



# Pre-Employment Integrity Check Policy

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## 1. Purpose

The Pre-Employment Integrity Check (PEIC) Policy supports the maintenance of professional standards, including appropriate standards of conduct and to assist in determining a preferred applicant's eligibility for employment within a WA health system entity.

The Policy sets out the process for PEICs for all preferred applicants in a recruitment selection process, after an offer of employment has been issued.

A determination will be made regarding the preferred applicant's eligibility for employment if one or more of the following circumstances have occurred.

The preferred applicant:

- was dismissed previously by a WA health system entity for:
  - a Breach of Discipline under the *Health Services Act 2016* (HS Act)
  - a Breach of Discipline or Misconduct prior to the proclamation of the HS Act
  - a Breach of Discipline under the *Public Sector Management Act 1994* (PSMA)
  - a suspension or conditional registration as a registered health practitioner under the *Health Practitioner Regulation National Law (WA) Act 2010*
  - a Serious Offence under PSMA.
- resigned (or contract expired) from a WA health system entity prior to the commencement of a process or the determination of a finding regarding:
  - a Breach of Discipline, where the matter concerns a serious risk to the safety or protection of patients and/or a risk to a WA health system entity
  - a charge for a Serious Offence that has not reached a court decision.
- was subject to a s146 or a s167 HS Act report, for which the Department Chief Executive Officer (CEO), at the time, determined the conduct or performance warranted their registration in the System Manager Case Management System (CMS).

This Policy should be read in conjunction with the Recruitment, Selection and Appointment Policy and Procedure MP 0033/16 and the Notifiable and Reportable Conduct Policy.

This Policy is a mandatory requirement for Health Service Providers under the Integrity Policy Framework pursuant to section 26(2)(f) of the *Health Services Act 2016*.

This Policy is a mandatory requirement for the Department of Health pursuant to section 29 of the *Public Sector Management Act 1994*.

This Policy supersedes *Pre-Employment Integrity Check Policy* MP 0032/16.

## 2. Applicability

This Policy is applicable to all WA health system entities, as defined in this policy.

## 3. Policy requirements

The System Manager (System-wide Integrity Services on behalf of the Department CEO) is responsible for:

- registering Staff Members and Department of Health Employees in the CMS where required, for the purpose of the PEIC process
- maintaining the CMS for the purpose of the PEIC process
- ensuring access to the CMS is limited to authorised personnel, and providing relevant access provisions to Health Support Services
- ensuring information obtained through the PEIC process is maintained in a confidential and appropriate manner.

Health Support Services is responsible for:

- initiating the PEIC and, if a record is found, making the appropriate notifications in accordance with the process described in Part 3 of this Policy.

WA health system entities are responsible for:

- considering information resulting from PEICs during the appointment review process
- affording the preferred applicant an opportunity to respond
- making decisions relating to whether to proceed or not proceed to appointment.

WA health system entities must ensure that:

- as part of the recruitment and selection process, applicants are advised that all preferred applicants will be subject to a PEIC to determine eligibility for appointment
- PEICs of preferred applicants are conducted at the time the offer of employment is issued
- a process is in place to provide the preferred applicant an opportunity to respond prior to a decision regarding their eligibility following the PEIC
- an appointment review process is in place for determining the preferred applicant's eligibility for employment following the PEIC.

Responsible Areas within a WA health system entity are responsible for:

- providing advice in accordance with the process described in Part 3 of this policy
- assessing the appropriateness of involving the Employing Manager in the appointment review process
- managing the appointment review process.

### **The Pre-Employment Integrity Check Process**

Once Health Support Services has received notice from a WA health system entity that a preferred applicant has been selected and the relevant identification details are provided, the PEIC process will commence as follows:

- 3.1 A Health Support Services Officer will access the CMS to undertake a search to identify if the preferred applicant has been flagged.
- 3.2 Health Support Services undertakes the search based on the identification details of the preferred applicant. The access by the Health Support Services Officer is limited to locating a record which relates to the identification details entered into the CMS. Access to all other details recorded in the CMS for the preferred applicant is restricted to System-wide Integrity Services and the Health Service Provider or Department of Health Directorate in which the flagged conduct occurred.
- 3.3 If no record is found, Health Support Services will continue the appointment process.
- 3.4 If a record is found, the Health Support Services Officer will:
  - suspend the appointment process pending an appointment review process
  - notify System-wide Integrity Services.
- 3.5 System-wide Integrity Services will contact the Responsible Area in the WA health system entity that advertised the position and provide all relevant information available to inform the appointment review process.
- 3.6 The Responsible Area will ensure the preferred applicant is informed of the matter in writing and will cause the preferred applicant to be afforded a reasonable opportunity to respond with any relevant information that they wish to have considered by the Employing Authority.
- 3.7 The preferred applicant must respond in writing within five working days. If no response is received the Employing Authority may make a decision based on the information available.
- 3.8 The Responsible Area will ensure the submission by the preferred applicant is considered, in consultation with the Employing Manager, giving all due consideration to any conflicts of interest (perceived, actual or potential), and make a recommendation to either proceed or not to appointment.
- 3.9 When making the recommendation, the Responsible Area will ensure the following is taken into consideration:
  - recency of the conduct
  - seriousness of the conduct
  - multiplicity of the conduct (repeated or single occasion)
  - any evidence of a pattern of conduct – which may indicate behavioural/performance issues of concern
  - relevance of identified issues to the duties to be performed
  - provision of truthful and complete information
  - evidence of contrition/remorse
  - any other relevant considerations (including the preferred applicant's submission, if provided).
- 3.10 Decisions regarding whether or not to proceed to appointment are to be made within five working days of receipt of the applicant's submission or as soon as reasonably practicable.
- 3.11 Once the Employing Authority makes a determination whether to proceed or not to appointment, the Employing Authority will inform the applicant in writing, outlining the reasons for the decision.

- 3.12 The Responsible Area will advise Health Support Services in writing to proceed or not proceed with the appointment process.
- 3.13 If the determination is made not to proceed to appointment and another applicant is determined as the preferred applicant, this Policy will apply to the subsequent preferred applicant.
- 3.14 Decision making by the Employing Authority must be transparent and capable of review.
- 3.15 The decision is to be documented and a copy retained by Health Support Services in accordance with the *State Records Act 2000*.

#### **4. Compliance monitoring**

A WA health system entity is responsible for monitoring their compliance with this Policy.

The System Manager may:

- request from a WA health system entity a copy of the documented arrangements for the management of the PEIC process
- monitor and review data within the CMS associated with this process for assurance purposes.

#### **5. Related documents**

The following documents are mandatory pursuant to this Policy.

- N/A

#### **6. Supporting information**

The following information is not mandatory but informs and/or supports the implementation of this Policy:

- [Case Management System \(CMS\) User Document \(access restricted to authorised employees only\)](#)

## 7. Definitions

The following definition(s) are relevant to this Policy.

TERM	DEFINITION
<b>Breach of discipline</b>	<p>Pursuant to s161 of the HS Act, an employee commits a breach of discipline if the Employee:</p> <ul style="list-style-type: none"> <li>(a) disobeys or disregards a lawful order; or</li> <li>(b) contravenes –               <ul style="list-style-type: none"> <li>(i) any provision of the HS Act applicable to that employee; or</li> <li>(ii) any public sector standard or code of ethics; or</li> <li>(iii) a policy framework; or</li> </ul> </li> <li>(c) commits an act of Misconduct; or</li> <li>(d) is negligent or careless in the performance of the employee’s functions; or</li> <li>(e) commits an act of victimisation within the meaning of the <i>Public Interest Disclosure Act 2003</i> s15.</li> </ul> <p>Pursuant to s80 of PSMA, an employee commits a breach of discipline if the Employee:</p> <ul style="list-style-type: none"> <li>(a) disobeys or disregards a lawful order; or</li> <li>(b) contravenes –               <ul style="list-style-type: none"> <li>(iv) any provision of PSMA applicable to that employee; or</li> <li>(v) any public sector standard or code of ethics; or</li> </ul> </li> <li>(c) commits an act of Misconduct; or</li> <li>(d) is negligent or careless in the performance of his or her functions; or</li> <li>(e) commits an act of victimisation within the meaning of the <i>Public Interest Disclosure Act 2003</i> s15.</li> </ul>
<b>Department of Health Employee</b>	<p>In relation to the Department of Health and in accordance with s3 of PSMA, employee means a person employed in the Public Sector by or under an employing authority.</p>
<b>Employing Authority</b>	<p>Pursuant to section 103 of the HS Act, employing authority means:</p> <ul style="list-style-type: none"> <li>(a) in relation to a chief executive – the Department CEO;</li> <li>(b) in relation to a health executive employed in a health service provider -               <ul style="list-style-type: none"> <li>(i) if the health service provider is a board governed provider – the board;</li> <li>(ii) if the health service provider is a chief executive governed provider – the chief executive;</li> </ul> </li> </ul>

	<p>(c) in relation to a health service provider or an employee (other than a chief executive or a health executive) in the health service provider, the chief executive or board on whom the power to employ or engage employees is conferred.</p> <p>Pursuant to section 5 of PSMA, employing authority means in relation to:</p> <p>(a) a chief executive officer (other than a chief executive officer referred to in section 4), the Commissioner; or</p> <p>(b) a chief employee (other than a chief employee referred to in section 4), the person or board, committee or other body specified by a written law as being the employer of the chief employee; or</p> <p>(c) a department or organisation or an employee (other than a chief executive officer or chief employee) employed in a department or organisation —</p> <p>(i) subject to subparagraph (iii), if a chief executive officer or chief employee is the accountable authority of the department or organisation, the chief executive officer or chief employee; or</p> <p>(ii) subject to subparagraph (iii), if a board, committee or other body established under a written law is the accountable authority of the department or organisation, that board, committee or other body; or</p> <p>(iii) if a written law confers on a person or board, committee or other body the power to appoint or employ staff, the person or board, committee or other body; or</p> <p>(d) a ministerial office or a ministerial officer, the Minister, or, when used otherwise than in relation to a public sector body or a chief executive officer, chief employee, employee or ministerial officer, means employing authority of any public sector body, chief executive officer, chief employee, employee or ministerial officer.</p>
<b>Employing Manager</b>	The person immediately responsible for the advertised position.
<b>Health Service Provider</b>	Health Service Provider means a Health Service Provider established by an order made under section 32(1)(b) of the HS Act.
<b>Preferred Applicant</b>	A candidate selected as suitable and recommended for the advertised role.
<b>Responsible Area</b>	<p>For the purpose of this policy, the Responsible Area is the Health Service Provider and Department of Health’s designated area responsible for:</p> <ul style="list-style-type: none"> <li>• receiving information relating to a flagged preferred</li> </ul>

	<p>applicant as a result of a PEIC;</p> <ul style="list-style-type: none"> <li>• causing the information received from a PEIC to be considered during an appointment review process;</li> <li>• the preferred applicant being afforded an opportunity to respond;</li> <li>• making a recommendation to either proceed or not, to appointment; and</li> <li>• notification to Health Support Services to either proceed or not, to appointment.</li> </ul>
<b>Section 146 HS Act</b>	<ol style="list-style-type: none"> <li>1) A staff member's responsible authority must report any conduct of the staff member that the responsible authority suspects on reasonable grounds constitutes or may constitute professional misconduct or unsatisfactory professional performance under the Health Practitioner Regulation National Law (Western Australia) to — <ol style="list-style-type: none"> <li>a) the professional board or authority that deals with the registration of the staff member as a health practitioner; and</li> <li>b) the Department CEO.</li> </ol> </li> <li>2) A staff member's responsible authority must, on becoming aware that the staff member has been charged with having committed, or has been convicted or found guilty of, a serious offence, report the staff member's charge, conviction or the finding of guilt to the Department CEO.</li> </ol>
<b>Section 167 HS Act</b>	<ol style="list-style-type: none"> <li>2) The employing authority of an employee must notify the Department CEO if — <ol style="list-style-type: none"> <li>a) the employee has been found under this Division to have committed any breach of discipline alleged against the employee; and</li> <li>b) the disciplinary action ordered was dismissal, or the employing authority is of the opinion that the breach of discipline could result in a serious risk to the safety of patients.</li> </ol> </li> </ol>
<b>Serious Offence</b>	<p>Has the same meaning as section 80A of PSMA:</p> <p>Serious Offence means —</p> <ol style="list-style-type: none"> <li>(a) an indictable offence against a law of the State (whether or not the offence is or may be dealt with summarily), another State or a Territory of the Commonwealth or the Commonwealth; or</li> <li>(b) an offence against the law of another State or a Territory of the Commonwealth that would be an indictable offence against a law of this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or</li> </ol>

	<p>(c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or</p> <p>(d) an offence, or an offence of a class, prescribed under section 108 (see Offences Prescribed).</p>
<b>Staff Member</b>	<p>In relation to a Health Service Provider and pursuant to s6 of the HS Act means:</p> <p>(a) an Employee in the Health Service Provider; and/or</p> <p>(b) a person engaged under a contract for services by the Health Service Provider.</p>
<b>System Manager Case Management System</b>	<p>The Database administered by the System Manager provided to the Health Service Providers to enter, track and report cases of conduct that may concern a breach of discipline.</p>
<b>WA health system entities</b>	<p>All Health Service Providers as established by an order made under section 32(1)(b) of the Hs Act; and</p> <p>The Department of Health as an administrative division of the State of Western Australia pursuant to section 35 of PSMA.</p> <p>Note: Contracted health entities are not considered WA health system entities.</p>

## 5. Policy contact

Enquiries relating to this Policy may be directed to:

Title: Director System-wide Integrity Services

Directorate: Governance and System Support

Email: [SWIS@health.wa.gov.au](mailto:SWIS@health.wa.gov.au)

## 6. Document control

Version	Published date	Effective Date	Review date	Effective to	Amendment(s)
MP0126/19	31 October 2019	31 October 2019	October 2022	12 December 2019	Original version
MP0126/19 v.1.1	12 December 2019	12 December 2019	October 2022	Current	Minor amendment to supporting information Case Management System (CMS) - Protocols -

					Administration of complaints. Document superseded by Case Management System (CMS) User Document. Access restricted to authorised employees only.
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## 7. Approval

<b>Approval by</b>	Dr David Russell-Weisz, Director General, Department of Health
<b>Approval date</b>	25 October 2019

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