



## Employee Background Checks Procedure

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In developing this procedure the University had regard to the provisions of section 40B(1)(b) of the Human Rights Act 2004 (ACT).

### PURPOSE:

This Procedure sets out the process for the use of and management of outcomes from Employee Background Checks in accordance with the Employee Background Checks Policy (**Policy**).

### SCOPE:

This Employee Background Checks Procedure (**Procedure**) directly supports the Policy and is intended to act as a guide to University staff involved in responding to and managing Employee Background Checks. The Procedure does not replace applicable legislation or the Policy, but is intended to provide guidance for practical application to Disclosable Outcomes produced as part of Employee Background Checks.

### PROCEDURE:

#### *Identifying Positions Requiring Employee Background Checks*

Where the University advertises a position that requires an Employee Background Check, the People and Diversity Staff should ensure that advertisements and recruitment/onboarding related paperwork reflect this requirement. Any advertisement should:

- explain the basis upon which the Employee Background Check is being required;
- how the requirement for the Employee Background Check relates to the requirements of the advertised position, "eg as a childcare worker you will be working with children and a background check is required for this position given the nature of the duties"; and
- note that, by applying for a position that requires an Employee Background Check, the employee or prospective employee will be taken to have consented to:
  - such an Employee Background Check being conducted;
  - any information that arises from the Employee Background Check being used and disclosed for

the purpose of considering the individual's suitability for the position in question; and

- having any information that arises from the Employee Background Check being stored by the University for the purposes of ongoing assessment of the individual's suitability for the position in question. Depending on the type of Employee Background Check(s) required, the final pool of prospective employees for a position requiring an Employee Background Check may be required to either:
  - attain the relevant Employee Background Check(s) themselves; or
  - consent for the University to conduct an Employee Background Check on the prospective employee's behalf.

If a prospective employee in the final pool of prospective employees does not consent to an Employee Background Check the prospective employee may be ineligible for the position.

Nothing in this procedure prevents the University from dealing with information gathered in an Employee Background Check in a manner that is consistent with its Privacy Policy or legislation.

#### *Returning a Disclosable Outcome*

Disclosable Outcomes will be considered on a case-by-case basis. The University will deal with any information concerning a Disclosable Outcome in accordance with its Privacy Policy and relevant legislation.

Current and prospective employees who return a Disclosable Outcome will be notified.

Where an Employee Background Check returns a Disclosable Outcome, the Chief People Officer, (or nominee) together with the approving delegate for new staff appointments, as identified by the [UC Delegations of Authority Policy](#), will meet with any other relevant staff to discuss the results of the Employee Background Check and consider the impact, if any, of the Disclosable Outcome on the current or prospective employee's suitability for the role in question. The prospective employee may also be requested to attend to discuss the results.

#### *Disclosable Outcome not relevant to position*

Where a Disclosable Outcome is determined to either not be relevant to an available position or it will not affect the safety of the campus or campus users, the University will not prevent the relevant employee or prospective employee from being offered that position.

However, the Disclosable Outcome will be recorded on the Employee's human resources record in the event that it becomes relevant in the future.

The University may review a decision on the relevance of a Disclosable Outcome to a position at any time. If it is determined that a Disclosable Outcome has become relevant to a position already filled by an employee, they will be notified and it will be subsequently dealt with as relevant moving forward.

#### *Disclosable Outcome relevant to position*

Where a Disclosable Outcome is determined to either affect the safety of the campus or campus users or affect the current or prospective employee's suitability for the role, the University will consider and determine whether:

- any risk mitigation strategies could be implemented so that the Disclosable Outcome does not affect the current or prospective employee's suitability for their role; or
- the Disclosable Outcome renders the current or prospective employee unsuitable for the role.

Where it is determined that risk mitigation strategies can be implemented to a point that the Disclosable Outcome does not affect the current or prospective employee's suitability for a role, the University must inform the current or prospective employee of the mitigation strategies that will be implemented. These strategies must be agreed upon by the University and the individual in question and will be recorded on the employee's personnel file.

In some cases, the presence of a Disclosable Outcome may result in an employee or prospective employee being unsuitable to perform the inherent requirements of a position. In these circumstances, they will not be offered the position. Where a current employee, occupies a position and it is determined that a Disclosable Outcome renders a current employee unsuitable for their role, the University will consider what adjustments to the current employee's position can be made, given the severity and nature of the Disclosable Outcome.

Without limiting the actions that the University can take to address this issue, where it is determined that an employee the subject of a Disclosable Outcome is no longer suitable to perform the position they hold, the employee may be transferred to an alternative position where the Disclosable Outcome is not relevant.

## GOVERNING POLICY AND LEGISLATION:

This procedure is governed by:

- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Discrimination Act 1991 (ACT)
- Higher Education Standards Framework (Threshold Standards) 2021 (Cth)
- Human Rights Act 2004 (ACT)
- Privacy Act 1988 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Working with Vulnerable People (Background Checking) Act 2011 (ACT)

## SUPPORTING INFORMATION:

Other related documents:

- Australian Qualifications Framework
- [Charter of Conduct and Values](#)
- Child Safety and Wellbeing Policy and Procedures
- [Delegation of Authority Policy](#) and Procedures
- Employee Background Checks Policy
- Recognition of Equivalence in Academic Staff Policy
- Recruitment Procedures

- [Talent Acquisition Policy](#)