



Police Record Check Policy

Policy Number:	ML 1.20	Date:	23 rd October 2018
		Approved by:	Chief Executive Officer
Version:	1/2018	Scheduled review date:	1 st November 2019

1. Statement of Context and Purpose

- 1.1 Melbourne Legacy (ML) is committed to safeguarding the welfare of its beneficiaries and those who rely on and receive its services.
 - 1.2 The purpose of this policy is to:
 - (a) Enable ML to protect and minimise the risk of harm to ML, its beneficiaries and those who rely on and receive its services;
 - (b) Provide employees, volunteers, contractors and other authorised personnel with an understanding of their lawful obligations and ML's expectations; and
 - (c) Provide guidance and reduce uncertainty if a situation arises in relation to Police Record Checks.
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2. Scope

- 2.1 This policy applies to all employees, volunteers, contractors and other authorised personnel required to perform functions on behalf of Melbourne Legacy or on its premises.
 - 2.2 This policy is not intended to override or form part of the terms of any award, enterprise agreement or contract that applies to an employee, but should be considered a reasonable direction to staff. As such all employees, volunteers, contractors and other authorised personnel are expected to abide by this policy and report any suspected or known breaches of this policy.
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3. Related Documents

- 3.1 External Documents
 - (a) Fair Work Act 2009 (Cth)
 - (b) Privacy Act 1988 (Cth)
 - (c) Statutory Declarations Act 1959 (Cth)
 - (d) Crimes Act 1958 (Vic)
 - 3.2 Internal Documents
 - Policies and Procedures:
 - (a) Workplace Behaviours Policy
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- (b) Child Safety Policy
 - (c) Recruitment and Selection Policy
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4. Definitions

- 4.1 **Child-connected work** means work authorised by ML and performed by an adult in the ML environment while children are present or reasonably expected to be present. This contact may form:
- (a) Face-to-face contact;
 - (b) Contact by post or other written communication;
 - (c) Contact by telephone or other oral communication; or
 - (d) Contact by email or other electronic communication.
- 4.2 **Child safety** encompasses matters related to protecting all children from child abuse, managing the risk of child abuse, providing support to a child at risk of child abuse, and responding to incidents or allegations of child abuse.
- 4.3 **Disclosable outcome or record** means a record of court convictions and findings of guilt (with or without conviction) released in accordance with state and federal legislation.
- 4.4 **Duty of care** relates to the duty the Chief Executive Officer (CEO), board, managers and other employees of ML have to provide a high standard of care to children within its care, requiring the taking of all reasonable steps so far as is reasonably practicable, to reduce the risk of harm to children, including the implementation of strategies to create a culture of position behaviour. This duty is non-delegable, meaning that it cannot be assigned to another party.
- 4.5 **Police Record Certificate** is a nationwide assessment report of a person's criminal history prepared by the Australian Federal Police, a state or territory police service, or an Australian Criminal Intelligence Commission accredited organization or agency that discloses evidence of whether a person:
- (a) Has been convicted of an offence;
 - (b) Has been charged with and found guilty of an offence but discharged without conviction; or
 - (c) Is the subject of any criminal charge still pending before the court.
- 4.6 **Police Record Check** is the process of checking a person's criminal history, resulting in a Police Record Certificate. A Police Record Certificate is a 'point in time' report and has no lifetime/expiry. Melbourne Legacy complies with advice from Legacy Australia Inc to ensure all persons have a new police record check every 3 years.
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5. Police Record Check Criteria

- 5.1 All employees, volunteers, contractors and other authorised personnel who are engaged by ML in any capacity require a Police Record Check every 3 years. .

- 5.1.1 An employee, volunteer, contractor or other authorised personnel must permit the release of information relating to both spent and non-spent criminal records and disclose findings of guilt where no conviction was recorded.
 - 5.1.2 Any offer of employment, volunteer program or service with ML are subject to the provision of an accepted Police Record Certificate from CrimCheck Ltd.
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6. Applying for a Police Record Check

- 6.1 To apply for a Police Record Certificate, all employees, volunteers, contractors and other authorised personnel are required to complete an Application and Informed Consent Form provided by Crimcheck Ltd.
 - 6.2 The information provided by the employee, volunteer, contractor or other authorised personnel will be used to source an online Police Record Certificate from CrimCheck Ltd.
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7. Reviewing and Checking a Police Record Check

- 7.1 Criminal history information is reviewed by the Chief Executive Officer (CEO). All employees involved in the handling of criminal records will ensure that confidentiality of records is maintained at all times, and that records are stored securely in the employee's personnel file in accordance with the CrimCheck contract guidelines.
 - 7.2 An employee, volunteer, contractor or other authorised personnel's Police Record Certificate may only be used for assessing a person's suitability for employment or engagement.
 - 7.3 When a Police Record Certificate results in a disclosable outcome, outstanding charge or other matter, the CEO will assess and determine the person's suitability for employment or engagement at ML.
 - 7.4 ML will ensure that:
 - (a) The assessment of the disclosable record is made in accordance with Crimcheck Ltd's Criminal History Check Risk Assessment Form
 - (b) Any decision made for or against a person is able to be justified and fully documented in accordance with Crimcheck contract guidelines.
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8. Payment for a Police Record Check

- 8.1 There is an application fee for employees, volunteers, contractors and medical practitioners which must be paid prior to obtaining a Police Record Certificate.
 - 8.2 The cost of a Police Record Certificate is incurred by ML.
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9. Recruitment and Police Record Checks

- 9.1 Where the requirement for a Police Record check is stated in the advertisement for a position, ideally the original Police Record Certificate should be provided at the time of interview for sighting and photocopying by the relevant hiring manager or their delegate.
 - 9.2 After siting the original copy of the Police Record Certificate, the certificate date and number is recorded in the employee's file. All hard and electronic copies of the application form and/or certificate must be destroyed after 365 days in accordance with Crimcheck contract guidelines.
 - 9.3 If unavailable at interview, the Crimcheck Police Record Certificate should be provided prior to the time of commencement of the new employee.
 - 9.4 If an applicant refuses to provide proof of a Police Record Certificate, they must be excluded from consideration for a position at ML.
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10. Ongoing Police Checks and Compliance

- 10.1 ML must not:
 - (a) Allow people to undertake child-related work where their Police Record Certificate includes a disclosable outcome and that outcome precludes them from performing in the position which they hold or have applied for.
 - (b) Allow people to undertake work relevant to which is directed above, if their Police Record Certificate is more than 3 years old.
- 10.2 ML must ensure that:
 - (a) There is a Police Record Certificate less than 3 years old for all employees, volunteers, contractors and other authorised personal at all times.
 - (b) A person with a Police Record Certificate more than 3 years old, is not undertaking work as described in 10.1 above.
 - (c) The number and date of the Police Record Certificate for employees, volunteers, contractors and other authorised personnel is recorded on their personnel file.
- 10.3 The manager of each department must ensure that:
 - (a) Police Record Certificate numbers and dates are recorded on the employees personnel file.
 - (b) Any copies of a person's criminal history are stored securely and in accordance with the Privacy Act 1988 (Cth) and Crimcheck contract guidelines.
 - (c) A report is provided to the CEO on a regular basis highlighting those employees who require a new Police Record Certificate within the next three (3) to six (6) months.
- 10.4 The CEO must ensure that:
 - (a) All employees, volunteers, contractors and authorised personnel have a Police Record Certificate less than 3 years old.
 - (b) All Police Record Certificates numbers and dates are recorded in the appropriate system.

(c) Monitoring and compliance of Police Record Certificates is undertaken.

11. Change of Circumstances

- 11.1 If an employee, volunteer, contractor or authorised personnel holding a Police Record Certificate, has a change in circumstances which could affect their engagement or employment at ML, they must notify the CEO in writing within seven (7) days.
- 11.2 A change of circumstances may include:
- (a) An impending or actual charge, conviction or finding of guilt for an offence; or
 - (b) Having your registration cancelled, suspended or restricted if you are a teacher, foster carer or carer for children in residential care.
- 11.3 ML must be notified of a change of circumstances whether they occur in Victoria, interstate or overseas. Failure to notify of a change of circumstances, will be considered a breach of this policy and may result in disciplinary action, up to and including termination of any engagement or employment.
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12. Failure to provide or pass a Police Record Check

- 12.1 Where an employee, volunteer, contractor or other authorised personnel have received a Police Record Certificate, and that Certificate includes a reportable disclosure which precludes their eligibility for engagement or employment at ML, the person's employment or engagement arrangements will be reviewed at the discretion of the CEO.
- 12.2 The CEO may take any of the following actions against an existing employee, volunteer, contractor or other authorised personnel:
- (a) Modification of the duties associated with the child-related work or relevant position pending the outcome of an investigation; or
 - (b) Suspension (with or without pay) as an interim measure; or
 - (c) Termination of employment or engagement.
- 12.3 ML will also be notified by the Department of Justice where required. Upon notification, ML will ensure that any person who has been issued with a negative notice does not work in any child-related work.
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13. Consequences of a Breach of this Policy

- 13.1 ML emphasises the need to comply with the requirements of this policy. Breaches of this policy and its procedures may result in suspension of access to ML's information resources.
- 13.2 Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment. Employees
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should refer to the Performance Management, Misconduct and Disciplinary Action Policy and Procedure.

- 13.3 Similarly, a Legatee or volunteer found to be in breach of the requirements of this policy may be subject to disciplinary action in accordance with ML's Legatee Code of Conduct and Club Rule No. 44.
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14. Policy Review

- 14.1 ML may make changes to this Policy at any time and will inform Legatees, volunteers and staff accordingly.
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15. Authorisation

Approved by Melbourne Legacy Chief Executive Officer:

Justin Elwin

Date: 23 / 10 / 2018

Ratified by:

Melbourne Legacy Board of Management

Date: 23 / 10 / 2018
