



INITIAL POLICY DATE	1 May 2020
REVIEWED VERSION EFFECTIVE DATE	1 January 2025
REVIEW DATE	1 July 2027
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 (Cth)</i> <i>Criminal Records Act 1991 (NSW)</i>
RELATED AGENCY	National History Criminal Checks can be requested via the Diocese of Lismore Chancery and are conducted by Accurate .
HEADINGS	Objective Definitions Policy <ol style="list-style-type: none">1. Requirement to Submit a Criminal History Check (NCHC)2. Appointment Document3. Applications for NCHC4. Frequency of NCHC5. Disclosable Court Outcome6. Assessment of NCHC which Results in a Disclosable Court Outcome7. Consequences of Adverse NPHC finding8. Spent Convictions9. Records Management10. NCHC Statutory Requirement Breaches of this Policy Revision/ Modification History

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OBJECTIVE

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

- Minimise the risk of appointing a Worker to a role where the inherent requirements of the role are 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.

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 Accurate.

Adult at Risk 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.

Contractor means a contractor as referred to in WHS legislation and/or a company is defined as a **worker who carries out work** for an organisation but is **not directly employed by them**.

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 Criminal History Check (NCHC) 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 National Criminal History Check. It includes reference to police and criminal history checks in international jurisdictions including without limitation a police certificate or penal clearance certificate.

Sensitive Information Means information or an opinion about an individual's:

- Racial or ethnic origin;
- Political opinions;
- Membership of a political association;
- Religious beliefs or affiliations;
- Philosophical beliefs;
- Membership of a professional or trade association;
- Membership of a trade union;
- Sexual preference or practices;
- Criminal record;
- Health information; and
- Genetic information.

Spent Conviction Legislation means *Crimes Act 1914 (Cth)*, *Criminal Records Act 1991 (NSW)*, *Criminal Law Rehabilitation of Offenders Act 1986 (Qld)*, *Spent Convictions Act 2000 (ACT)*, *Criminal Records (Spent Convictions) Act 1992 (NT)*, *Spent Convictions Act 1988 (WA)* and *Annulled Convictions Act 2003 (Tas)*.

Spent Convictions means a conviction that is not disclosable in a background check, police check or NCHC 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.

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

POLICY

1. Requirement to Submit a NCHC

- 1.1. The Diocese, and its entities, may require a Worker or prospective Worker to undergo a National Criminal History Checks (**NCHC**) prior to engagement and because of the nature of the duties and responsibilities to be undertaken by the Worker. NCHCs are required ongoing where an individual's integrity and honesty are integral to the inherent requirements of the role.
- 1.2. Where a prospective Worker is required to undergo a NCHC as part of their role, the appointment is conditional upon attainment of a NCHC and the Diocese being satisfied of the prospective Workers suitability for employment based on the outcome of the NCHC.
- 1.3. Any role requiring a NCHC, the advertising, position description and letter of appointment will identify the requirements of clause 1.4 as a condition of their appointment.
- 1.4. Without limiting the application of **clause 1.1**, the Diocese and its entities, will require a Worker or prospective Worker to undergo a NCHC:
 - (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 Adults at Risk 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 NCHC through an Accredited Body on behalf of the Diocese; or
 - vii. at the discretion of the Parish or Entity, a NCHC is required for a specific role not included in the criteria described in 1.4 i-iv. The requirement for ongoing NCHC will be at the discretion of the Parish or Entity.
 - (b) Without limiting the application of **clause 1.1**, the Diocese will also require a Worker or prospective Worker to undergo a NCHC 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 principal place of work or parish precinct;
 - iv. Workers assessed by the Diocese at its absolute discretion as requiring a NCHC to ensure a safe Church environment.
- 1.5. Workers who are not Australian citizens may be asked to provide a NCHC as part of their citizenship application. In these circumstances, a request for any criminal history check provided as part of their citizenship application should be made. If a criminal history 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. Appointment Documentation

- 2.1. Where a prospective Worker is required to undergo a NCHC, the appointment is conditional upon attainment of a NCHC and the Diocese/ Parish being satisfied of the prospective Workers suitability for employment based on the outcome of the NCHC.
- 2.2. Any advertising for the role, the position description and letter of appointment will identify the requirements of clause 1.2 as a condition of their appointment.

3. Applications for NCHC

- 3.1. Where a NCHC is required by the Diocese, a NCHC must be completed as soon as is possible after the Worker has been engaged by the Parish or Entity.
- 3.2. The current or prospective worker must either be sent a link to the agency approved to perform the Diocese National History Criminal Checks or the agency preferred by the Parish or
- 3.3. The current or prospective Worker may be asked to provide their own NCHC (dated within the last six months) or follow an instruction provided by the Parish or Entity in regard the prescribed process for completing the NCHC.
- This process may include;
- (a) Consenting to the NCHC being undertaken; and
 - (b) Produce the required identification documentation to allow the NCHC to be processed.
- 3.4. If a Worker is appointed to attend an Aged Care Facility or Health Care Facility, the Facility may require a NCHC 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.
- 3.5. Where a current or prospective Worker is required to undergo a NCHC and has already undergone a NCHC within the six months prior to their proposed appointment to a role, production of the original NCHC to the Diocese will suffice. The Diocese will not accept photocopies or scans of NCHC documentation.
- 3.6. NCHC that are required for clergy are to be undertaken by the Diocesan Safeguarding Manager or their delegate.
- 3.7. NCHC that are required for Chancery Workers will be undertaken by the People and Culture Advisor or their delegate.
- 3.8. NCHC that are required for Parish Workers, including parish volunteers, may be coordinated through the Chancery office by sending the request to the People and Capability Advisor.

3.9. NCHC that are required for Agency Workers, including healthcare and aged care Workers are to be undertaken by the relevant Human Resources Manager in the relevant Agency.

4. Frequency of NCHC

- 4.1. In certain positions (i.e. in aged care facilities, clergy, and those referred to in Clause 1.4), NCHC 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.
- 4.2. A Worker may be required by the Diocese to undergo a NCHC where they are in a role that was previously not assessed by the Diocese as requiring a NCHC and changes to the inherent requirements of the role require a NCHC on the incumbent.

5. Disclosable Court Outcome

- 5.1. Assessment results for Workers who have a NCHC that reveals a Disclosable Court Outcome (**DCO**) who **are not** Clerics:
- (a) within the Chancery, the NCHC result will be provided to the Diocesan Business Manager;
 - (b) within the Parish, the NCHC will be provided to the Parish Priest;
 - (c) within an Entity, the NCHC will be provided to the relevant Entity Head
- who will make an assessment of the candidate or incumbent's suitability to perform the inherent requirements of the relevant role.

The actual report is not sent to the Parish or Entity unless it is a requirement of the role. Please consult your Human Resources Manager if this is a requirement.

- 5.2. The following principles apply to the assessment of Workers who **are not** clerics who undergo a NCHC.

5.2.1 In making an assessment as to whether the result of a NCHC 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 Entity Head will take the following factors into account:

- (a) Whether denying the appointment or altering the terms of the Worker's appointment in response to the NCHC result would be a disproportionate response to the particular offence(s) or other matters disclosed in the NCHC 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).

5.2.2

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 Entity Head shall set out the concerns in writing to the Worker or proposed Worker. The request would include an explanation as to why they and request that they should not be disqualified from being considered for their appointment or continuing in the role.

5.2.3

At the conclusion of each assessment, the Diocesan Business Manager, Parish Priest or relevant Entity Head shall note on file that a NCHC has occurred and will ensure that any documents relating to the NCHC 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.

5.3. Workers who **are** Clerics:

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

5.3.1 The NCHC result will be provided to the Diocesan Safeguarding Manager who will make an assessment and recommendation to the Bishop.

5.3.2 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 NCHC has occurred and will ensure that any documents relating to the NCHC are returned to the cleric or prospective cleric. Relevant documentation will be retained by the Diocese consistent with privacy legislation.

6. Consequences of Adverse NCHC finding

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

6.1. Where the appointment of a Worker is conditional upon the attainment of a satisfactory NCHC result and the individual does not consent to a check being undertaken, the applicant will no longer be eligible for appointment to the role.

6.2. If the inherent requirement of the role changes (see **clause 4.2** above) and the Worker does not consent to a NCHC, 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 NCHC is sought; and
- (b) Whether retaining the Worker in the role without a NCHC presents an unacceptable risk to the Diocese or Adults at Risk within its care.

7. Spent Convictions

In relations to spent convictions in NSW, a conviction generally becomes a 'spent conviction' if a person has had a ten year crime free period from the date of the conviction. However certain convictions may not become spent convictions. These include:

- Where a prison sentence of more than 6 months has been imposed (periodic or home detention is not considered a prison sentence).
- Convictions against companies and other corporate bodies.
- Most sexual offences.
- Convictions prescribed by the regulations to the Criminal Records Act 1991 (NSW) (**the Criminal Records Act**).

This legislation also places restrictions on the disclosure of information about spent convictions. Once a conviction has been spent a Worker is not required to disclose the conviction to the Diocese. Spent convictions

are not reported in the results of NCHC and details of a spent conviction are not required to be disclosed to the Diocese as part of the NCHC process.

Where a conviction occurs in another State, the relevant legislation (Spent Conviction Legislation) of that State will apply. Subject to specific exceptions, the disclosure of someone's spent conviction, without their permission, is an offence.

8. Records Management

A person's criminal history is classified as 'Sensitive Information' consistent with the provisions of the Privacy Act 1988 (Cth) (**the Privacy Act**). This means the collection and storage of a person's criminal history, regardless of whether there are no convictions recorded, is subject to a higher level of privacy protection than other Personal Information. It may only be collected with consent and must not be used or disclosed for a secondary purpose unless the secondary purpose relates directly to the primary purpose of collections and within the reasonable expectations of the individual.

NCHC results contain details of a person's criminal history and are therefore classified as Sensitive Information. The NCHC result MUST NOT be retained.

A record of a NCHC having been undertaken is recorded on Worker personnel files by inserting a file note on the Workers Personnel file which consists of the following:

- Date of File Note;
- Checked Worker's Name;
- Date of NCHC;
- NCHC Number;
- Name of Person Recording File Note.

NCHC results are accessible through most Accredited Bodies for a period of 12 months from the date of the NCHC result. Generally, the Accredited Body will remove access to the result after the 12 month period has expired. This is to ensure compliance with the Privacy Act and Spent Conviction Legislation.

9. NPHC Statutory Requirement

Where an appointment is subject to an applicable law that requires a NCHC, 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 Policy	Added Statutory Declaration & clause 1.5. Minor change to 2.4 & 3.1.	16 Nov 2020	16 Nov 2020
1 June 2021	3	National Police History Check Policy	'Religious' included in the definition of Worker	1 June 2021	1 June 2021
April 2024	4	National Criminal History Check Policy	Update of name of Policy addition of Criminal and removal of Police. Removal of Related Forms and replaced with Related Agency. Updated Definitions to include, Adult at Risk, National Criminal History Check, Sensitive Information and Records Management. Remove declarations.	4 June 2024	1 January 2025

APPROVAL DATE/ REVISION HISTORY

Approved by: Bishop Gregory Homeming

Date: 10 September 2024

To be revised: June 2027