

HR023 – Criminal History Check Policy

1. POLICY CERTIFICATION

Policy title:	Criminal History Check Policy
Policy number:	HR023
Category:	Policy
Classification:	HR
Status:	Approved

2. PURPOSE

The purpose of this policy is to:

- To put in place measures to make sure that Criminal History Checks are maintained for Staff Members within Roper Gulf Regional Council (RGRC).
- To protect the information and rights of all paid and voluntary staff members.
- Ensure all staff members, or prospective staff members do not have any criminal convictions which would preclude them under any Act or Statutory Instrument as unsuitable for ongoing or prospective employment as a staff member of RGRC.
- To ensure that any decision pertaining to a person's suitability for employment based on a Criminal History Check is compliant with RGRC policy and Anti-Discrimination Legislation.

3. ORGANISATIONAL SCOPE

This policy applies to existing and prospective paid and voluntary staff members of RGRC.

4. POLICY STATEMENT

A staff member of RGRC must be a 'fit and proper' person who discharges their duties without fear or favour, affection or ill-will, according to law, whilst maintaining proper standards of integrity, diligence, and concern for the public interest.

RGRC is committed to ensuring that all paid and voluntary staff members have been appropriately screened for their positions in accordance with legislative and operational requirements.

RGRC has an obligation to ensure that staff members do not have convictions of a nature which would preclude them from employment in their roles. So as to meet its obligations, RGRC requires all current or prospective staff members to undertake a Criminal History Check. RGRC will weigh up any convictions against applicable law, operational requirements, the public interest, and the concept of natural justice.

RGRC is an ardent supporter of the principle '*Local Jobs for Local People*'. Roper Gulf Regional Council will work with all applicants with convictions to provide the best possible employment outcomes.

Each application shall be assessed on its own merit, on an individual case-by-case basis.

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5. DEFINITIONS

RGRC	Roper Gulf Regional Council
Staff	Anyone employed by, or associated with, RGRC on a permanent, casual, voluntary or contractual basis, whether full-time or part-time engaged work.
Inherent Duties	The essential requirements of a particular job or position. Usually detailed as essential duties in the position description.
Conviction	The complete orders made by a court after finding an accused person guilty of an offence under any Act or Statutory Instrument. This includes both the finding of guilt, and the sentence passed as a consequence.
Spent Convictions	Old convictions determined to be 'spent' under spent conviction and offender rehabilitation laws and schemes. Certain convictions are ineligible for becoming spent convictions. <ul style="list-style-type: none"> • Part 2 of <i>Criminal Records (Spent Convictions) Act</i> (NT) • Part VIIC of the <i>Crimes Act 1914</i> (Cth)
Disclosable Convictions	Convictions that appear on a National Police Clearance Certificate.
Natural Justice	The right to be given a fair hearing and the opportunity to present one's case, and the right to have a decision made by an unbiased or disinterested decision maker who makes their decision based on logically probative evidence. (<i>Salemi v MacKellar (No 2)</i> (1977) 137 CLR 396; 14 ALR 1)

6. PRINCIPLES

6.1 Police Criminal History Check

A Police Criminal History Check examines a person's criminal history at a fixed point in time. The Criminal History Check contains only disclosable convictions, excluding spent convictions, unless the application of a Criminal History Check specifies that it is for a position for which convictions cannot become spent.

6.2 Recruitment

It is a condition before commencing employment with RGRC to complete an application for a Criminal History Check and provide the Human Resources Department with a Statutory Declaration to state that you have no prior convictions or pending court cases that may impede your employment with the Council. RGRC recognises that new staff may have commenced employment prior to receiving the Criminal History Check. New staff in these circumstances will be treated the same as existing staff.

6.3 Renewal of Criminal History Check

All employees, volunteers, and Elected Members will require a renewed Criminal History Check every three (3) years or as required by the Council.

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A renewal will also be required for internal appointments and transfers where the inherent requirements of the job have changed.

RGRC shall consider all convictions within the context of legislative requirements, natural justice, and whether or not the conviction precludes the staff member from being employed in their current position.

If RGRC has concerns about a staff member's conviction(s) affecting their suitability for their continued occupation of their position, it shall afford the staff member every opportunity to present any information which RGRC or the staff member considers pertinent to a decision whether or not the conviction is relevant to the staff member's position.

6.4 Criminal History Review Panel

Evaluation of criminal records flagged by HR will be made up of a suitably qualified panel as determined by the CEO. At a minimum, the panel will consist of the applicable Director (chair), the HR Manager, and any other person(s) appointed by the CEO.

When evaluating a Criminal History Check for a potential employee, the panel will take into account:

- whether the convictions listed relate to the inherent requirements of the job,
- the nature of any convictions,
- antecedents,
- when the offences occurred,
- information provided by the applicant or staff member,
- the applicant's / staff member's subsequent (post-conviction) conduct and employment history,
- the nature and dates of convictions weighed up against legislative requirements.

The panel can ask the successful applicant or staff member for information relating to the conviction including any mitigating circumstances. The potential or existing staff member is not obligated to disclose the information.

The panel will refer their recommendations to the CEO for final decision based on the panel's recommendations, weighed up against applicable law, operational requirements and the principle of Natural Justice.

6.5 Outcomes

The CEO will recommend actions which may include internal transfer at level, offer of a position at a lower level where the inherent requirements of the role are not directly related to the disclosable convictions, or termination of employment.

6.6 Privacy

Roper Gulf Regional Council and the panel members will treat all Criminal History Checks as strictly confidential.

Criminal History Checks will only be viewed by relevant staff, review panel and the Human Resources Team.

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RGRC shall endeavour to take all necessary precautions to ensure Criminal History Checks and related information are protected from unauthorised disclosure or release. Any unauthorised disclosures shall be handled as serious misconduct matters.

6.7 CDP Participants

Participants of CDP or equivalent are job seekers and are not to be considered to be volunteers for Roper Gulf Regional Council under the scope of this policy. CDP participant will however, be required to obtain Working With Children Clearances and Criminal History Checks should a specific CDP activity require them.

6.8 Criminal Convictions

All paid and voluntary staff members are obliged to immediately inform Council of any criminal charge or conviction which occurs during employment with Council, including charges or convictions which may result in the loss or suspension of Ochre Card or drivers licence.

Failure to notify Council may result in disciplinary action.

7. REFERENCES

Acknowledgement	
Related Policies	<ul style="list-style-type: none"> • GOV012 Organisational Delegations Manual • HR001 Employee and Contractor Code of Conduct • HR003 Employee Formal Discipline Policy • HR004 Recruitment and Selection Policy • HR006 Working with Children Certificate Policy • HR005 Confidentiality and Privacy Policy • HR009 Volunteer Policy • HR027 Staff Criminal Offences Policy
Related Publications	<ul style="list-style-type: none"> • <i>Anti-Discrimination Act</i> • <i>Care and Protection of Children Act</i> • <i>Criminal Code Act</i> • <i>Criminal Records (Spent Convictions) Act</i> • <i>Local Government Act</i> • <i>Information Act</i> • <i>Age Care Act 1997 (Cth)</i> • <i>Crimes Act 1914 (Cth)</i> • <i>Privacy Act 1988 (Cth)</i> • Australian Privacy Principles • On the Record, Guidelines for the prevention of discrimination in employment on the basis of criminal record, Australian Human Rights Commission, 2012.
Relevant Forms	<ul style="list-style-type: none"> • Northern Territory Police Criminal History Check Application C – Safe NT • Statutory Declaration

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8. DOCUMENT CONTROL

Policy number	HR023
Policy Owner	HR Manager
Endorsed by	OCM
Date approved	September 2016
Revisions	July 2017
Amendments	23 August 2017
Next revision due	June 2021

9. CONTACT PERSON

Position **Manager Human Resources**
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