

PROBITY IN EMPLOYMENT

POLICY

This policy ensures the adequate and consistent approach of probity in the employment of staff, volunteers, committee member and other officers involved in delivering services and support to Carers of people with a disability, care recipients and their families.

As a commitment to the care and welfare of clients, staff and volunteers, Riverlink will undertake effective employment procedures and probity checks of prospective employees, board members, volunteers and others that are engaged from time to time. All people called for interview will be advised they must give permission for a criminal record check and a Working With Children Check (WWCC) to be undertaken should their application be successful. A positive result from a criminal record check by the Australian Federal Police will not necessarily preclude a person from being employed, except in cases where the law prohibits this. When applicable, each case will be determined on its own merits and relevance to the position for which application has been made. Criminal record checks may be conducted on short-listed applicants being considered for an offer of employment. A positive result from a WWCC will result in the removal of any barred or unauthorised persons from child-related work.

These probity considerations will apply not only when people join Riverlink, but also when they move within it taking on new responsibilities. Riverlink also conducts routine probity checks of key personnel to ensure compliance with obligations under the NSW Child Protection (Working with Children) Act 2012, regarding disqualified individuals.

DEFINITIONS

Probity

Probity refers to a range of formal and informal processes that can be used to assess the integrity, character and honesty of prospective employees, board or management committee members and other volunteers who are or are likely to be engaged. Probity checks are part of and underpin good employment practices.

Key Personnel

Key personnel are defined as: -

- 1) a member of the group of people who are responsible for the executive decisions of the care recipient;

- 2) any other person who is concerned in, or takes part in, the management of the care recipient;
- 3) any person who is responsible for the nursing services provided, or to be provided, by the care service conducted, or to be conducted, by the care recipient;

Disqualified individual

An individual is a *disqualified individual* if:

- 1) the individual has been convicted of an indictable offence; or
- 2) the individual is an undischarged insolvent under administration; or
- 3) the individual is of unsound mind and is incapable of performing their duties as diagnosed by a medical practitioner

PROCEDURES

Criminal and Probity Screening

General Principles Applying to Probity Checks

Each matter will be determined on a case by case basis, however, persons convicted of sexual offences or violent offences against vulnerable people will not be employed / appointed by Riverlink.

As a general rule no offers of employment / appointment will be made until the results of the criminal history check and Working With Children Check have been obtained and scrutinised by the Executive Officer of Riverlink.

However, a conditional offer of employment/appointment may be made to the recommended applicant where there is a genuine emergency and the organisation considers it essential to fill a position prior to the results of the criminal record check being obtained. Alternative safeguards will be introduced in such circumstances.

All letters of offer and employment contracts will include the following statement:

"Continued employment is subject to receipt of a satisfactory Working With Children Check and Police Check."

Confidentiality of information received through the selection process will be maintained at all times. Applicants for employment will be reminded of the requirement for probity screening at the interview.

Authorised Officers

Authorised Officers are responsible for the administration of criminal history, insolvency information, and working with children clearances, including the progress of information and applications received, and safe storage and disposal of that information.

Authorised Officers themselves will be identified by name and position, usually the Executive Officer and Human Resources Coordinator and must be subject to a criminal record clearance from the Australian Federal Police before fulfilling the role of an Authorised Officer.

Access to the information will be restricted to Authorised Officers and other senior staff on a need to know basis.

Unauthorised disclosure of confidential criminal records and key personnel's personal information will lead to disciplinary action being taken.

Advertising and Selection Guidelines

All applications for employment and advertisements for available positions will contain the following statement:

"Criminal record and other probity checks shall be conducted on applicants recommended for appointment to positions within this organisation."

Applicants will also be advised at the start of the selection process that this will be a mandatory requirement should an offer of employment be made.

All applicants for employment / appointment will be informed that structured Working with Children Checks and reference checks will be conducted and all information obtained will be assessed in light of the duties of the position or appointment being offered.

Interviews and Structured Reference Checking

The interview process alone is not efficient as a primary source of assessment of applicants. Other assessment techniques will be used to supplement the interview process.

All applicants for positions with the organisation will be required to provide, at the time of application, the names of at least two referees who can be contacted after the interview. The referees will be asked specific questions to obtain information demonstrating past behaviour and performance of the applicant in situations similar to those which should occur in the position for which they have applied.

This approach should be discussed with the applicant at the time of interview, prior to any contact with referees. Contact with an applicant's current employer is highly preferred; however, no such contact should be made without the permission of the applicant.

Written references usually provide information of a general nature and are not normally specific to the position for which the applicant has applied.

Structured interviews with referees conducted over the telephone are the preferred methods of obtaining probity information as they are a more effective method for obtaining valid information from referees.

Application for a Police Check and Working With Children Check

1) Prospective Employees and volunteers:

Applicants for employment will be requested to obtain a Police Check and Working With Children Check. The results of the checks will be scrutinised by the Executive Officer before any offer of employment is made. In the event of a prospective employee's refusal to obtain either probity checks, the application for employment will be rejected.

2) Existing Employees:

Riverlink will submit the application form to the appropriate approved agency on behalf of existing employees. The process for conducting criminal history and probity checks on existing employees will be approved by the Executive Officer.

Should an existing employee refuse to undergo checking, the employee's immediate manager will attempt to discuss the reasons behind the refusal to comply, and explain the importance of, and reason for, the checks being conducted. The manager should also consider factors such as the employee's length of service and the role being performed, as to the level of supervision and direct contact with residents / clients. Should the staff member still refuse to participate the matter shall be referred to the Executive Officer.

Determining Suitability

1) Nature of offences

Any decision on employment / appointment should have regard to the nature and frequency of the offence(s) and the relevance of the offence/s to the particular position for which the applicant is being considered.

2) Age at which offences were committed

The age at which offences were committed can often be an important factor. Certain offences committed during youth may be viewed in an entirely different light to the same offences committed by a person of mature years.

3) Recency of offences

As a general rule, persons under a good behaviour bond, or on probation for offences of any seriousness, should be scrutinised very closely before being accepted for employment / appointment. Trouble-free completion of a bond or probation period should be taken into consideration when assessing the degree of rehabilitation.

4) Mitigating or extenuating circumstances

Where possible, consideration should be given to any mitigating or extenuating circumstances, such as provocation, which might be revealed in relation to the offence(s) committed.

5) General character since the offence(s)

The following factors may be relevant:

- a) Steady employment record and satisfactory appointment history
- b) Favourable reports by past employers / institutions, interviewing officers, or officers of Probation and Parole, Department of Courts Administration.

The Checking Sources

Riverlink will utilise the Australian Federal Police criminal history checking service via an approved agency. This should reveal convictions Australia-wide.

These character and probity checks are an integral part of Riverlink's recruitment procedures and assessment of employees / potential employees. The AFP can check nationally for any criminal or traffic convictions, or any pending charges before a court. Note, as the AFP do not generally provide details of traffic offences in QLD and VIC, if the position involves the driving of a vehicle it should be specified under point (iv) on the Consent to Obtain Personal Information form.

Riverlink is registered with the NSW Office of Children's Guardian as an employer in child-related work in the Employer registration section of the Working With Children Check (WWCC) online form. The Executive Officer verifies online the staff member's WWCC application or clearance. The verified information is then copied to the

employee's file. This process applies to volunteers and Management Committee members as well.

Applications for Character and Probity Checks

All applications for character and probity checks must meet the specified requirements.

It is essential the cover letter prominently indicates the requirement is for the aged and community care sector and the applicant will be working with vulnerable members of the community.

Ten working days should be allowed for the processing of most applications; however extended processing periods may occur when checking interstate or old convictions.

Provision of False or Misleading Information by Applicants

Any evidence of the provision of false or misleading information in regards to probity checking shall be subject to a thorough investigation conducted by the Executive Officer and may result in the instant dismissal of the offender.

Future Charges and/or Convictions

It is incumbent upon all persons to whom this policy applies to keep the organisation informed of any future charges and / or convictions. This obligation will be explained during Riverlink's orientation process and will be contained in all employee handbooks.

All applicable employees will be obliged to inform the Executive Officer immediately if their circumstances change during their employment with Riverlink. Failure to meet this obligation may result in instant dismissal.

Pending Charges

In cases where charges are pending and a date has been fixed for hearing, or where convictions have appeals pending, it may be possible to defer the decision regarding employment / appointment, pending resolution of the outstanding matter(s) by the Court.

Where a charge is pending against a person, who if convicted, would result in refusal of employment / appointment, wherever possible, the offer should be deferred until

the charge is heard or the organisation should give preference to a subsequently acquitted applicant (over equally qualified applicants) when a similar vacancy occurs.

Review Process

A person, who has been the subject of an adverse decision as a result of an unfavourable criminal record check, may request a review of that decision. The request should be in writing, stating grounds and reasons why there should be a review and should be sent to the Executive Officer within seventy two (72) hours of the date of that decision. Upon receipt of the request the Authorised Officer should convene a meeting.

The person who has requested the review may be represented by a union or another representative. The Authorised Officer may also be represented. Procedural fairness should be afforded to the person requesting the review, in accordance with organisational procedures and protocol.

Subsequent to the review, a final decision may be made by the organisation and grounds and reasons should be provided to the individual.

Key Personnel Checks

Insolvency Checks

In addition to the Criminal History checks all Key Personnel shall be required to undergo an Insolvency Check.

Application

This procedure covers character and insolvency screening for key personnel as defined above. The Key Personnel of Riverlink shall include: -

The Management Committee

Executive Officer

Service Coordinators

Finance Officer

Principles Applying to Insolvency Checks

All letters of offer and employment contracts to prospective key personnel will include the following statement:

"Continued employment is subject to receipt of a satisfactory criminal record and insolvency check."

Confidentiality of information received through the selection process must be maintained at all times. Applicants for employment should be reminded of the requirement for probity screening at the interview. They should be invited to contact the Executive Officer should they have any concerns.

Authorised Officers

Authorised Officers are the same as described above and shall abide by the same terms as those described above.

Advertising and Selection Guidelines

All applications for employment forms and advertisements for available positions / appointments for key personnel positions will contain the following statement:

"Criminal record, insolvency and other probity checks shall be conducted on applicants recommended for appointment to key personnel positions within this organisation."

Applicants will also be advised at the start of the selection process that this will be a mandatory requirement should an offer of employment be made.

All applicants for employment / appointment will be informed that structured reference checks will be conducted and all information obtained will be assessed in light of the duties of the position or appointment being offered.

Frequency of Checks

Insolvency checks shall be conducted prior to appointment to an identified key personnel position. Routine checks will be conducted to satisfy the requirements of the Aged Care Act, 1997, and based upon guidelines, recommendations, or regulations, from the Aged Care Standards & Accreditation Agency and the Department of Health and Ageing.

Key personnel are required, under the Act, to declare to their employer any change in their circumstances which may render them a disqualified individual whilst employed in a key personnel position. The penalty for nondisclosure or deliberately withholding of information is prescribed by the Act, as described below: -

"Offence committed by individuals

(3) An individual is guilty of an offence if:

*(a) the individual is one of the * key personnel of an approved provider; and*

*(b) the approved provider is a * corporation; and*

*(c) the individual is a * disqualified individual, and the individual is reckless as to that fact.*

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility."

Persons in key personnel positions guilty of non-disclosure of their unsuitability for employment as key personnel due to changed circumstances may be subject to summary dismissal from employment with Riverlink. Additionally the matter may be referred to the Aged Care Accreditation Agency for action.

Check Updates

Key personnel probity checks will be updated every four years as a matter of course. The same procedure will be undertaken as described under the sub heading *Criminal and Probity Screening* of the policy.

Related Forms:

Related Policies:

1.04 Duties and Code of Behaviour for Management Committee

1.05 Orientation for New Committee Members

3.05 Staff Code of Behaviour

3.06 Staff Recruitment

Relevant Standards:

NSW Disability Services Standards

Standard 6 Service Management

National Standards for Disability Services 2013

Standard 6 Service Management

Related documents with reference to:

Supporter's Handbook

Management Committee Orientation Manual

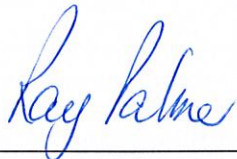
Legislation

Child Protection (Working with Children) Act 2012

Workplace Relations Act, 1996

NSW Industrial Relations Act, 1992

Privacy Act, 1988 (as amended)



Ray Palmer

Executive Officer

Date: _____

8/2/2018