



CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 2 OF 2012

PRE-EMPLOYMENT SCREENING

The Policy Statement on Pre-Employment Screening has been reviewed and updated.

The policy provides guidance to ensure that pre-employment screening is administered in a manner that is fair, consistent and job related in order to comply with WA Public Sector legislation and State and Federal equal opportunity and anti-discrimination legislation.

The updated Policy Statement incorporates information relating to working with children legislation and the use of psychometric screening and testing within the recruitment and selection process.

A copy of the new policy statement is attached.

Please contact your labour relations adviser should you require further information.

BOB HORSTMAN
EXECUTIVE DIRECTOR
LABOUR RELATIONS

27 February 2012

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PRE-EMPLOYMENT SCREENING

POLICY OBJECTIVE

- *To provide guidance to Public Sector agencies on when it may be appropriate to screen prospective employees regarding medical conditions, criminal record or convictions, or to undertake a working with children check.*
- *To ensure agencies consider the appropriateness of psychometric screening and testing within the recruitment and selection process.*
- *To highlight matters for agencies to consider when implementing and administering pre-employment screening.*

POLICY PRINCIPLES

- Employers have a duty to provide a safe working environment for all employees and clients. Employers may be deemed accountable where reasonable measures to minimise potential risks have not been put in place.
- Pre-employment screening may be used to screen prospective employees for particular jobs for a medical condition, criminal record or conviction which may place the agency, clients or employees at risk.
- Screening of prospective employees may be warranted based on the nature of the work, or area within which the work is to be performed e.g. handling money or drugs, working with children, the elderly or disabled persons and manual handling duties.
- Screening should be conducted in a manner that is fair and consistent, ensuring compliance with WA Public Sector Employment legislation, and State and Federal equal opportunity and anti-discrimination legislation.

APPLICATION

- This policy applies to all Public Sector Agencies.

GUIDELINES

Agencies should ensure that a clear pre-employment screening policy and/or procedure is in place, taking into consideration the guidelines below.

- a) The positions or work areas that will be subject to pre-employment screening tests should be outlined.
- b) The policy and/or procedure should specify what potential risk has been identified and why pre-employment screening is required for the particular positions or areas within the workplace.
- c) The persons or groups that are to be screened should be identified i.e.:
 - i) all prospective permanent and contract employees (including transferring employees);
 - ii) independent contractors;
 - iii) volunteers;

- iv) student workers (excluding school children on work experience).
- d) A pre-employment policy and/or procedure should be consistent with all relevant legislation regarding WA Public Sector employment, equal opportunity and anti-discrimination.
- e) Details on how the screening will be administered should be contained, including at which stage of the recruitment process it is most effective to conduct the screening e.g. the agency may decide to only screen the successful applicant.
- f) Prospective employees may be required to organise and meet the costs of some screening checks. In determining who will meet the costs of screening checks, agencies will need to consider whether this will act as a deterrent for prospective applicants and/or whether the position is difficult to fill.
- g) The requirement to complete any pre-employment assessment must be clearly stated within the position advertisement, job description form and/or application form as a pre-requisite for employment consideration. The consent of the prospective employee must be obtained before conducting pre-employment screening.
- h) The privacy of screening results must be ensured.
- i) Establish who within the agency has the authority to make decisions on the basis of pre-employment screening results once the information has been collected.
- j) Ensure that the decision making process is:
 - i) fair, consistent, unbiased;
 - ii) transparent;
 - iii) free from nepotism and favouritism; and
 - iv) job-related.
- k) The policy and/or procedure must be in writing.
- l) An offer of employment should not be made until all tests have been completed. However, if this is not practicable, a conditional offer of employment may be made which provides terms such as:

"In the event that the conditions above [which refer to the pre-employment screening requirement] are not completed to the employer's satisfaction, the employment relationship and the employment contract shall immediately cease without notice."

Medical Screening

Prospective employees may be assessed as unsuitable on medical grounds where a pre-existing medical condition, or effects of ongoing medication, will prevent the prospective employee from carrying out the inherent requirements of the position.

Agency responses to medical screening results should consider the:

- a) degree of risk to the agency, clients, co-workers and the prospective employee;

- b) applicant's current ability to undertake the inherent requirements of the job;
- c) agency's ability to alter the work environment to compensate for the applicant's attributes without going to unreasonable expense or inconvenience; and
- d) compliance with the Public Sector Employment Standard and relevant State and Federal equal opportunity and anti-discrimination legislation.

All medical records should be kept confidential. Decisions made following medical screening should be documented and capable of review. A copy of the medical assessment should be made available to applicants upon request.

For information on alcohol and drug screening, refer to the WorkSafe website: <http://www.commerce.wa.gov.au/WorkSafe/>

Police Check

Prospective employees may be assessed as unsuitable on the basis of information provided through a national police certificate, if there is a reasonable assessment of risk associated with the performance of duties.

The police certificate lists the disclosable criminal history information that is available on the day it is issued. There is no period of validity imposed on a police certificate and agencies will need to determine how current the certificate is required to be.

Agencies should be aware that under the *Spent Convictions Act 1988*, it is unlawful to discriminate against a prospective employee on the grounds of a spent conviction.

Agency responses to police checks should consider the:

- a) relevance of the offence to the job;
- b) seriousness of the offence;
- c) recency of the offence; and
- d) degree of risk to the agency, clients and co-workers.

Working with Children Check

The *Working with Children (Criminal Record Checking) Act 2004* prohibits any person who has been charged with or convicted of certain offences from carrying out child-related work. Prospective employees (including volunteers) who will be carrying out child-related work are required to undergo a compulsory criminal record check.

Prospective employees who return a Negative Notice or Interim Negative Notice are prohibited from child-related work.

Agencies may be subject to penalties if they allow an employee to work without holding a current Working with Children card or without having made an application for one.

For more information about Working with Children and who is required to undergo the check, please refer to Circular No. 6 of 2008 – Working with Children Check (WWC), the *Working with Children (Criminal Record Checking) Regulations 2005* or visit the website: <http://www.checkwwc.wa.gov.au>

Psychometric Screening and Testing

From time to time Public Sector Agencies have sought guidance on the use of psychometric testing and assessment tools as part of their recruitment and selection process.

Agencies should give careful consideration to the use of these tests to recruit and select prospective applicants as there are significant complexities involved.

Agencies need to ensure that any psychometric tests or assessments are properly validated for the positions and purposes for which they are intended.

Agencies considering the use of psychometric testing or assessments need to ensure they do not discriminate unlawfully against individuals under the grounds as set out in the *Equal Opportunity Act 1984*, they comply with the Public Sector Employment Standard and that they adhere to the principles of fairness.

Agencies will also need to consider and address confidentiality and privacy issues arising out of the use of psychometric testing and assessment, and be cognisant of their obligations under relevant legislative requirements.

Where it is deemed appropriate for use, the design, administration and interpretation of psychometric testing and assessment should be undertaken by appropriately qualified personnel.

REVIEW DATE

- **February 2014**

RELATED INFORMATION

- The following acts are available at <http://www.slp.wa.gov.au>:
 - *Equal Opportunity Act 1984*
 - *Spent Convictions Act 1988*
 - *Working with Children (Criminal Record Checking) Act 2004*
 - *Working with Children (Criminal Record Checking) Regulations 2005*
- The Public Sector Employment Standard can be found at:
<http://www.publicsector.wa.gov.au>
- Circular to Departments and Authorities No. 6 of 2008 – Working with Children Check (WWC) can be found at
<http://www.commerce.wa.gov.au/LabourRelations/>