisor

- Ensure you follow this procedure when seeking consent to undertake criminal history checks and prior to making offers of employment
- Pay the cost of conducting criminal history checks for your work unit / school.

Selection panel

- Ensure this procedure is followed during a recruitment process.
- Ensure all documentation in relation to criminal history checks is managed in accordance with the [information privacy and right to information](#) procedure.
- Ensure all criminal history information is kept strictly confidential at all times and not included in the selection documentation or disclosed to anyone except for the purpose of assessing the suitability of the person for particular duties.

HR delegate

- Approve or reject the recommendation of the selection panel.
- Approve assessment of criminal history check.

Authorised officer

- Submit a request for a criminal history check.

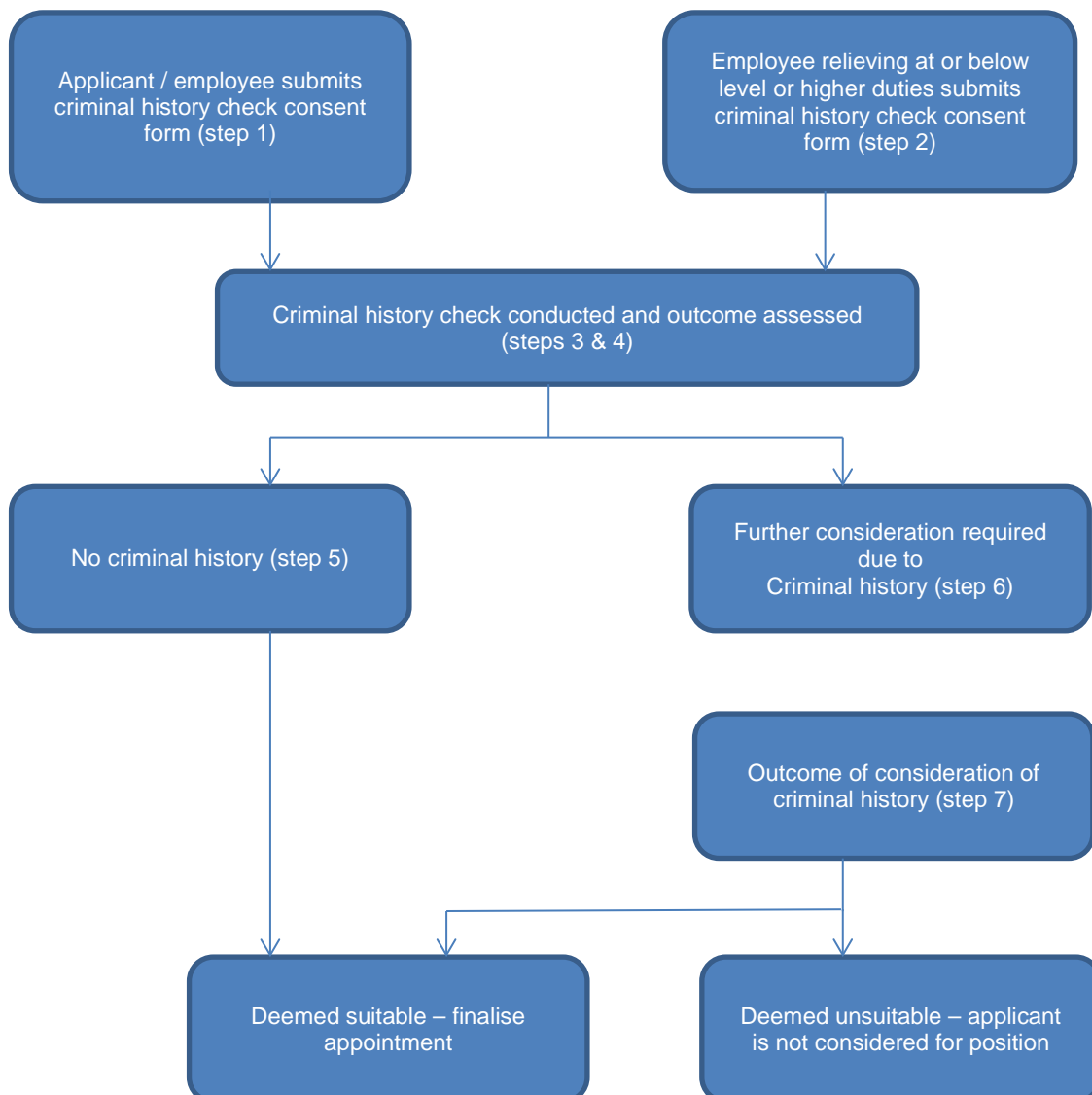
Director-General (or nominated delegate)

- Determine, following recommendation through the review process, whether an individual should or should not be appointed to a position because of their criminal history.
- Determine, following recommendation through the review process, that a current employee be deployed to other duties where ongoing employment in their current role poses an unacceptable degree of risk to the department, but they are still suitable for employment with the department.

Payroll Services

- Updates employee records with criminal history check information and clearance.

Process



1. Option A: During the recruitment process.

Nominated applicant to complete the consent form and proof of identity for criminal history check during the recruitment process

At time of interview

For the panel chair is to inform applicants at the time of interview:

- the department's requirement to conduct a criminal history check by the Queensland Police Service for the nominated applicant
- that no criminal history information will be stored on any personnel or other departmental file, and
- all information is private and confidential.

At the interview, the panel may ask the applicant to complete a [criminal history check and consent](#) form. If an individual does not provide written consent for a criminal history check or does not return the form, they will not be considered for the position.

Once the preferred applicant/s has been identified

Alternatively, the [criminal history check and consent](#) form can be requested once the preferred applicant/s has been identified.

For applicants who have resided in New Zealand, a [New Zealand Police vetting consent](#) form is required to be completed as well.

Engagement of contractors

Where contractors are engaged in recognised positions via a contracting company the contracting company will ensure a criminal history check is completed for each contractor.

Contractors are not able to commence work with the department until a determination has been made by the HR delegate regarding the relevance of the criminal history to the work being undertaken.

2. Option B: Employee relieving at or below level or higher duties**Engagements of less than six months**

The manager, principal, supervisor is to ensure the employee has provided a copy/screenshot of their My Employee Details report from MyHR and confirmed in writing that their criminal history has not changed since their last criminal history check was undertaken.

Where the criminal history check occurred greater than two years prior, the manager, principal, supervisor may request the employee's consent to undertake a criminal history check.

The manager, principal, supervisor is responsible for maintaining a record of the declaration and providing this information where requested in line with record keeping requirements detailed in **step 7**.

Engagements with a total accumulated period of more than six months

For engagements of more than six months or that are extended and reach an accumulated total of 6 months and where a criminal history check was undertaken greater than two years prior, a manager, principal, supervisor must instruct the employee to complete a [criminal history check and consent](#) form.

3. Request for criminal history check

The selection panel (or manager) submits the following documentation to HR Branch:

- [criminal history check and consent](#) form
- two identification documents as proof of identity (legible photocopies of proof of identity are required).

On receipt of the paperwork, the HR Branch confirms the requirement to undertake the criminal history check and submits the request to the Queensland Police Service for processing.

4. Criminal history check assessment outcome

On receipt of the criminal history report from the Queensland Police Service, HR Branch reviews the criminal history check result.

Where there is no criminal history, proceed to **step 5**.

Where there is a criminal history and further consideration is required, proceed to **step 6**.

5. No criminal history

Where the individual's criminal history report is clear, the HR branch emails, the HR Branch emails the relevant panel chair (or manager in the case of an employee) advising that they can proceed with the offer of employment for the individual.

The panel chair/manager principal, supervisor can then finalise the appointment. Proceed to **step 8**.

6. Further consideration required – criminal history information exists

Where the criminal history check notifies existence of a criminal history, the HR Branch will assess if the criminal history poses a risk to the department by determining the relevance of the criminal history check through consideration of:

- the nature of the offence/s committed
- their imputed effects on the outcome of the position in question
- the nature of the relevant duties to be performed, including
 - the perception of public and client confidence in the performance of relevant duties and in the department
 - the occupational values, code of conduct and client service required by the performance of relevant duties
- the date of the offence
- any other matters the Director-General deems relevant.

7. Outcome of consideration of criminal history information

Criminal history *does not* pose a risk to the department

Where the criminal history report provided by the Queensland Police Service has been considered and the individual does not pose a risk, the HR Branch emails the relevant panel chair (or manager, principal, supervisor in the case of an employee) advising that they can proceed with obtaining approval for the selection recommendation and then make the offer of employment to the individual.

The panel chair, manager, principal, supervisor can then finalise the appointment. HR Branch requests that Payroll Services updates the employee record with criminal history check information and clearance.

Criminal history *may* pose a risk to the department

HR Branch asks the applicant to provide a written submission in response to the criminal history check within five days. HR Branch will detail specifically in the request the information required from the applicant.

HR Branch considers the written response and:

- a. **deems the individual suitable.** HR Branch emails the panel chair/manager, principal, supervisor advising that they can proceed with the offer of employment. HR Branch requests that Payroll Services Unit updates employee record with criminal history check information and clearance and any special conditions of employment as a result of the criminal history.

HR Branch informs the work unit supervisor of any adjustments that may be required to duties undertaken

by the individual as a result of their criminal history.

OR

- b. makes a preliminary decision that the applicant is not suitable.** HR Branch informs the individual in writing of the preliminary decision and provides the applicant with a final opportunity to submit additional information to inform the decision. The written advice to the individual will detail how this additional information needs to be submitted and any relevant deadlines.

HR Branch considers the additional information and makes a recommendation to the HR delegate for approval.

- If deemed suitable, proceed with an offer of employment in line with **step 7a**.
- If not deemed suitable, the applicant is advised in writing that they have been deemed unsuitable and will not be considered for the position.

Where a current employee's criminal history check has resulted in a decision that they are not suitable for the role they have applied for, HR Branch will assist their supervisor to further consider their criminal history in light of their current role. Should it be considered that they are unsuitable for their current role based on their criminal history, there may be a need to consider movement to a more suitable role or to modify their current role.

In the case of recruitment decisions, ensure the selection report makes reference to the applicant not being eligible for further consideration due to their criminal history. No other detail or information is to be recorded in the selection report.

8. Documentation management and retention

The department will store all criminal history check records in a confidential and secure location at all times until the expiry of the public service appeals and judicial review timeframes (three month period), after which all documents must be destroyed confidentially. This includes:

- Criminal history check – **clear**. For three months, after which all documents will be destroyed.
- Criminal history check – **adverse**. Until the expiry of judicial review (28 days) and Fair Treatment Appeal timeframes (21 days), after which all documents will be destroyed (see **step 9**).

While the records are being stored, the department will ensure that the information is handled in accordance with the [information privacy and right to information](#) procedure. At the completion of the recruitment process, the selection panel ensure all [criminal history check and consent](#) forms obtained from other shortlisted applicants are destroyed.

9. Appeals against an adverse criminal history decision

Employees

An employee may lodge a complaint using the [managing employee complaints](#) procedure.

An employee may also lodge an appeal against an adverse criminal history decision directly with the Public Service Commission. These appeals will proceed to hearing as a Fair Treatment Appeal without a preliminary conference.

The appeal must be lodged within 21 calendar days of receipt of an adverse decision.

Applicant for employment (non-Queensland public service employees)

Individuals who are not currently employed within the Queensland public service do not have the right of appeal against an adverse criminal history decision. However, the applicant may request a statement of reasons for an adverse criminal history decision under the [Judicial Review Act 1991 \(Qld\)](#).

Definitions

| | |
|--------------------------------------|---|
| Appointment | The engagement of a person to work in the department in any paid or unpaid employment capacity |
| Criminal history | The conviction/s for criminal offences recorded against a person. Criminal history does not include spent convictions (e.g. quashed convictions, pardons or those convictions for which a person was not sentenced or where the rehabilitation period has ended). Refer to Employment screening (Directive 07/11) for more detailed information. |
| Employee | Any person employed by the department in a permanent, temporary or casual capacity. |
| Employment screening | The process of undertaking criminal history checks or other relevant checks authorised by legislation to determine the suitability of a recommended applicant. |
| Engaging a person/ engagement | Acting, relieving, higher duties, appointing, employing, promoting, redeploying, transferring or seconding an individual, work performance or interchange arrangement. |
| Applicant | Any individual (including a current employee of DoE or another Queensland Government department) applying for a role. |
| Non-recognised positions | A non-recognised position is any role for which a criminal history check may, rather than must, be undertaken or a position not explicitly included in the recognised positions definition. |
| Proof of identity | <p>Proof of identity may be one of the following, (providing that the document or documents show between them the person's full name, previous name/s, address, date of birth and signature):</p> <ul style="list-style-type: none"> two primary identification documents one primary identification document and one secondary identification document any other document or documents that, in the chief executive's opinion, are capable of establishing the person's identity. <p>Primary identification documents: birth certificate, citizenship certificate, current Australian or overseas passport, current Department of Immigration travel document, current driver's licence, or current proof of age card.</p> <p>Secondary identification documents: current identification card issued by the Commonwealth, State or Territory) as evidence of the person's entitlement to a financial benefit (e.g. Medicare card, pensioner concession card), financial institution cards or statements, student identification cards issued by an Australian educational institution or recent notice of assessment issued under the Income Tax Assessment Act 1997 (Cwlth).</p> |
| Recognised positions | <p>Recognised positions are positions that have:</p> <ul style="list-style-type: none"> financial responsibilities (other than petty cash), or been recognised as carrying a risk to the safety and proper operations of the organisation and/or being detrimental to public confidence in the department if an individual with a relevant criminal history were engaged. <p>Recognised positions include but are not limited to:</p> <ul style="list-style-type: none"> All DoE positions at the Senior Officer and Senior Executive level Auditors Corporate Services Division roles Legal and Administrative Law Branch employees (other than employees who are currently admitted as a legal practitioner of the Supreme Court of Queensland) |

| | |
|---------------------------|--|
| | <ul style="list-style-type: none"> • All positions which have financial management or administrative responsibilities engaged in any DoE branch / school / location • All information technology employees (engaged in any DoE branch / school / location) • Business managers in schools/education units • Administrative officers (including Administrative assistance enhancement program) in schools/education units • Schools officers (grounds and facilities). |
| Relevant duties | Duties, other than child related duties, that the Director-General decides requires criminal history checking as part of the assessment of the person's suitability for employment. |
| Special conditions | Any conditions that an employee needs to comply with as part of their employment with the department. |

Legislation

- [Employment screening \(Directive 07/11\)](#)
- [Recruitment and selection \(Directive 15/13\)](#)
- [Public Service Act 2008 \(Qld\)](#)
- [Information Privacy Act 2009 \(Qld\)](#)
- [Judicial Review Act 1991 \(Qld\)](#)

Delegations/Authorisations

- [HR delegations manual](#) (DoE employees only)

Related policies

- Recruitment and selection policy

Related procedures

- [Information privacy and right to information](#)
- [Managing employee complaints](#)

Guidelines

- Nil

Supporting information/websites

- [Corporate and school support staff – recruitment and selection](#)
- [Criminal history check and consent](#) form
- [New Zealand Police vetting consent](#) form

Contact

Talent Unit, HR services for non-teaching:

Email: recruitment.humanres@qed.qld.gov.au

Phone: 3055 2920

Review date

11/06/2020

Superseded versions

Previous seven years shown. Minor version updates not included.

3.2 Criminal History Checks

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