



Policy P3.1.7 SMSS Criminal History Record Checks

Date of Issue 1 August 2011

Version Number Version 1.0

1. Purpose

- 1.1 This Policy sets out the procedure to be followed for Criminal History Record Checks for salaried officers appointed to field positions with the State Mitigation Support Services Section (SMSS) of the Operational and Mitigation Support Services Group (OMSS).
- 1.2 The nature of the work of SMSS field staff brings them into contact with the general public. Quite often these people can be classified as vulnerable, with SMSS field staff having access to these people's homes.

2. Definitions

- 2.1 **AIDER** - Assist Infirm Disabled Elderly Residents
- 2.2 **Applicant** - Any person who applies for employment as an SMSS field officer
- 2.3 **Assessment Panel** - Shall consider all Criminal History Record Check applications for field officer salaried positions with SMSS and shall be comprised of at least 3 members representative of the Membership Coordination Unit (MCU) and Operational and Mitigation Support Services (OMSS) to be appointed by the Director Membership and Strategic Services and Director Operational Services.
- 2.4 **Serious offence** - Any of the following offences:
 - (a) "sexual offence" as defined in section 7(4) of the *Criminal Records Act, 1991 (NSW)* or a similar offence in another jurisdiction;
 - (b) with or involving a person under the age of 18 years;
 - (c) dishonesty, including theft or fraud;
 - (d) assault or violence against a person;
 - (e) the death or injury of another person;

- (f) the importation, manufacture, cultivation, sale, distribution or trafficking of drugs;
- (g) public mischief or the making of false alarms;
- (h) terrorism, however described; or
- (i) arson or the setting of fires, however described.

2.5 Vulnerable person - Due to the nature of the work (i.e. the AIDER programme) the client base that SMSS field officers are engaged with are vulnerable. The Personnel Handbook (s2-15.1) allows for the definition of a “sensitive matter” to be defined by the Department Head giving consideration to matters such as the employee’s potential access to people’s homes or disabled people, as is the case with the AIDER programme.

3. Policy

3.1 As part of the recruitment and selection process, all Applicants for the following SMSS field positions **must** undertake a criminal history record check prior to being considered for employment:

- (a) Supervisor State Mitigation Support;
- (b) Works Assessment Officer;
- (c) Mitigation Crew Leader; or
- (d) Mitigation Crew Member.

3.2 Permanent SMSS staff (supervisors/assessment officer) will be required to undertake a criminal history record check every three (3) years.

3.3 Temporary SMSS field officers will be required to undertake a criminal record check for each employment contract they enter into with the NSW RFS. By way of example, a current SMSS field officer whose contract is due to expire **must** undertake a new criminal history record check for their next contract.

3.4 The fact that a criminal history record check discloses information that is adverse to an Applicant will not automatically result in a determination that the person is not appropriate for employment.

3.5 If an Applicant has been charged with a criminal offence and the offence is one which, if the Applicant is convicted, may result in the applicant not being considered for employment then the recruitment process will not proceed until such time as the charge/s have been heard and determined.

3.6 If, as a result of the criminal record checking process it is identified that the applicant has a criminal record, and if the applicant is also a member of the NSW RFS, the matter will be referred to the Director Regional Services for any appropriate action in respect of the applicant’s volunteer membership.

- 3.7** In the case of a conviction for any offence, an assessment as to the suitability of the Applicant (either as a field officer or permanent SMSS staff) will be made by the Assessment Panel based upon the following criteria:
- (a) the nature and circumstances of the offence;
 - (b) when the offence occurred;
 - (c) the applicant's character and service record; and
 - (d) the penalty imposed in relation to the offence.

4. Records Management

- 4.1** In accordance with the terms of the contract between Crimtrac and the NSW RFS, as well as relevant Commonwealth and NSW privacy laws, the following record management principles will apply to the Applicant's criminal record:
- (a) only authorised staff will have access to the information to the extent that such access is necessary for them to fulfil their functions;
 - (b) the information will only be used for the purpose of determining the suitability of the Applicant for employment with the SMSS and/or membership of the NSW RFS;
 - (c) the information will not be divulged other than as may be required by law;
 - (d) the information will be managed to protect the privacy of the Applicant;
 - (e) the information will be secured and protected to prevent loss or unauthorised access; and
 - (f) the information will be held for 3 months or the term of the Applicant's employment whichever is the longer.

5. Links

- SOP 2.1.8-1 Criminal History and Disciplinary Record Checks
- Service Standard 1.1.9 Child Related Activities
- *Rural Fires Act 1997*
- Rural Fires Regulation 2002
- *Criminal Records Act 1991*
- *Crimes Act 1900*
- Department of Premier and Cabinet Personnel Handbook

6. Who is responsible for implementing the Service Standard/Policy?

- Director Operational Services
- Director Membership and Strategic Services

7. Amendments

- Initial release

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SMSS Criminal History Record Checks

This SOP forms part of	P3.1.7 SMSS Criminal History Record Checks
Related forms	<ul style="list-style-type: none">▪ Informed Consent form▪ National Police Checking Service form

1. Purpose

- 1.1 This standard operating procedure outlines the process of assessing SMSS field officer applicants through the criminal history record checking process.

2. Procedures

- 2.1 As part of the recruitment process all applicants for SMSS field officer positions must undertake a criminal history record check assessment that will identify any criminal charges or convictions.
- 2.2 Should an applicant have no convictions (i.e. no criminal record) then the recruitment process will continue.
- 2.3 Should an applicant have a criminal record, an assessment will be made by an assessment panel constituted as follows to determine whether their criminal record precludes them from employment with SMSS:
- (a) Group Manager Membership Services or delegate;
 - (b) Group Manager OMSS or delegate; and
 - (c) Manager Membership Administration or delegate.
- 2.4 When making the assessment, the assessment panel will address each of the following criteria:
- (a) **Nature and circumstances of the offence.** This assessment analyses the offence/s to determine whether they affect the Applicant's suitability. Relevant considerations include but are not limited to:
 - i. the seriousness of the offence (whether it is one referred to in section 2.4(b) below);
 - ii. whether the offence is an isolated occurrence or part of a pattern of similar or multiple offences;
 - iii. whether there are any mitigating factors such as the Applicant's age or the operation of absolute liability (offences where there is not requirement of intent necessary for a conviction)

- (b) Serious offences.** Whether the Applicant has been convicted of:
- i. "sexual offence" as defined in section 7(4) of the *Criminal Records Act, 1991 (NSW)* or a similar offence in another jurisdiction;
 - ii. with or involving a person under the age of 18 years;
 - iii. dishonesty, including theft or fraud;
 - iv. assault or violence against a person;
 - v. the death or injury of another person;
 - vi. the importation, manufacture, cultivation, sale, distribution or trafficking of drugs;
 - vii. public mischief or the making of false alarms;
 - viii. terrorism, however described; or
 - ix. arson or the setting of fires, however described.
- (c) Timing of the offence.** If any applicant has been convicted of an offence in the past 12 months they may be ineligible to be considered for employment with the SMSS. However, if their conviction is remote in time that may bear on its relevance to their suitability.
- (d) Character and service record of the Applicant.** The Applicant's good character and service record, particularly since the commission of a minor historical offence, may bear on their suitability.
- (e) The vulnerability of clients.** The nature and role of SMSS brings them in contact with vulnerable members of the community. As such any convictions will need to be assessed based upon the risk that this poses to vulnerable community members.

2.5 When assessing applications where a criminal record has been identified the appropriate form will be completed (appendix A) by the assessment panel.

Determination

2.6 The Director Operational Services and the Director Membership and Strategic Services will be advised of the outcome of all Applications where the Applicant's criminal record is assessed by the Assessment Panel and is determined that the Applicant is either suitable or not suitable for employment.

2.7 Where it is determined that an Applicant will not be eligible for employment the Applicant will be advised in writing.

2.8 In exceptional circumstances the Director Operational Services and /or Director Membership and Strategic Services is able to overturn a determination made by the Assessment Panel.

Appendix A - SMSS Criminal History Record Check

Applicant: _____

Has the Applicant committed any offence	Yes		No	
If "Yes" is it a Serious Offence?	Yes		No	
Did the offence occur in the past 12 months?	Yes		No	
<p>Nature and circumstances of the offence</p> <p>Consideration should be given to all relevant factors including such things as:</p> <ul style="list-style-type: none"> • the type of offence (did it involve violence or dishonesty/was it directed at children or was it relatively minor?); • when the offence occurred (was it recent or a long time ago?); • is there a pattern of offences/behaviour?; • What penalty was imposed (this will sometimes give an indication of the seriousness with which a court regarded the offence) 				
<p>Risk to vulnerable community members</p> <p>Consideration must be given to any particular vulnerability of the persons with whom the Applicant will be dealing</p>				
<p>The Applicant's character and service record</p> <p>Consideration should be given to the Applicant's character and service record particularly in the context of a relatively minor offence and/or one committed a long time ago</p>				

Print Name			
Signature			
	Panel Member 1	Panel Member 2	Panel Member 3

Date: _____