



EFFECTIVE DATE	1 July 2020
REVIEW DATE	1 July 2023
POLICY OWNER	Chancery
APPLIES TO	This Policy applies to clergy, members of religious institutes, employees, board members, contractors (as defined and in relation to WHS legislation and a one member corporation), volunteers, work experience students and trainees (Workers) of the Diocese.
EXCLUSIONS	Where an agency or entity of the Diocese has its own policy, the relevant agency or entity policy will apply to Workers engaged by those agencies or entities. In the event of conflict between the policies of agencies or entities and the Diocesan policy, the Diocesan policy prevails.
RELATED POLICIES, GUIDELINES & PROCEDURES	Recruitment Policy Privacy Policy
REFERENCE	<i>Privacy Act 1988 (Clth)</i> <i>Criminal Records Act 1991 (NSW)</i>
RELATED FORMS	CCER Nationally Coordinated Criminal History Check Application and Informed Consent Form (Application and Informed Consent Form). Statutory declaration
HEADINGS	Objective Definitions Policy <ol style="list-style-type: none">1. Requirement to Submit a National Police History Check (NPHC)2. Applications for NPHC3. Frequency of NPHC4. Disclosable Court Outcome5. Consequences of Adverse NPHC finding6. Spent Convictions7. NPHC Statutory Requirement Breaches of this Policy Revision/ Modification History Approval Date/ Revision History
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OBJECTIVE

This policy is to ensure that Workers have had appropriate background screening prior to and during their engagement with the Diocese of Lismore in order to:

- Minimise the risk of appointing a Worker to a role where the inherent requirements of the role mean that the role is not suited to a person with a particular background or history.
- Promote a safe Church environment.
- Protect the people, property and reputation of the Diocese.
- Mitigate risk to the Diocese.

DEFINITIONS

Accredited Body means an organisation accredited with the Australian Criminal Intelligence Commission (**ACIC**) and responsible for submitting nationally coordinated criminal history checks on behalf of the Diocese, usually Catholic Commission for Employment Relations (**CCER**).

Contractor means a contractor as referred to in WHS legislation and/or a company when one main person through the personal skills or efforts as an individual of that person is contracted to the Diocese and/or a one shareholder/member company.

Diocese means the Roman Catholic Diocese of Lismore and includes without limitation any parishes where the Worker is employed or otherwise engaged.

Disclosable Court Outcome (DCO) The police check result will provide all 'disclosable court outcomes' recorded under an applicant's name and any other aliases provided from police records in all Australian states and territories. 'Disclosable court outcomes' include all findings of guilt (with or without conviction) released in accordance with state and federal legislation.

National Police History Check means the checking process undertaken by the ACIC and police, and the result received by a body accredited to receive the result commonly known as a Police Record Check. It includes reference to police and criminal history checks in international jurisdictions including without limitation a police certificate or penal clearance certificate.

Spent Convictions means a conviction that is not disclosable in a background check, police check or NPHC because the conviction satisfies the requirements of the relevant jurisdiction in which the conviction was recorded so as to not require its release or disclosure.

Vulnerable person means an individual who is or may be unable to take care of themselves or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

Worker means clergy, employees, board members, contractors, volunteers, work experience students and trainees of the Diocese.

POLICY

1. Requirement to Submit a NPHC

- 1.1. The Diocese, and its entities, may require a Worker or prospective Worker to undergo a National Police History Checks (**NPHC**) prior to engagement and because of the nature of the duties and responsibilities to be undertaken by the Worker. NPHCs are required ongoing where an individual's integrity and honesty is integral to the inherent requirements of the role.

- 1.2. The Diocese recommends that all preferred applicants (both paid and unpaid positions) provide a NPHC prior to employment or volunteer engagement with the Diocese, as part of the pre-employment/engagement screening process. Volunteers in roles not relating to those specified in 1.5 of this policy should complete a Statutory Declaration as a minimum pre-engagement requirement.
- 1.3. Where a prospective Worker is required to undergo a NPHC as part of their role, the appointment is conditional upon attainment of a NPHC and the Diocese being satisfied of the prospective Workers suitability for employment based on the outcome of the NPHC.
- 1.4. Any role requiring a NPHC, the advertising, position description and letter of appointment will identify the requirements of clause 1.5 as a condition of their appointment.
- 1.5. Without limiting the application of **clause 1.1**, the Diocese and its entities, will require a Worker or prospective Worker to undergo a NPHC in the following circumstances:
 - (a) where it is envisaged that:
 - i. the Worker's duties and responsibilities include a significant leadership role within the Diocese, or its entities, including without limitation the executive, senior management and management roles, Parish Finance Committee members, Diocesan panel members and Diocesan committee members; or
 - ii. the Worker has or may have unsupervised access to vulnerable people as part of their role; or
 - iii. the Worker has or may have unsupervised access to Diocesan/Parish money; or
 - iv. the Worker is responsible for the administration of financial accounts of the Diocese; or
 - v. the Worker is responsible for the regular handling of and access to other Worker's personal or sensitive information; or
 - vi. the Worker is responsible for undertaking NPHC through an Accredited Body on behalf of the Diocese.
 - (b) Without limiting the application of **clause 1.1**, the Diocese will also require a Worker or prospective Worker to undergo a NPHC in the following roles:
 - i. Clergy appointed or incardinated retired Clergy available for supply;
 - ii. Prospective Seminarians and candidates for the Permanent Diaconate;
 - iii. Any Worker exercising unsupervised ministry on behalf of the Diocese, offsite from their principle place of work or parish precinct;
 - iv. Workers assessed by the Diocese at its absolute discretion as requiring a NPHC to ensure a safe Church environment.
- 1.6. Workers who are not Australian citizens may be asked to provide a NPHC as part of their citizenship application. In these circumstances, a request for any police record check provided as part of their citizenship application should be made. If a police record check did not form part of the citizenship application and is required under this Policy, the Worker should be referred to the website for the Department of Home Affairs for instructions on obtaining a certificate from an overseas government or law enforcement authority.

2. Applications for NPHC

- 2.1. Where a NPHC is required by the Diocese, the current or prospective Worker must provide their own NCHC (dated within the last six months) or apply for a NPHC by completing and submitting a Catholic a Commission for Employment (CCER) Nationally Coordinated Criminal History Check Application and Informed Consent Form (Application and Informed Consent Form):
 - (a) Consenting to the NPHC being undertaken; and
 - (b) Produce the required identification documentation to allow the NPHC to be processed.
- 2.2. If a Worker is appointed to attend an Aged Care Facility or Health Care Facility, the Facility may require a NPHC to be undertaken. It will be the responsibility of the Facility to ensure the Worker is appropriately screened and to pay any costs of screening Workers in the Facility.
- 2.3. Where a current or prospective Worker is required to undergo a NPHC and has already undergone a NPHC within the six months prior to their proposed appointment to a role, production of the original NPHC to the Diocese will suffice. The Diocese will not accept photocopies or scans of NPHC documentation.
- 2.4. NPHC that are required for Chancery Workers and clergy are to be undertaken by the Diocesan HR & WHS Manager or their delegate.
- 2.5. NPHC that are required for Parish Workers, including parish volunteers, are to be undertaken by the relevant Parish Priest.
- 2.6. NPHC that are required for Agency Workers, including healthcare and aged care Workers are to be undertaken by the Human Resources Manager in the relevant Agency.

3. Frequency of NPHC

- 3.1. In certain positions (i.e. in aged care facilities and those referred to in Clause 1.5), NPHC are required to be undertaken at least every three years from the date of appointment or the date of transfer to the Worker's current role.
- 3.2. A Worker may be required by the Diocese to undergo a NPHC where they are in a role that was previously not assessed by the Diocese as requiring a NPHC and changes to the inherent requirements of the role require a NPHC on the incumbent.

4. Disclosable Court Outcome

- 4.1. Assessment results for Workers who have a NPHC that reveals a Disclosable Court Outcome (DCO) who **are not** Clerics:
 - (a) within the Chancery, the NPHC result will be provided to the Diocesan Business Manager;
 - (b) within the Parish, the NPHC will be provided to the Parish Priest;
 - (c) within an Agency, the NPHC will be provided to the relevant Agency Head who will make an assessment of the candidate or incumbent's suitability to perform the inherent requirements of the relevant role.
- 4.2. The following principles apply to the assessment of Workers who **are not** clerics who undergo a NPHC.
 - 4.2.1 In making an assessment as to whether the result of a NPHC is unsatisfactory and therefore might preclude appointment to a role or the continuity of a current Worker's employment in a role, the

Diocesan Business Manager, Parish Priest or relevant Agency Head will take the following factors into account:

- (a) whether that denying appointment or altering the terms of the Worker's appointment in response to the NPHC result would not be a disproportionate response to the particular offence(s) or other matters disclosed in the NPHC result.
 - (b) the nature and frequency of the offence(s) and whether the offence or other matters disclosed represents an isolated incident or potential pattern of unlawful conduct.
 - (c) the age of the individual at the time at which the offence(s) or other matters disclosed were committed.
 - (d) the timing of the offence(s) or other matters disclosed i.e. how long ago it occurred.
 - (e) the likelihood of recurrence.
 - (f) any measures which might reasonably be put in place to reduce the likelihood of recurrent behaviour (such as modification of work duties or work environment).
- 4.2.2 Prior to concluding an assessment as to whether an offence(s) or other matters disclosed should preclude a proposed appointment being made or continuation in a role, the Diocesan Business Manager, Parish Priest or relevant Agency Head shall set out the concerns in writing to the Worker or proposed Worker and request that they show cause in writing why, if they wish to proceed with their application for the role or continue in the role, they should not be disqualified from being considered for their appointment or continuing in the role.
- 4.2.3 At the conclusion of each assessment, the Diocesan Business Manager, Parish Priest or relevant Agency Head shall note on file that a NPHC has occurred and will ensure that any documents relating to the NPHC are returned to the staff member or prospective Worker. Relevant documentation will be retained by the Diocese consistent with privacy legislation and the Diocesan Privacy Policy.

4.3. Workers who **are** Clerics:

The following principles apply to the assessment of results for clerics who undergo a NPHC:

- 4.3.1 The NPHC result will be provided to the Manager for Safeguarding who will make an assessment and recommend it to the Bishop.
- 4.3.2 The Bishop is responsible for any decisions regarding a disclosable court outcome. At the conclusion of each assessment, the Bishop shall note on file that a NPHC has occurred and will ensure that any documents relating to the NPHC are returned to the cleric or prospective cleric. Relevant documentation will be retained by the Diocese consistent with privacy legislation.

5. Consequences of Adverse NPHC finding

(For Workers who **are not** Clerics)

- 5.1. Where the appointment of a Worker is conditional upon the attainment of a satisfactory NPHC result and the individual does not consent to a check being undertaken, the applicant will no longer be eligible for appointment to the role.
- 5.2. If the inherent requirement of the role changes (see **clause 3.2** above) and the Worker does not consent to a NPHC, the Worker's role and ongoing employment with the Diocese will be assessed having regard to any relevant consideration, including without limitation:
 - (a) The frequency and duration of the duties and responsibilities in relation to which the NPHC is sought; and
 - (b) Whether retaining the Worker in the role without a NPHC presents an unacceptable risk to the Diocese or vulnerable persons within its care.

6. Spent Convictions

Once a conviction becomes a Spent Conviction, a Worker is not required to disclose the conviction to the Diocese. Spent convictions are not reported in the results of NPHC and details of a spent conviction are not required to be disclosed to the Diocese as part of the NPHC process.

7. NPHC Statutory Requirement

Where an appointment is subject to an applicable law that requires a NPHC, the current or prospective Worker will be required to undergo that check.

BREACHES OF THIS POLICY

Breaching this Policy may result in disciplinary action, which may include the termination of employment or engagement and, notification to external agencies including without limitation professional standards associations, regulatory agencies and police.

REVISION/ MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
1 May 2020	1	National Police History Check Policy	Initial Policy	15 June 2020	1 July 2020
16 Nov 2020	2	National Police History Check	Added Statutory Declaration & clause 1.5. Minor change to 2.4 & 3.1.	16 Nov 2020	16 Nov 2020

APPROVAL DATE/ REVISION HISTORY

Approved by: Bishop Gregory Homeming

Date: 15 June 2020

To be revised: 1 July 2023