

## Information on National Police Checks

*This information is provided for NADA members and is not to be taken as legal advice.*

### What is a National Police Check?

A National Police Check (NPC) is a verification of 'disclosable court outcomes' listed on National Police Certificate.

### What is included in a National Police Certificate?

Disclosable court outcomes released in accordance with State and Federal legislation are listed on a National Police Certificate, as may be outstanding court matters. Information is *generally* limited to prosecutions initiated by police.

The Certificate is based upon a check of the National Names Index (NNI) using the applicant's name, date of birth (and if applicable) fingerprints. The Certificate issued in response to an application is to be read with consideration of the following:

1. The Certificate will not contain convictions recorded under another name or alias, unless the applicant has disclosed these in the application or has submitted to a fingerprint comparison search.
2. The Certificate will not contain convictions yet to be recorded in the NNI, due to a time lapse between the conviction and the updating of the NNI.
3. Offences prosecuted by non-police organisations may not have been submitted to the NNI and therefore may not be included.
4. Convictions of the applicant which cannot be disclosed because they are deemed '[spent convictions](#)' will not be listed.

### Why conduct a NPC?

Conducting a NPC is not mandatory. However, employers may ask job applicants and employees to disclose specific criminal record information if they have identified that certain criminal convictions or offences are relevant to requirements of the job.<sup>1</sup> The only exception to this is those organisations that work with children, where a NPC is mandatory and must adhere to the *Commission for Children and Young People Act 1998*.

Employers may use their discretion to screen prospective or current employees based on the vulnerability of the organisation's target group or as a risk management strategy. For example, organisations that provide services for women or GLBT populations; or for those positions that have financial responsibilities and delegations.

### What are an organisation's responsibilities relating to NPCs?

- NPCs are conducted with the authorisation of the job applicant or current employee.
- A person's National Police Certificate is to be used only for the purpose for which it was intended.
- A person's National Police Certificate is personal information to be securely stored in a private and confidential manner.
- Under privacy laws, a person's criminal record is treated as sensitive information. An employer should respect the privacy of job applicants and employees with criminal records.

### Does this affect an organisation's recruitment process?

**Policy** Where specific criminal record information is considered relevant to the organisation and/or certain positions, the organisation is to have a written policy and procedure. This policy and procedure clearly details recruitment, employment, termination and antidiscrimination practices, managing a 'positive' NPC result, and responsibilities within the organisation.

**Advertising** Advertisements and job information are to state whether a NPC is a requirement of employment, and that people with criminal records are not prevented from applying unless there is a particular requirement under law relating to certain positions/roles.

**Interview** Under spent convictions laws, job applicants or employees are not required to disclose information about their spent convictions, even if asked about it, unless exemptions to spent conviction laws apply. Some kinds of employment, for example employment that involves working with children, are exempt from spent convictions legislation. Further, there are some offences that never become spent, for example sex offences in some jurisdictions. Asking job applicants personal questions irrelevant to the job, risks breaching privacy and anti-discrimination laws.

**Employment** Only short-listed applicants should be asked to provide a NPC or disclose spent conviction exemptions. Applicants should be assessed firstly on their ability to do the job and then on the relevance of their criminal record to the job applied for. Employers must be aware of privacy laws that specify personal information may only be collected to the extent necessary for a purpose directly related to a function or activity of the collector.

### How should our organisation respond to a positive NPC result?

Where specific criminal record information is relevant to the organisation and/or certain positions and there is a positive NPC result, the organisation should give the job applicant or employee opportunity to provide further information, including circumstances surrounding the offence/s and character references, before determining individual employment decisions.

The relevance of a job applicant or employee's criminal record is to be assessed on a case-by-case basis. A positive NPC should not be an absolute or automatic bar to a person's employment. In assessing a positive NPC, the organisation considers:

- » Nature of offence/s and relevance to the organisation and/or position
- » Frequency
- » Pattern of offending
- » Risk assessment relating to position

There must be a 'tight correlation' between the inherent requirements of the particular job and an individual's criminal record. There must be more than a 'logical link' between the job and a criminal record.

### How does the NPC affect current employees?

Organisations that change their policies and procedures to reflect best practice utilising NPCs may require current employees to provide a National Police Certificate. This is particularly relevant for organisations working with children and vulnerable populations, and those positions that have financial responsibilities and delegations.

### What is the process for obtaining a NPC?

The individual job applicant or employee completes an online application through NSW Police at [www.police.nsw.gov.au](http://www.police.nsw.gov.au). The application is given a confirmation which is to be printed and presented to a NSW Police station with proof of identity and the payment fee. Once identity is confirmed and payment made, police personnel will issue a receipt and update the application for the Criminal Records Section to commence processing.

Allow a minimum of ten (10) business days for name and date of birth checks to be processed, and fifteen (15) business days for name, date of birth and fingerprint checks. Results are presented in a National Police Certificate posted to the name and address specified by the applicant. No copies or duplicates are released.

Note: Whilst identity confirmation and payment can be made at any NSW Police station, it is suggested that applicants contact a Police station first to ensure personnel are available.

### What are the costs and who pays for a NPC?

The fee for a National Police Check is:

- » National name and date of birth check: \$52
- » National name, date of birth and fingerprint check: \$175
- » National name and date of birth check for volunteers working in Commonwealth supported aged-care: \$15

Current standard practice is for the organisation requiring the NPC to reimburse the job applicant or employee the NPC application fee.

### Where can I get more information?

- ⚙ Criminal Records Section of the NSW Police website  
[http://www.police.nsw.gov.au/about\\_us/structure/specialist\\_operations/forensic\\_services/criminal\\_records\\_section](http://www.police.nsw.gov.au/about_us/structure/specialist_operations/forensic_services/criminal_records_section)
- ⚙ Australian Human Rights Commission  
[On the Record: Guidelines for the prevention of discrimination in employment on the basis of criminal record](#)
- ⚙ NSW Commission for Children and Young People (information on Working With Children Checks)  
<http://www.kids.nsw.gov.au/>

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<sup>1</sup> [https://www.humanrights.gov.au/sites/default/files/content/human\\_rights/criminalrecord/on\\_the\\_record/download/otr\\_guidelines.pdf](https://www.humanrights.gov.au/sites/default/files/content/human_rights/criminalrecord/on_the_record/download/otr_guidelines.pdf)