

# National Criminal Check Information Pack

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The demand for national criminal checks has grown rapidly in the last two years.

Traditionally, the processing of these checks has been timely and paper-based, which presented a barrier for the market to respond rapidly to a customer's employment needs.

Forming a strategic partnership with a specialist in this area, WorkPro is able to provide a simple procedure for processing national criminal checks, with the results available within a few minutes, allowing our client's to adopt a 'just in time' approach to this critical mandatory pre-employment requirement.

## What is a National Criminal History Records Check?

A National Criminal History Records Check (NCHRC) is a database search of an individual, using various personal information references, to identify if an individual has a criminal history which may be relevant to that person's suitability to work for you or your client.

Criminal History Information (CHI) relates to records of court convictions and findings of guilt, or other information which has been obtained by an Australian State or Territory Police Service.

NCHRC is completed for the purposes of ensuring that an existing worker or person applying to work for you or a client is screened for criminal records.

## How is the Search Conducted?

Once an Applicant has completed the criminal check application form, and provided their written and informed consent, and the check is legitimately required as part of an employment related decision, the form is submitted electronically through WorkPro and processed directly through CrimTrac – the Australian Federal Government Accredited Agency that manages a central repository of criminal history information on behalf of all Australian State and Territory Police Forces.

This means that when you run a NCHRC check through WorkPro, the application will automatically be processed and cross-referenced against every Australian police force.

## Authorisation

Risk Solutions Australia Pty Ltd, trading as WorkPro, is an 'Authorised User' of an integrated system, with direct access to the Federal Government Criminal History database, managed by CrimTrac.

As an Authorised User of our Partner's product, we can provide our client's access to the most efficient means of completing a national criminal check currently available.

## Definitions

*Spent Convictions* - under various pieces of Commonwealth, State and Territory legislation, a person has the right, in particular circumstances or for a particular purpose, to not disclose certain convictions/findings of guilt over a certain age.

Such convictions (widely referred to as "spent" or "rehabilitated" convictions) will not be released unless the records check is for the Applicant's personal information only and provided that this is in accordance with relevant legislation (and/or release policy).

If an Applicant has a police record, the "Information Release Policy" may take into account the age of the police record and the purpose for which the information is being released.

In most jurisdictions (Victoria for example), if ten years have elapsed since a person was last found guilty of an offence, police will, in most instances, advise that there is no disclosable court outcomes. However, a record over ten years may be released:

- If it includes a term of imprisonment longer than thirty months.
- If it includes a serious, violent or sexual offence and the records check is for the purpose of working with children, elderly people or disabled people.
- If it is in the interests of crime prevention or public safety.

Findings of guilt without conviction and good behaviour bonds may also be released. Recent charges or outstanding matters under investigation that have not yet gone to court may also be released.

## Process Overview

### (a) Identity Management

The processing of a NCHRC relies on a rigorous approach to screening being conducted by you in the first instance. The result of any check is only as good as the information provided, so it is critical that all reasonable steps are taken to ensure that:

- The Applicant is who they claim to be – an identity check must be conducted in every case.
- The identity check must comply with the minimum standard described in the *Financial Transaction Reports Act 1988* (Commonwealth, which forms part of the NCHRC Terms and Conditions).
- Copies of relevant supporting material for the Applicant, proving their compliance with the 100-point minimum standard, must be sent with the original of the application to WorkPro, and attached to their file and kept as a permanent part of the Applicant's record. The proof of identity documents must include at least one photographic form of ID.

### (b) The Application

It is critical that the individual within your organisation who is requesting the application understands the seriousness of the check, and that the Applicant is provided with relevant information about the process and the outcome, and once provided this information, signs the form as consent form to complete a NCHRC.

### (c) Completing an Application

The following process must be followed to complete an NCHRC:

- Applicant completes the official on-line application form
- Either the applicant prints the consent form or the organisation representative prints the form and requests the applicant to sign it.
- The 100-point check is completed
- The organisation's representative signs the application form
- The application is submitted on-line
- Send the ORIGINAL copy of the application form and the 100-point identity check to Risk Solutions within 5 business days of the application being submitted.

## Application Outcome

Once the application has been processed, two possible outcomes will be returned:

- Where there is no match found – the result indicating ALL CLEAR will be returned – there is **no** disclosable court outcome.
- Where a **potential match** is found in one or more police jurisdictions, CrimTrac automatically requests the relevant Police Service to compare the name with its local CHI records to determine if the matched Name is that of the Applicant. You will be alerted immediately that further processing is required, but this initial finding does not mean that a person necessarily has a criminal history. It may be that the person has a name or other personal details that closely match a different person whose details are on the National Criminal History database. The eventual result could be CLEAR so it is important that you do not make an adverse employment decision based on this interim finding.

The police service will identify any relevant CHI, and determine which aspects of the CHI can be released subject to relevant spent convictions/non-disclosure legislation and/or information release policies – see information under ‘Spent Convictions’ under Definitions within this document.

This process may take a number of days depending on the number of jurisdictions involved.

Once the status has been updated in WorkPro, you will receive an automatic email alert of a status change, and you will need to log back in to WorkPro to gain final notification information.

## Application Outcome Evidence

The result of any outcome will be available within the WorkPro portal. The outcome includes:

- Your Organisation’s Name as the Requesting Party
- Date the outcome was requested
- Applicant’s Surname, Given Name and Date of Birth
- CrimTrac Reference
- Result of the Check

## CHI cannot be copied or distributed to anyone

- The Criminal History Information (CHI) must NOT be copied and given to the Applicant under any circumstances.
- The information from the check must be kept confidential, and not disclosed to any other person, other than the individual Applicant.
- You may only disclose the nature of the CHI in a personal interview with the Applicant, thus giving them the opportunity to agree with or dispute the information disclosed. The Applicant may make notes, however you may not provide a copy of the outcome to the Applicant

## Discrimination

In some Australian jurisdictions it is unlawful to discriminate against a worker or applicant for work on the basis of a criminal record.

Risk Solutions accepts no responsibility for how CHI is used or relied upon by any client. It is the responsibility of you, as a client and recipient of such information, to use CHI supplied by us in a manner that is consistent with Australian law.

You are encouraged to seek legal or other suitable professional advice on the lawful use and reliance upon Criminal History Information. For general information on Australian law related to criminal records and employment go to [www.hreoc.gov.au](http://www.hreoc.gov.au)

## Audit Process

### *WorkPro*

WorkPro maintains a complete record of individual applications on our database and in hard copy, but any CHI is regularly destroyed. This means that whilst we keep a RECORD of all Applicants personal information, we only keep CHI results for a maximum of 90 days as dictated by our business partner and CrimTrac. If an Applicant requires a new police check for a new work application, a new NCHRC must be submitted.

### *Clients*

The Client must ensure that the CHI is protected by ensuring that:

- The CHI is only used by Agency Personnel for the purposes identified.
- The CHI is not disclosed to any other agency, entity or person, including the Applicant.
- You keep a permanent copy of:
  - the application form
  - the identity check
  - information of how the CHI affected any associated decision making process.
- Individual personnel files are created in relation to each Applicant.
- The Consent Form and all relevant support documents are attached to the file (including identification documents).
- Any CHI that is subsequently disclosed is attached to the file.
- The files are stored in a secure locked cabinet with access restricted to Authorised Personnel.
- Where practicable, a “clean desk” policy should prevail, i.e. ensuring that confidential Applicant files are not left unattended on desks.
- The CHI evidence in relation to the Applicant is destroyed after 90 days. It is critical that you have in place a system for destroying any hard copy on file. Similarly, any CHI that is recorded electronically, for example as a scanned file attached to email, must also be destroyed.