

Police Certificates



**A resource manual
for the use of
Police Certificates
by
Western Australian
Disability Service Providers**

Foreword

Welcome, the purpose of this manual is to provide a resource outlining industry guidelines for using Police Certificates in non-government disability services. It has been developed for managers of state funded disability services that are developing policies and procedures relating to criminal screening.

This resource provides:

- background information to Police Certificates in Western Australia;
- a list of industry guidelines for the use of Police Certificates in disability services;
- a draft policy that disability agencies can adapt; and
- a variety of other useful resources that can be adapted by individual agencies.

The manual has been developed by the ACROD/COFA Police Certificate Working Party.

Gerry Gibson - Activ Foundation (Chair)
Monique Williamson- ACROD (Executive Support)
Di Shepherd - COFA
Ron Widdison- CPA
David Snape-Senses Foundation
Janet Wagland – Brightwater Care Group
Scott Thomas – Nulsen Haven Association
Catena Calanna – Elba Incorporated
David Parker – i.d.entitiywa

The material presented in this manual has been provided in good faith but is provided solely on the basis that the readers will be responsible for making their own assessment of the resources discussed.

This manual does *not* (due to limited information available) include details of the 'Working with Children Check'. From 1 January 2006, certain people working with children in Western Australia will be required to have a new national check called a 'Working with Children Check'. At this stage it is unclear how the new Working with Children Check will relate to the existing police certificate requirements for disability service providers. Potentially, however, to appropriately screen employees and others in contact with clients, an organisation that employees or provides services to children will most likely be required to cover the cost of both checks.

While ACROD strongly supports appropriate screening of employees and other people in position of trust, the duplication and associated expenses of both checks may unfairly impact on the resources of disability service providers. The ACROD/COFA Police Certificate Working Party will continue to investigate this issue and advise the sector as things progress.

For further information: Monique Williamson, Senior Policy and Project Officer (ACROD WA Division), Ph 08 9208 9802 moniquewa@acrod.org.au .

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Disclaimer

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1. Introduction

Abuse and neglect is a complex and serious problem that may be more likely to occur to people with disabilities due to their vulnerability. In its most serious forms, abuse can lead to death or long-term harm to the physical and emotional wellbeing of individuals. People with a disability may be more vulnerable to abuse and neglect due to mobility constraints, dependence on others or limits in their ability to communicate.

Disability service providers have a duty of care to the people with disabilities who receive their service. Disability service providers, therefore, need to develop a range of strategies to ensure the people receiving their services are safeguarded against neglect and abuse. One such strategy is to require Police Certificates for all employees, volunteers, students and contractors. The adequate protection of people with disabilities from neglect and abuse will, however, involve the implementation of a range of strategies including supervision of staff, peer review and monitoring of a person's wellbeing.

In August 2004 the Disability Service Commission Board endorsed an amendment of Disability Service Standards - Supporting Standard 8.1 to read 'The service provider ensures that appropriate police clearances are obtained and regularly updated for all staff, Board Members, volunteers and contractors'. All state funded services received a Variation to Service Agreement relating to the new standard.

While service providers supported the intention of the amendment, they also sought clarification about several key aspects of the revised standard and expressed the opinion that the sector needed to develop a uniform approach. In response to membership concerns at the lack of industry guidelines and the potential industrial implications of this supporting standard ACROD and COFA agreed to establish a working party to investigate the issue and develop guidelines to encourage an across sector standard for Police Certificate.

2. Background information

2.1 Who should be required to provide a Police Certificate

Disability service providers have a duty of care to take all reasonable steps to protect clients from harm and should be committed to the prevention of crime against all clients. To assist in the protection of clients and to comply with Disability Service Standards: Supporting standard 8.1 the screening of criminal records should apply to all prospective:

- employees (full/part time, temporary, casual, sessional, contract, (including secondees);
- board members and/or members of any governing body and its sub committees
- independent contractors (includes all trades people and training consultants and their employees) who will have direct access to clients and who will not be under direct supervision;
- private agency staff/consultants who will have direct access to clients and who will not be under direct supervision;
- students on placement who will have direct access to clients and who will not be under direct supervision; and
- persons engaged in any other capacity (e.g. adults on work experience, volunteers, and academics) who will have direct access to clients and who will not be under direct supervision that will work for or provide services to the organisation.

2.2 Type of Police Certificates

National Police Certificate

The Western Australia Police Service provides, upon application and payment of an associated fee, a National Police Certificate and a State Traffic Certificate. They commenced issuing a National Police Certificate from February 2003. A National Police Certificate lists a person's disclosable criminal history, recorded in any Australian police jurisdiction. To obtain a Police Certificate a person must apply at a local police station and provide suitable identification, as detailed on the application form.

2.3 Cost of Police Certificates

National Police Certificates attract a fee of \$42.00. (Sep 05)

2.4 Spent Convictions

All DSC funded disability service organisations have exemption from spent convictions under Schedule 3 of the Spent Conviction Act 1988 (effective from 31 May 2005).

Agencies need to be aware that all Police Certificates issued by the Offender Information Bureau (OIB) and not by a local Police Station should be further screened by emailing the Offender Information Bureau stating:

- your name and position;
- your organisation's name and nature of business;
- your entitlement to spent convictions exemption (Schedule 3 of Spent Convictions Act as an organisation funded by DSC); and
- that the organisation has the agreement of the person whose details are being screened.

Email OIB at information.release.unit@police.wa.gov.au

A spent conviction is a conviction that has been spent (or removed from a persons public viewable police record) through one of the processes described below. It means a person who has had a conviction spent will have a Police Certificate issued without this conviction disclosed.



Under the provisions of Section 7(1) of the Spent Convictions Act 1988 only 'lesser convictions' can be spent by the WA Police Service, after a time period of 10 years plus any term of imprisonment that may have been imposed. A lesser conviction is one for which imprisonment of 12 months or less, or a fine of less than \$15,000 was imposed. All other convictions, such as 'serious convictions' applicable under Section 6 of the Spent Convictions Act 1988 can only be spent by applying to the District Court.

2.5 Obtaining convictions information for persons from overseas

Persons from overseas on temporary work visas are required by the Department of Immigration and Multicultural Affairs (DIMA) to undergo a criminal record check from the country in which they have lived. The DIMA also requires a Federal criminal record check as part of an application for permanent residency in Australia.

If a person has satisfied the DIMA that they are of good character, it is recommended that the person is permitted to work or be appointed. It is therefore recommended that an organisation is not required to obtain criminal record checks for personnel from overseas, either on a temporary work visa or seeking permanent residency (unless they have been in Australia for more than six (6) weeks. However it is recommended that overseas applicants provide evidence of their visa status to the organisation.

2.6 Fair treatment of people with criminal convictions

Disability services must not unfairly discriminate against a person on the basis of conviction or other details revealed through Police Certificate inquiries.

The service provider should:

- ensure that application forms for positions where a Police Certificate will be requested contain a statement that a certificate will be requested in the event of a successful application, so that applicants are aware of the situation;
- include in application forms or accompanying material a statement to the effect that a criminal record will not necessarily be a bar to obtaining a position, in order to reassure applicants that disclosed information will not be used unfairly;
- ensure information disclosed is not passed on to a person not authorised to receive it and that information on a Police Certificate is available only to those who need to have the information in the course of their duties;
- store Police Certificate information securely, in accordance with National Privacy Principles; and
- provide guidance to staff, who are involved in employment and other decisions, using Police Certificate and conviction information.

2.7 Screening Cards (Health Screening Cards and Professional Membership)

Certain sectors provide screening to employees including criminal conviction information. The employee is then issued with a membership or screening card. It is not advisable that disability service organisations accept these cards or memberships as they have not been used to determine an individual's risk in the position within disability services. In addition, some of these issuing agencies do not have access to spent conviction information,

2.8 National Police Checks for Western Australian Volunteers and Volunteer Organisations

The Volunteering Secretariat together with the Western Australian Police has developed a program enabling eligible Western Australian volunteers and volunteering organisations to receive a National Police Check at a reduced fee of \$9.00 per person (Sept 05).

A Police Check Information Pack 2005 is available from the Department of Community Development WA at http://community.wa.gov.au/Resources/Volunteering/Police_Checks.htm. The information Pack outlines the process for organisations to access volunteer police checks.

If a person's volunteer check states that the person has a criminal record, the organisation should request a National Police Certificate be obtained to adequately screen conviction history of the person.

2.9 Considering the relevance of an offence to a job

Certain offences may not be relevant to certain positions in a disability service. The following information should be considered when deciding the relevance of an offence to a particular job.

- Does the position involve one to one contact with vulnerable persons?
- What level of supervision will the position have?
- Does the position involve any direct responsibility for finance or items of value?
- Will the nature of the job provide any opportunities for the person to re-offend in the course of their work?

2.10 Identification

It is recommended that an organisation request that adequate identification accompanies a Police Certificate. Instances have occurred where a person has changed their name and the Police Certificate issued has not reflected convictions in a previous name. To minimize this risk it is recommended that identification to the value of 100 points (see scale below) be produced prior to commencing employment. Where a person has changed their name (i.e. through marriage or deed poll) evidence must be produced to support this change.

Table 1: Types of identification

Birth Certificate (original, certified copy or extract) Current Passport/international travel document Citizenship certificate (original or certified copy) <i>Use only one of the above</i>	70
Drivers license/permit Public Service ID card Social Security benefits card Tertiary student ID card <i>Name, signature and photograph where applicable must be supplied. Use only one of the above.</i>	40
A signed written reference from: <ul style="list-style-type: none"> • a financial body • an acceptable referee <i>The reference must confirm a twelve month association with the recommended applicant. Use only one of the above.</i>	40
Medicare Card	25
Membership Card <ul style="list-style-type: none"> • Union or trade/professional bodies 	25
Recent arrival in Australia (less than six weeks) <ul style="list-style-type: none"> • passport (resident) 	100
Isolated area aboriginal person <ul style="list-style-type: none"> • a written statement of confirmation of identification signed by two acceptable referees. 	100

Source: Health Department of Western Australia Criminal Record Screening Policy, flowchart and guidelines

2.11 Determining the employment suitability of persons with a criminal conviction

In determining whether a person's conviction will deem them to be ineligible for employment, an organisation should base the decision to accept or reject the applicant on the following factors.

a. The nature of the offence(s)

Any decision should have regard to the nature, severity and frequency of the offence(s) and the relevance of the offence(s) to the particular position for which the applicant is being considered.

b. The age at which the offence(s) was committed

The age at which offences are committed can often be an important factor. Certain offences committed as a minor may be viewed in an entirely different light to the same offences committed by a person of more mature years.

c. The recency of the offence

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

d. Mitigating or extenuating circumstances

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, effect of alcohol, and peer group pressure at the time of the offence and the circumstance(s) in which the offence was committed.

e. General character since the offence(s)

This aspect can also have an important bearing in some cases. The following factors may be relevant.

- Steady employment record/satisfactory appointment history.
- Favourable reports from past employers/institutions or officers of Probation or Courts Administration departments.

f. The degree of remorse, or otherwise, expressed by the applicant and their motivation to change

g. Whether the person has a pattern of offending behaviour

h. Whether the person's circumstances have changed since the offending behaviour

i. Whether the offence is still a crime

2.12 Grievance resolution

When a decision is taken not to employ/appoint a person because of a criminal conviction or pending charges, the person must be informed by the designated person in the organisation of the reason for the decision and be given information about how they may request an independent review of the decision.

2.13 Secure storage, handling, use and disposal of disclosed information

An organisation needs to comply fully with privacy legislation regarding the correct handling, use, storage, retention and disposal of information received through Police Certificates and other enquiries.

Storage and access

Sensitive information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

Sensitive information is only passed to those who are authorised to receive it in the course of their duties. The organisation should maintain a record of all those to whom information has been revealed. It is a criminal offence to pass this information to anyone who is not entitled to receive it. Written information about criminal records must not be given to a third party unless securely bound and sealed, or hand delivered to an authorised employee.

Usage

Criminal records should not be used for any purpose other than determining suitability for employment (potential employees) or continuing employment (existing employees). Information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Disposal

Any sensitive information should be destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, sensitive information should not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). The organisation should not keep any photocopy or other image of the information.

2.14 Related Legislation

Spent Convictions Act (WA) 1988

Equal Opportunity Act (WA) 1984

Commonwealth Human Rights and Equal Opportunity Act 1986

Common law principles of confidentiality, duty of care and negligence

The Freedom of Information Act 1992

The Library Board of Western Australian Act 1951

Industrial Relations Acts (State and Federal)

Privacy Act 1988 (Federal)

Disability Service Act (WA) 1993

3. Disability services industry guidelines

Police certificates should be obtained for all:

- employees (full/part time, temporary, casual, sessional, contract, (including secondees);
- board members and/or members of any governing body and its sub committees
- independent contractors (includes all trades people and training consultants and their employees) who will have direct access to clients and who will not be under direct supervision;
- private agency staff/consultants who will have direct access to clients and who will not be under direct supervision;
- students on placement who will have direct access to clients and who will not be under direct supervision; and
- persons engaged in any other capacity (e.g. adults on work experience, volunteers and academics) who will have direct access to clients and who will not be under direct supervision that will work for or provide services to the organisation.

Who pays for a Police Certificate?

The employer pays for police certificates for any existing employees at the time of implementing a policy (such as the sample policy outlined in this manual), and any volunteers or board members. All new employees should have the provision of police certificates as a condition of their employment.

Type of Police Certificate to be obtained

National Police Certificate (as a minimum).

Frequency of obtaining Police Certificate

At least every three years

Determining suitability of individuals with a criminal conviction

Each agency should use the considerations outlined in this manual to determine suitability of persons with criminal convictions. As a general rule, however, serious convictions such as conviction for serious sexual offence(s) should render a person unsuitable to be employed or involved in the provision of services to clients.

Spent Convictions

It is recommended that all Disability Service Commission funded disability service providers in Western Australia use their legislated access to spent conviction information to screen potential employees and applicants.

Disclosing Criminal Convictions

It is recommended that all disability service providers require any employee/volunteer/student/board member/contractor who is charged and/or convicted of a criminal offence to, as soon as practicable, advise the agency of the offence or offences.

How recent does the Police Certificate need to be?

It is recommended no more than 12 months old

4. Sample policy: Police Certificates

#It is recommended that all state funded disability services within WA develop and endorse their own specific policies, which are consistent with the industry guidelines provided in this manual.

1. Background

People with disabilities experience a heightened vulnerability to neglect and abuse. This vulnerability has been acknowledged and responded to in the Disability Service Standards. Supporting Standard 8.1 requires all disability service providers to ensure that appropriate Police Certificates are obtained and regularly updated for all staff, Board Members, volunteers and contractors. To this end (*insert organisations name*) requires all recommended applicants for positions, existing staff, volunteers, contractors and board members to undergo a comprehensive criminal records check every three years.

2. Purpose and Scope

The purpose of this policy is to set out guidelines for requesting, providing and responding to Police Certificates. The scope of this policy covers:

- employees (full/part time, temporary, casual, sessional, contract, (including secondees);
- board members and/or members of any governing body and its sub committees
- independent contractors (includes all trades people and training consultants and their employees) who will have direct access to clients and who will not be under direct supervision;
- private agency staff/consultants who will have direct access to clients and who will not be under direct supervision;
- students on placement who will have direct access to clients and who will not be under direct supervision; and
- persons engaged in any other capacity (e.g. adults on work experience, volunteers, and academics) who will have direct access to clients and who will not be under direct supervision that will work for or provide services to the organisation.

3. Policy Statement

The organisation is committed to safeguarding the wellbeing of people with disabilities by (but not limited to) requiring all:

- employees (full/part time, temporary, casual, sessional, contract, (including secondees);
- board members and/or members of any governing body and its sub committees
- independent contractors (includes all trades people and training consultants and their employees) who will have direct access to clients and who will not be under direct supervision;
- private agency staff/consultants who will have direct access to clients and who will not be under direct supervision;
- students on placement who will have direct access to clients and who will not be under direct supervision; and

- persons engaged in any other capacity (e.g. adults on work experience, volunteers, and academics) who will have direct access to clients and who will not be under direct supervision that will work for or provide services to the organisation.

4. Procedure

4.1. Police Certificates

All:

- employees (full/part time, temporary, casual, sessional, contract, (including secondees);
- board members and/or members of any governing body and its sub committees
- independent contractors (includes all trades people and training consultants and their employees) who will have direct access to clients and who will not be under direct supervision;
- private agency staff/consultants who will have direct access to clients and who will not be under direct supervision;
- students on placement who will have direct access to clients and who will not be under direct supervision; and
- persons engaged in any other capacity (e.g. adults on work experience, volunteers, and academics) who will have direct access to clients and who will not be under direct supervision that will work for or provide services to the organisation.

are required to undergo regular comprehensive criminal record checks.

To this end, a National Police Certificate is to be obtained and updated every three years by all parties outlined above. Staff from the commencement date of this policy (insert date) will need to provide a National Police Certificate at their own expense every three years after the date of their appointment. *No person in the above categories will be allowed to work or provide services without a criminal record check.* Staff employed prior to the implementation date of this policy will need to provide a National Police Certificate, at the expense of (insert name of organisation), initially as outlined in the section Police Certificates for existing employees (4.5.1) and subsequently every three years after the date that certificate was provided.

Previous criminal conviction or pending charges will not necessarily preclude appointment or involvement in the provision of services.

If a person refuses to provide a Police Certificate following proper explanation and reassurance, he/she is precluded from appointment.

4.1.1. Type of Police Certificate to be obtained

All people in the category above are required to provide a National Police Certificate prior to commencing employment or appointment with the organisation and subsequently every three years.

4.1.2. Cost of Police Certificate

The cost of obtaining the initial Police Certificates and subsequent Police Certificates will be borne by the employee if the employee commenced employment after (*insert date of policy*). The organisation will cover the cost of Police Certificates and subsequent Police Certificates for existing employees employed prior to (*insert date of this policy being implemented*) and for board members and volunteers.

4.1.3. Persons from overseas

Persons from overseas on temporary work visas are required by the Department of Immigration and Multicultural Affairs (DIMA) to undergo a criminal record check from the country in which they have lived. The DIMA also requires a Federal criminal record check as part of an application for permanent residency in Australia.

If a person has satisfied the DIMA that they are of good character, the person could be permitted to work or provide services. The (*insert name of organization*) is not required to obtain criminal record checks for personnel from overseas, either on a temporary work visa or seeking permanent residency (where the applicant has been in Australia less than six (6) weeks. Overseas personnel must provide evidence of their visa status to (*insert person in the organization responsible for Police Certificates*).

4.1.4. Spent Convictions

A spent conviction is a conviction that has been spent (or removed from a persons public viewable police record) through one of the processes described below. It means a person who has had a conviction spent will have a Police Certificate issued without this conviction disclosed.

Under Schedule 3 of the Spent Conviction Act 1988 (effective from 31 May 2005), all DSC funded disability service providers have access to all spent convictions. Therefore all Police Certificates that are issued by the Offender Information Bureau (not a local police station) will be further screened by emailing the Offender Information Bureau.

Police Certificates obtained issued by the Offender Information Bureau and not by a local Police Station will be further screened through the Offender Information Bureau.

4.2. Disclosing criminal convictions

(*Insert the name of the organisation*):

- requires applicants to provide details of any disclosable convictions recorded against them prior to an offer of employment being made;
- requires any employee/volunteer/student/board member/contractor who is charged and/or convicted of a criminal offence to, as soon as practicable, advise the (*insert person/title*) of the offence or offences. Failure to do so will

result in the employee/volunteer/student/board member/contractor being liable to dismissal; and

- requires, that any person nominating for the Board will provide a record of any criminal or indictable offences and the Board may, in its sole discretion, determine whether or not the nomination is accepted.

4.3. Determining the employment suitability of individuals with a criminal conviction

The organisation reserves the right to judge an individual's suitability for employment based on the relevance of any conviction to the job in question. Where a criminal check reveals a conviction or convictions which would, in the opinion of the organisation, make an individual undesirable as an employee, that person will not be eligible for employment. The decision not to appoint a person on the basis of their criminal record is delegated to the (*insert authorised person here*).

In determining whether a person's conviction will deem them to be ineligible for employment, (*insert organisations name*) will base the decision to accept or reject the applicant on the following factors.

The Nature of the offence(s)

Any decision should have regard to the nature, severity and frequency of the offence(s) and the relevance of the offence(s) to the particular position for which the applicant is being considered.

The recency of offences

As a general rule, persons under a good behaviour bond or on probation for offences of any seriousness are scrutinised very closely before being accepted for employment/appointment. Trouble free completion of bond or a probation period should be taken into consideration when assessing degree of rehabilitation. The (*insert authorised position*) may make contact 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. ***This action MUST NOT be taken without the prior knowledge and written consent of the applicant.*** Community Corrections can provide an appraisal of the person to the Liaison Officer 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

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, effect of alcohol and/or peer group pressure at the time of the offence and the circumstance(s) in which the offence was committed.

Whether the offence is still a crime

Whether the offence has been decriminalised or removed from the statutes.

The age at which the offence(s) was committed

The age at which offences are committed can often be an important factor. Certain offences committed as a minor may be viewed in an entirely different light to the same offences committed by a person of more mature years.

General character since the offence(s)

This aspect can also have an important bearing in some cases. The following factors may be relevant:

- Steady employment record/satisfactory appointment history; and
- Favourable reports from past employers/institutions, interviewing officers or officers of Probation and Parole or Courts Administration departments.

Whether the person has a pattern of offending behaviour?

Whether the person's circumstances have changed since the offending behaviour?

The degree of remorse, or otherwise, expressed by the applicant and their motivation to change,

In determining a person's suitability for a position the organisation will:

- treat applicants/employees fairly and will not automatically bar a person on the grounds of a spent conviction in the selection process for a position or in the terms and conditions on which employment is offered. There are, however, exceptions where convictions or disclosable spent convictions for certain offences can be taken into account in order to protect the clients of (insert organisations name);
- apply the principles of natural justice in all decisions taken, however the overriding consideration will always be in relation to the safety and well-being of clients of (insert organisations name) and,
- deem the applicant ineligible for employment, where the conviction, spent or otherwise, is considered to preclude the establishment of trust between (insert organisations name) and the applicant;

4.4. Potential applicants/employees

4.4.1. Process for dealing with a potential employee/applicant with criminal convictions

The applicant's record(s) 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 because of his/her record should not be made until the person has been given adequate opportunity to discuss the record in order to:

- verify that it relates to him/her;
- check it for accuracy; and

- provide details in writing within five working days of any relevant matters that they wish considered in relation to the matter.

Disclosure of an applicant's criminal conviction is to be strictly limited to authorised persons.

If (insert organisations name) 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 (insert authorised person). Any such request must be made in writing, within seven working days of being informed of the decision.

4.4.2. Process for dealing with potential employee/applicant with charges/ appeals pending

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

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

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

4.5. Existing employees

4.5.1. Procedure for obtaining Police Certificates for existing employees

National Police Certificates for existing employees will be obtained progressively over three years commencing from the date of this policy implementation. Employees will be grouped alphabetically by surname and National Police Certificates will be provided as follows.

Year 1	2005	A to I
Year 2	2006	J to R
Year 3	2007	S to Z

Further certificates will be required every three years after the date of those provided above.

The (*insert person/title*) will forward a notification to each employee outlining the need for them to obtain a Police Certificate when required. The employee is required to obtain the National Police Certificate from their local police station and return it to (*insert person/title*) within 14 days of the request. Employees will initially pay for the certificate but will be reimbursed by the

employer in the pay following presentation of the certificate. Where the employee may suffer financial hardship from this requirement the employer may agree to other arrangements including provision of a cheque payable to the police service to allow purchase of the certificate.

4.5.2. Refusal to provide National Police Certificate by existing employees

If the employee refuses to provide a National Police Certificate the matter will be discussed with the individual seeking reasons for this decision. The process will be explained and any concerns regarding the process will be addressed. If the employee still refuses to provide a National Police Certificate the matter will be referred to (insert authorised person) who will issue the employee with a formal instruction to provide the certificate required. If the employee still refuses the (insert the authorised person) will consult with (insert the authorised person). The matter shall result in the employee being liable to dismissal.

4.5.3. Satisfactory certificate received

Upon receipt of a satisfactory Police Certificate, details will be noted on the payroll system and the certificate will be placed on the employee's file.

4.5.4. Certificate indicating convictions recorded

Upon receipt of a Police Certificate indicating the employee has a conviction that is of a serious nature - *(insert the authorised person)* will consult with *(insert the authorised person)* and the relevant *(insert the authorised person)*. Only convictions recorded since the date of their previous National Police Certificate will be considered. Contact with the employee will be made, preferably in person or by telephone. If written contact is necessary, for example, the employee is on leave, the conviction should not be specifically mentioned because of the risk of disclosure to other parties. Instead, the correspondence should only indicate that the employee is required to contact the nominated officer.

The employee's criminal conviction(s) should be discussed in a personal interview unless the employee specifically requests some other form of communication such as telephone discussion. At the interview, the full details of the record should be read to the employee and shown to the employee if requested.

4.5.5. Determining suitability for continuing employment

A final decision regarding the continuing employment of the employee because of his/her record should not be made until the person has been given adequate opportunity to discuss the record in order to:

- verify that it relates to him/her;
- check it for accuracy, and;

- provide details in writing to the (insert the authorised person) of any relevant matters that he/she wishes to be considered in relation to the matter. This should occur within 5 working days of notification to the employee that a satisfactory certificate has not been obtained.

The decision regarding continuing employment will be made by the (*insert the authorised person*).

4.5.6. Pending charges or appeals pending

Existing employees are required to advise (insert the person/title) immediately following any charges being laid. Where a date has been fixed for hearing, or where convictions have appeals pending, it may be possible for the employee to continue in his/her place of work, subject to the nature of the position they occupy, the nature of the charge and its relevance to the work area.

Alternatively, a temporary transfer may be arranged, or the employee may be instructed to remain at home on full pay. The decision regarding continuing employment pending the resolution of the outstanding matter by the Court will be made by the (insert the authorised person).

Where pending charges or appeals result in a conviction, the decision regarding the employee's employment status will be made by (*insert the authorised person*).

4.5.7. Appeals against decision to terminate employment

Any action to be taken regarding the employee's continuing employment because of a criminal conviction should be conveyed in writing to the employee. The employee may request a review of the decision if the employee has any further information regarding the matter. Any such request must be made in writing, addressed to the (insert the authorised person), and received within 5 working days of notification of the decision.

4.5.8. Employee right to representation

Employees have the right to be accompanied by a Staff Advocate or Union Representative at any meeting required to discuss the refusal to provide or result of National Police Certificates.

4.6. Procedure when using private employment agencies (*This clause is only relevant for organisations that use employment agencies*)

Only employment agencies included in the list below may be used, as the organisation has arrangements in place with these agencies in relation to its Police Certificate requirements. All agency staff must have a National Police Certificate that satisfies the Associations Police Certificate criteria outlined in this policy. If an employment agency fails to apply the relevant police screening and / or sends agency staff who are deemed unsuitable by (*insert the organisations name*) the agency will be removed from the approved list. They will not be utilised

again until such time as they prove to (*insert the organisations name*) that they are able to meet all criteria as outlined in the policy.

List Agencies (approved)

4.7. Identification

Identification to the value of 100 points must be produced prior to commencing employment. Originals must be sited and photocopies must be signed by the siting officer. Where you have changed your name (i.e. through marriage or deed poll) evidence must be produced to support this.

Types of identification required

Birth Certificate (original, certified copy or extract) Current Passport/international travel document Citizenship certificate (original or certified copy) <i>Use only one of the above</i>	70
Drivers license/permit Public Service ID card Social Security benefits card Tertiary student ID card <i>Name, signature and photograph where applicable must be supplied.</i> <i>Use only one of the above.</i>	40
A signed written reference from: <ul style="list-style-type: none"> • a financial body • an acceptable referee <i>The reference must confirm a twelve month association with the recommended applicant.</i> <i>Use only one of the above.</i>	40
Medicare Card	25
Membership Card <ul style="list-style-type: none"> • Union or trade/professional bodies • 	25
Recent arrival in Australia (less than six weeks) <ul style="list-style-type: none"> • passport (resident) 	100
Isolated area aboriginal person A written statement of confirmation of identification signed by two acceptable referees.	100

Source: Health Department of Western Australia Criminal Record Screening Policy, flowchart and guidelines

4.8. Secure storage, handling, use and disposal of sensitive information

4.8.1. General principles

As an organisation using Police Certificates and other sensitive information to help assess the suitability of applicants for positions of trust, [Organisation Name] complies fully with the Privacy Legislation regarding the correct handling, use, storage, retention and disposal of information received through Police Certificates and other enquiries.

4.8.2. Storage and access

Sensitive information will be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties. Information regarding an employee's criminal record will be placed in a sealed envelope on the relevant individual's personal file. Under no circumstances are details of an employee's criminal record to be placed on an unrestricted file.

4.8.3. Handling

Sensitive information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom information has been revealed. It is a criminal offence to pass this information to anyone who is not entitled to receive it. Employees authorised to receive information about criminal convictions are required to sign a statement of confidentiality. Written information about criminal records must not be given to a third party unless securely bound and sealed, or hand delivered to an authorised employee.

4.8.4. Usage

Criminal records will not be used for any purpose other than determining suitability for employment (potential employees) or continuing employment (existing employees). Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

4.8.5. Disposal

Once the retention period has elapsed, we will ensure that any sensitive information is immediately destroyed by secure means, that is, by shredding, pulping or burning. While awaiting destruction, sensitive information will not be kept in any insecure receptacle such as, waste bins or confidential waste sacks. We will not keep any photocopy or other image of the information or any copy.

4.9. Grievance resolution

When a decision is taken not to employ/appoint a person because of a criminal conviction or pending charges, the person must be informed by the (insert the authorised person), of the reason for the decision and be provided with information about how they may request an independent review of the decision. Any such request must be made within seven (7) working days to the (insert the authorised person).

The following process will apply:

- upon receipt of a request for review (*insert the authorised person*) forwards the relevant information to the (insert the authorised person);
- (*insert the authorised person*) conducts a thorough review of the evidence and reports prepared by the (insert the authorised person). A confidential meeting with the person and consultation with (insert the authorised person), who will provide ready access to information and contacts that the (insert the authorised person) may consider necessary, is advised;
- a final decision is made and relayed to the person concerned; and
- notification of the final decision is forwarded (*insert the authorised person*).

5. Legislative base and related legislation

Spent Convictions Act (WA) 1988

Equal Opportunity Act (WA) 1984 as amended

Commonwealth Human Rights and Equal Opportunity Act 1986

Common law principles of confidentiality, duty of care and negligence

The Freedom of Information Act 1992

The Library Board of Western Australian Act 1951

Privacy Act 1988 (Federal)

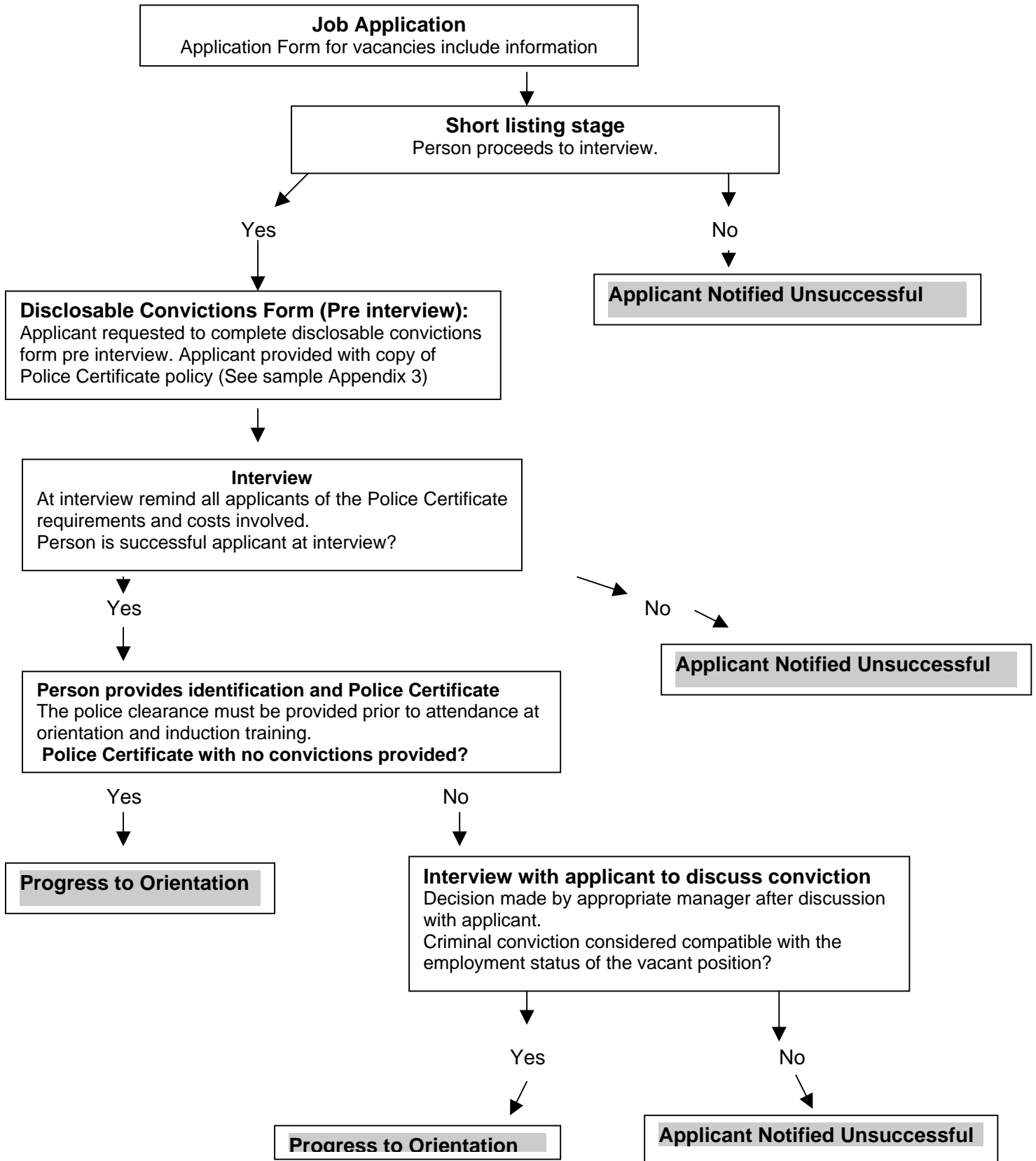
Industrial Relations Acts (State and Federal)

6. Review of the policy

This policy will be reviewed on a two yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly.

**This policy (and related procedures) has been developed by the ACROD/COFA Police Certificate Working Party. It is based on existing Disability Services Commission, Health Department and Cerebral Palsy Association of WA policy and procedures in this area.*

5. Process for managing Police Certificates for potential employees



6. Sample information sheet for prospective employees

Why do I need to provide a Police Certificate?

People with disabilities are highly vulnerable to neglect and abuse. This vulnerability has been acknowledged and responded to in the Disability Service Standards. Supporting Standard 8.1 requires all disability service providers to ensure that appropriate Police Certificates are obtained and regularly updated for all staff, Board Members, volunteers and contractors. To this end (*insert organisations name*) requires all recommended applicants for positions, existing staff, volunteers, contractors and board members to undergo a comprehensive criminal records check on a three yearly bases.

When do I need to get a Police Certificate?

Potential employees do not need to get a Police Certificate until they have been offered a position (after an interview) on the condition that a satisfactory Police Certificate is obtained.

Who pays for my Police Certificate?

It is a condition of employment that you provide a satisfactory National Police Certificate prior to employment (and every three years during your employment). It is your responsibility to cover the cost of the National Police Certificate?

How much does a Police Certificate cost?

Applications for National Police Certificates attract a fee of \$42.00 (July 05).

What type of Police Certificate do I need?

National Police Certificate is to be obtained (and updated every three years).

How do I get a Police Certificate?

You must apply in person at your local police station and provide suitable identification.

What information is on a National Police Certificate?

A National Police Certificate lists your disclosable criminal history, recorded in any Australian police jurisdiction.

What if I refuse to provide a National Police Certificate?

If a person refuses to provide a Police Certificate following proper explanation and reassurance, he/she is precluded from appointment.

Previous criminal conviction or pending charges will not necessarily preclude appointment or involvement in the provision of services.

The organisation reserves the right to judge an individual's suitability for employment based on the relevance of any conviction to the job in question. Where a criminal check reveals a conviction or convictions which would make an individual undesirable as an employee, in the opinion of the organisation, that person will not be eligible for employment. The decision not to appoint a person on the basis of their criminal record is delegated to the (*insert authorised person here*).

What if I have a conviction?

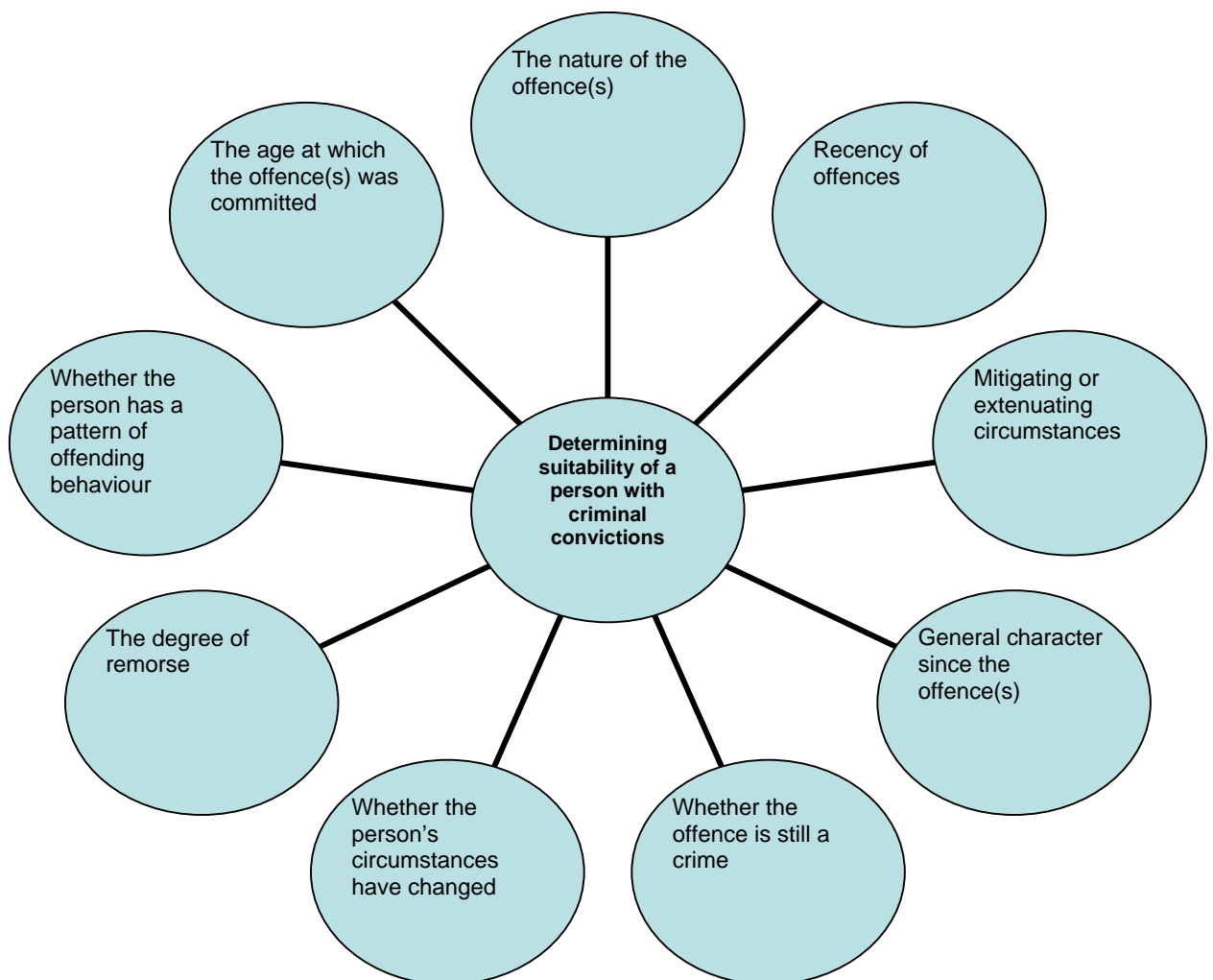
You will be contacted to arrange a meeting to discuss in a personal interview (unless you specifically requests some other form of communication such as telephone discussion). At the meeting, the full details of the record will be read to you.

You will be given adequate opportunity to discuss the record in order to:

- verify that it relates to you;
- check it for accuracy; and
- provide details in writing within five working days of any relevant matters that you wish considered in relation to the matter.

If (insert organisations name) decides not to employ/appoint you because of a criminal conviction, you will be informed of the reason for the decision, as well as the fact that you can request a review of the decision by (insert authorised person). Any such request must be made in writing, **within seven working** days of being informed of the decision.

Diagram1: Factors considered in determining suitability of a person with criminal convictions.



What if I have Spent Convictions?

This organisation, because it supports vulnerable people, has exemption from spent convictions. Therefore all Police Certificates obtained that are issued by the Offender Information Bureau will be further screened by emailing the Offender Information Bureau stating the organisations name and exemption and seeking any reportable spent convictions.

What if I have charges/ appeals pending?

Where there are pending charges, and a date has been fixed for hearing, or where convictions have appeals pending, it may be possible to employ/appoint you on a temporary basis, subject to the nature of the position and the nature of the charge, or else defer the decision regarding appointment pending the resolution of the outstanding matter by the Court. Where a charge is pending against you, for an offence that would result in you being refused employment or appointment if convicted then, wherever possible, the offer will be deferred until the charge is heard.

Is the information I provide kept securely?

Yes, the information you provide is only available to authorised persons who have signed a confidentiality agreement. Information is kept in a locked filing cabinet only accessible to authorised personnel. *(insert the contact person and details)*

What Identification do I need to show at the interview?

Identification to the value of 100 points must be produced prior to commencing employment. Where you have changed your name (i.e. through marriage or deed poll) evidence must be produced to support this.

Types of identification required

Birth Certificate (original, certified copy or extract) Current Passport/international travel document Citizenship certificate (original or certified copy) <i>Use only one of the above</i>	70
Drivers license/permit Public Service ID card Social Security benefits card Tertiary student ID card <i>Use only one of the above.</i>	40
A signed written reference from: <ul style="list-style-type: none"> • a financial body • an acceptable referee <i>The reference must confirm a twelve month association with the recommended applicant.</i> <i>Use only one of the above.</i>	40
Medicare Card	25
Membership Card (Union or trade/professional bodies)	25
Recent arrival in Australia (less than six weeks) (passport (resident)	100
Isolated area aboriginal person A written statement of confirmation of identification signed by two acceptable referees.	100

Source: Health Department of Western Australia Criminal Record Screening Policy, flowchart and guideline

Who do I contact to find out more?

(insert the persons name/title)

7 Checklist for organisation: Police Certificates

N ^o	Item	Done
1	A Police Certificate Policy is endorsed by the agency.	<input type="checkbox"/>
2	All existing employees are informed of the purpose and requirements of Disability Standards Supporting Standard 8.1 and information on the new policy.	<input type="checkbox"/>
3.	New applicants are required to satisfy the organisation of their identity.	<input type="checkbox"/>
4.	<p>Applicants for new positions are advised at the time of interview or pre interview</p> <ul style="list-style-type: none"> • what information may be disclosed in a police record check • that the information is required to minimise risks to clients and as compliance with Disability Service Standards • that not providing the information required will lead to the person not being considered for employment 	<input type="checkbox"/>
5.	A list of people authorised to handle criminal conviction information is included in the Police Certificate policy.	<input type="checkbox"/>
6.	Staff involved in screening employees, have received guidance in employing people with criminal convictions.	<input type="checkbox"/>
7.	All new employment contracts include the provision of Police Certificates as a condition of employment.	<input type="checkbox"/>
8.	Information regarding criminal convictions is kept securely in a lockable filing cabinet and only authorised people have access to the filing cabinet.	<input type="checkbox"/>
9.	Staff involved in screening employees, have received guidance on handling and storing criminal conviction information.	<input type="checkbox"/>
10.	Staff involves in handling criminal conviction information have signed confidentiality agreement.	<input type="checkbox"/>
11.	Each applicant for a position should is given a copy of this policy at the commencement of the recruitment process.	<input type="checkbox"/>
12.	Wherever appropriate, a statement expressing a willingness to consider persons with a criminal record on their merits should be included on application forms. Application forms, or other recruitment documentation, should also carry a statement that the provisionally selected applicant for a position will be asked to apply for a Police Certificate.	<input type="checkbox"/>
13.	All employees who hire contractors are provided with instruction to request a police certificate as a condition of contract.	<input type="checkbox"/>

8 Sample employee confidentiality declaration

This sample Confidentiality Declaration will be for any person who is authorised to handle confidential information related to conviction.

EMPLOYEE CONFIDENTIALITY DECLARATION

In submitting this declaration to (insert person/title here), I..... acknowledge that I have read the *Police Certificate Policy and Guidelines* for current and prospective employees of (insert the organisation) and understand the importance of maintaining *confidentiality* as a servant of the (insert the organisations name).

I am aware of the need to ensure that all information in relation to criminal convictions/charges of prospective and current employees is treated with the utmost confidentiality. I understand the penalties, as stated in the *Police Certificate Policy and Guidelines*, which will be applied in association with any breach of confidentiality related to Police Certificates.

At **all times** I will respect the confidentiality requirements and the ethical obligations of my position.

Signed; _____

Name: _____

Position: _____

Date: _____