

# Pre-employment Screening Policy

## 1 Purpose

This policy outlines VAGO's approach to pre-employment screening.

## 2 Application

The following types of recruits are subject to pre-employment screening:

- all new full-time or part-time casual, fixed-term, secondment or ongoing employees who are employed under the [VPS Enterprise Agreement 2016](#) ('the VPS Agreement') and who are not already employed at a VPS level at VAGO at the time of being recruited
- all new appointments at the Executive Officer level, in line with the terms outlined in the [Standard Executive Officer Employment Contract](#) ('the EO Contract') and the [Victorian Public Service Executive Employee Handbook](#) ('the EO Handbook').

The policy may also apply to the following employees:

- agency contractors employed through recruitment agencies
- consultants undertaking a contract for service

## 3 Principles

VAGO is committed to Equal Opportunity in employment. VAGO also has a duty of care to ensure all employees meet the highest standards of integrity and suitability, including having the ability to perform the inherent requirements of their role.

## 4 Requirements

### Qualification Checking

VAGO confirms qualifications of new VPS and Executive Officer employees as follows:

Employee does not hold a tertiary qualification	No evidence is required
Employee holds a tertiary qualification	Applicants are required to provide evidence of their highest level qualification(s) as defined by the <a href="#">Australian Qualifications Framework</a> during the on-boarding process.
The position description details that a particular qualification/s is a requirement for the position, and the applicant has advised that they hold the required qualification/s	The applicant will be required to provide VAGO with evidence of the qualification/s during the on-boarding process - if this is not covered by the above.

Evidence may be in the form of a copy or original certificate showing the result, a statement of result or a signed letter from the attended university or institute confirming the result.

Qualification checks are not required for contractors or consultants.

## **National Police Record Certificates**

Employment with VAGO is conditional on an applicant obtaining a satisfactory National Police Record Certificate to ensure that they have no criminal history that could impact their ability to suitably perform the inherent requirements of their role.

Human Resources will provide a link to VAGO's [National Crime Check](#) online portal during the onboarding process. The employee must complete their online application for a National Police Record Certificate prior to commencing in their role.

If a new recruit refuses to apply for a National Police Record Certificate, VAGO may withdraw the offer of employment.

### *Renewals*

Employees must obtain a further National Police Record Certificate every three years. Human Resources will inform the employee to complete the process at the appropriate time.

### *Disclosing new charges and/or convictions*

If an employee is charged with and/or convicted of an offence this must be disclosed to Human Resources and a revised National Police Record Check must be obtained.

## **Pre-Employment Statutory Declaration and Consent Form**

In accordance with the [VPS Pre-Employment Screening Policy](#), appointment to any VPS, Executive Officer, contractor or consultant roles at VAGO is conditional on an applicant completing a [Statutory Declaration and Consent Form](#) advising if they:

- have had allegations substantiated in a prior misconduct investigation within the past 10 years
- have ever had their employment terminated as a result of misconduct
- are the current subject of such a process
- have ever resigned a previous position in order to avoid substantiations of misconduct investigation allegations

The form also provides the required consent to enable employers to verify the accuracy of declarations made with previous and/or current employers.

VAGO will provide candidates with the [VPS Pre-Employment Screening Policy](#) and the [Statutory Declaration and Consent Form](#) via the online portal during the onboarding process.

## **Pre-employment Health Declarations**

Employment with VAGO is conditional on the applicant being physically and mentally fit and fully able to perform the inherent requirements of their position. Completion of a pre-employment health declaration assists VAGO to ensure that no person is placed in an environment or given tasks that will result in physical or mental harm.

### *VPS or Executive Officers*

Human Resources will include a [Pre-employment Health Declaration Form](#) in the new employee's onboarding portal. The employee must complete this form and return it to VAGO prior to commencing in their role. When completing the pre-employment health declaration it must be in full knowledge of the role as outlined in the position description.

If a new recruit refuses to complete the [Pre-employment Health Declaration Form](#), VAGO may withdraw the offer of employment.

### *Contractors and consultants*

Contract managers should ensure that the employees engaged to work with or at VAGO are physically and mentally fit to perform the inherent requirements of their role.

### *Legislative requirement*

In line with Section 41(1) of the [Workplace Injury Rehabilitation and Compensation Act 2013 \(Vic\)](#), VAGO requires that new employees disclose any existing or pre-existing injuries or disease that they are aware of which may be impacted by the proposed employment. This includes any pre-existing injuries or disease that you could reasonably be expected to foresee could be affected by the nature of the proposed employment.

In line with Section 41(2) of the [Workplace Injury Rehabilitation and Compensation Act 2013 \(Vic\)](#) failure to disclose any existing or pre-existing injury or disease, of which it can be proved you were aware, or the making of a false or misleading disclosure, may not entitle you to compensation in the event of any recurrence, acceleration, exacerbation or deterioration of the pre-existing injury or disease arising out of or in the course of or due to the nature of employment.

Section 21 of the [Occupational Health and Safety Act 2004 \(Vic\)](#) requires that an employer provides and maintains, so far as is reasonably practicable, a working environment that is safe and without risks for employees. The pre-employment health declaration enables VAGO to provide appropriate and reasonable supports for our employees and take appropriate and reasonable action to assist us in meeting this obligation.

Information is also collected in line with the [Health Privacy Principles within the Health Records Act 2001 \(Vic\)](#) and the Information Privacy Principles within the [Privacy and Data Protection Act 2014 \(Vic\)](#).

### **Assessment of pre-employment screening results**

When information is disclosed and/or uncovered through pre-employment screening, VAGO is obliged to act without prejudice when considering the information. All employment decisions which are based on pre-employment screening will be made by the Deputy Auditor-General or above.

Disclosure of false or misleading information may result in disciplinary action under the VPS Enterprise Agreement 2016, which may include termination of employment.

When considering the information, the Deputy Auditor-General or above must:

- act fairly and without bias
- avoid malice
- follow prescribed processes and policies and observe legal requirements
- avoid situations of real or apparent conflicts of interest
- base decisions on evidence and all relevant information available at the time
- avoid improper exercise of powers
- seek an alternative opinion or a separate review where the matter is unclear or confusing
- act promptly.

Decisions will only be made based on the applicant's ability to perform the inherent requirements of their role. Inherent requirements of a position are the essential requirements of a particular job and can include:

- the tasks the employee will be required to perform
- the circumstances in which the work is to be carried out
- the qualifications required for the position, as listed on the advertised position description

- any other organisational requirements of the job.

*Considerations for qualification screening findings*

An applicant may be considered unsuitable for employment if they are unable to produce evidence of the qualification/s they disclosed during the application process, where the qualification/s are listed as a requirement on the advertised position description.

The applicant will be provided a maximum of 4 weeks to produce the required evidence.

*Considerations for National Police Record Certificate findings*

An offence history will not necessarily preclude employment. An offence listed on a National Police Record Certificate will affect a prospective employee's position at VAGO only to the extent that it is judged to negatively affect that person's ability to carry out the inherent requirements of the job for which they are being recruited.

VAGO will consider findings within an overall assessment of a potential employee's good character and reputation, including, but not limited to, factors such as:

- the relevance of the type of offence to the requirements of the role
- the nature of the offence
- the seriousness of the offence
- frequency and severity of the offences
- any mitigating or extenuating circumstances—such as provocation
- the length of time since the offence took place
- whether the offence was committed as a juvenile or as an adult
- the general character displayed since the offence was committed—such as steady employment record and favourable reports by past employers

Human Resources may contact the applicant and give them an opportunity to respond to any findings. They may liaise with the relevant Business Unit Head if necessary.

*Considerations for disclosures or findings of misconduct*

In the event that a candidate makes a disclosure, or such information is uncovered via pre-employment screening investigations, the Deputy Auditor-General or above will consider the available information and make a decision on how to proceed with the recruitment process. Outcomes may include:

- proceeding with an unconditional offer of employment
- proceeding with an offer of employment with responsibilities adjusted to mitigate the risk of potential future misconduct
- not proceeding with an offer of employment due to misconduct being previously substantiated, currently investigated or an investigation ceasing due to resignation
- not proceeding with an offer of employment for other reasons unrelated to misconduct
- not proceeding with an offer of employment for a combination of misconduct related information and other unrelated factors

The [VPSC Guide to Implementing the VPS Executive Pre-Employment Screening Policy](#) provides information to assist employers determine the relevance of declared information to the inherent requirements of the position.

Human Resources may contact the applicant and give them an opportunity to respond to any findings.

### *Considerations for disclosures of medical disability or illness*

Detail provided in a [Pre-employment Health Declaration Form](#) will not necessarily affect employment, unless it is deemed that the individual cannot undertake the inherent requirements of their role, and reasonable adjustments cannot be made to enable the individual to undertake the inherent requirements of their role.

Human Resources may contact the applicant to discuss their suitability for employment and fitness for duty. In this instance, it may be requested that the applicant obtain and provide further medical advice to determine suitability for employment. As a last resort, VAGO may request to disclose the applicant's health declaration to an independent medical examiner prior to employment being confirmed.

### *Reasonable Adjustments*

Reasonable adjustments are recommendations, generally made by a registered health practitioner, to adjust existing work practices and/or procedures or introduce supports which may assist an employee to undertake their duties.

Examples of reasonable adjustments may include:

- adjustments to work arrangements to accommodate an employee who needs breaks because of pain or fatigue issues
- access to a telephone typewriter (TTY) for an employee who is deaf, has hearing loss or has a communication difficulty
- providing support and training to managers and co-workers
- an adjustable height desk for a person using a wheelchair
- screen reading software for employees with vision impairment

VAGO will make all reasonable attempts to implement any recommended adjustments detailed within the [Pre-employment Health Declaration Form](#) or supported by medical advice. However, VAGO maintains the right to refuse the request for an adjustment if it is not deemed reasonable, such as if its implementation causes VAGO an 'unjustifiable hardship'. This may take into account:

- the benefit or detriment to the employee
- any benefit or detriment to others affected by the adjustment
- the effect of the disability on the employee
- the cost of the adjustment
- the availability of financial or other assistance in making the adjustment

Decisions about reasonable adjustments are made by the HR Director.

Human Resources will cover any costs associated with reasonable adjustments.

### **Withdrawing or terminating employment**

Any decision to terminate or withdraw employment under this policy will be made by the Deputy Auditor-General or above.

Human Resources will be responsible for communicating the decision with the affected employee.

The Deputy Auditor-General or above and Human Resources have discretion about what information to provide to the Line Manager when explaining a decision to withdraw or terminate employment. No information will be communicated to the Line Manager in circumstances where withdrawal or termination of employment is not approved.

The Manager is responsible for finding suitable alternative candidates as detailed in the [Recruitment and Selection Policy](#).

## Legislative grounds

The [Human Rights and Equal Opportunity Commission Regulations 1989 \(Cth\)](#) protects employees from discrimination based on a criminal record, medical impairment, mental, intellectual or psychiatric disability or physical disability unless that attribute prevents the person from being able to carry out the inherent requirements of the role.

Under the [Equal Opportunity Act 2010 \(Vic\)](#) it is not unlawful discrimination against a job applicant or employee because of their disability, if the person requires adjustments to perform the genuine and reasonable requirements of the employment, and the adjustments are not considered reasonable.

Under the [Disability Discrimination Act 1992 \(Cth\)](#) it is not unlawful discrimination on the ground of disability if a person's disability makes them unable to carry out the inherent requirements of the particular work, even after reasonable adjustments are made.

## Record keeping

All documentation relating to pre-employment screening decisions must be retained in a secure location by Human Resources. This includes completed copies of all:

- National Police Record Certificates
- Pre-employment health declaration forms
- Certificates or evidence of qualifications held
- Misconduct declaration and consent forms
- Documentation to explain or justify the rationale and decision-making process in the event that employment is withdrawn
- Documentation outlining the decision-making process for Executive Officers disclosing current or past substantiated misconduct allegations or resignation resulting in termination of a misconduct investigation

## Avenues of redress

Complaints about discrimination under Australian law (Cth) can be made to the Australian Human Rights Commission. Complaints about discrimination under Victorian law (Vic) can be made to the Victorian Equal Opportunity and Human Rights Commission and Victorian Civil and Administrative Tribunal (VCAT).

# 5 Responsibilities

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<b>Auditor-General and Deputy Auditor-General</b>	Make decisions about withdrawing or terminating employment in line with this policy
<b>Business Unit Heads</b>	Support reasonable adjustments that are requested and endorsed by Human Resources
<b>Directors and Managers</b>	Support reasonable adjustments that are requested and endorsed by Human Resources
<b>Human Resources Director</b>	Make decisions about reasonable adjustment requests Make recommendations about withdrawing or terminating employment in line with this policy.
<b>Human Resources</b>	Facilitate pre-employment screening with new employees Facilitate National Police Record Check renewals

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Provide advice, guidance and support with regard to pre-employment screening

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**Our people**

Participate openly and honestly in pre-employment screening  
Participate in National Police Record Check renewals

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## 6 References / related documents

Recruitment and Selection Policy

Australian Human Rights Commission Act 1986 (Cth)

Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 2010 (Vic)

Health Records Act 2001(Vic)

Human Rights and Equal Opportunity Commission Regulations 1989 (Cth)

Occupational Health and Safety Act 2004 (Vic)

Privacy and Data Protection Act 2014 (Vic)

Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)

Victorian Public Service (VPS) Enterprise Agreement 2016

Standard Executive Officer Employment Contract

Victorian Public Service (VPS) Executive Employee Handbook

VPSC Equal Employment Opportunity Guidelines

VPSC Pre-employment Screening Policy

## 7 Policy review statement

This policy will be reviewed every two years from the last approval date, or when there is a significant change in the intent of the policy.

### Version history

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#### Release notice

Version	Date of effect	Amendment details	Amended by
1.0	November 2016	Initial release	Human Resources
1.1	April 2018	Review and addition of qualification screening clauses	Human Resources
1.2	June 2018	Amendment to qualification checking clause. Reduction in Criminal Record Check renewal period from 5 to 3 years.	Human Resources

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1.3	November 2018	Addition of record keeping clause	Human Resources
1.4	September 2019	Amendment to implement VPSC Pre-employment Screening Policy	Human Resources
1.5	January 2020	Amendment to reflect changes to VSPC Pre-Employment Screening Policy	Human Resources
HP record no:	N16/3396		
Policy owner:	Human Resources		
Approved by:	Andrew Greaves	Date:	21/11/2016