Criminal Records Check Policy

**PURPOSE**

The purpose of this policy is to provide procedures to be followed by parishes and diocesan agencies in relation to criminal records checks for employees, contractors and volunteers.

**BACKGROUND**

Church employees, contractors and volunteers are often entrusted with the care of the most vulnerable in our community. Many have a role in managing church property and finances. A criminal records check is a necessary part of ensuring that the highest standards of trust are maintained.

Our catholic school system has its own procedures for carrying out criminal records checks on those employed or associated with our schools.

It is appropriate that a similar regime be put in place for other parish personnel and to complement the system operating in our schools.

**APPLICATION**

A criminal records check is compulsory for every:

- new employee, including a casual, of Catholic parishes and diocesan agencies in the diocese;
- current employees taking up employment with a different employer;
- current employees being promoted or appointed to a position of leadership;
- current fixed term employees having their term extended;
- volunteers and contractors and their employees undertaking a role, which would generally be described as a position of trust.

Parish priests are requested to work together with principals of parish schools to ensure that there are no duplication of requests, and to ensure that no area of parish activity is neglected.

Except where there is a contractual obligation on a contractor to ensure their staff have undergone a criminal records check, the obligation to obtain a criminal records check resides with the parish or agency.

Implementation in diocesan agencies will be coordinated by the agency’s administration function.

**POSITIONS OF TRUST**

Without limiting the definition, a position of trust is one that involves:

- Direct contact with those entrusted to our care and (in a parish setting) not under the direct supervision of a priest,
- Managing Church property or finances.
Parishes and diocesan agencies will need to exercise judgment as to which positions fall into this category. Clearly an after school care worker of a contractor running such a service and volunteers conducting children’s liturgy fall into this category. However it is not envisaged that Thanksgiving Offering counters will be asked to undergo criminal records checks.

◊ PROCESS

To begin the process of conducting the national criminal records check on an individual, ask the individual to complete the consent form (VP Form 820A) which is available from the Victoria Police website http://www.police.vic.gov.au or by telephoning the Victoria Police Public Enquiry Service on (03) 9247 5907.

The completed form is to be either mailed or delivered (not faxed) by the parish or diocesan agency to the address on the reverse side of the form, together with:

- A photocopy of the individual’s driver's licence, passport or birth certificate;
- Payment (cheque or money order payable to Victoria Police).

Applicants with non Victorian residential addresses will need to apply for a criminal records check in the State or Territory where he or she resides.

Victoria Police do not conduct records checks for release to a third party on persons aged under 17.

◊ USE OF A STATUTORY DECLARATION

Criminal records checks are usually completed within ten working days of receipt. Should circumstances exist where it is desirable for the employer to have an employee commence prior to receiving the results of the criminal records check results, the employee is required to complete a statutory declaration about their record of past and any pending criminal convictions. An appropriate Statutory Declaration is included at Attachment 1. A list of persons before whom a Statutory Declaration may be made is included at Attachment 2.

Employers should accept a statutory declaration only where they have sighted evidence that an application for criminal records check has been submitted. This will enable employment to proceed, with the formal appointment conditional on a satisfactory criminal records check (appropriate wording for the Letter of Offer and Letter of Acceptance are included in Attachment 3). In these cases, it is appropriate to require the applicant to provide the parish or agency with the completed application form and payment, and for the parish or agency to submit these to Victoria Police. A statutory declaration does not replace a criminal records check and parishes and agencies are at liberty to delay appointment until a check has been completed.

A similar process is to be adopted for volunteers.

◊ SECURITY OF INFORMATION

Victoria Police releases information to employers, community groups and other organisations only with the consent of the individual concerned and on the understanding that once released it will be regarded as strictly confidential.
The report received is valid only for the purposes of recruitment or selection process. If a person is denied employment due to their police record and they are provided with an opportunity to discuss the reasons for the decision, they may view the report. As per Victoria Police instruction, copies are not to be made of the police record (even for the person the check has been conducted on).

Additionally, “The police record must not be incorporated into any manual or electronic database or filing system. No copies of the certificate are to be made. When the selection or recruitment process is complete, the information that has been released to your organisation must be securely destroyed.” (Victoria Police Oct 2005)

VALIDITY PERIOD

Where it is specified there is a three year validity period for a criminal records check. Individuals who have had a satisfactory check within that timeframe will be exempt from having to obtain a new check provide they furnish the original criminal records check letter and a completed Statutory Declaration form relating to the intervening period.

REVIEW OF CRIMINAL HISTORY

An offence history may not necessarily preclude employment. Employers are encouraged to consider offence history within the overall assessment of a potential employee’s good character and reputation, as well as the following factors:

- The nature of the offence;
- Whether it is an extended criminal history or an accumulation of individual minor offences;
- The length of time since the offence took place;
- Whether the offence was committed as a juvenile or an adult, i.e. what level of maturity influenced judgment at the time;
- The general character displayed since the offence was committed, e.g. steady employment record and favorable reports by past employers;
- The type of crime and its relevance to the nature of work if the person is seeking employment or voluntary work in a sensitive work area.

In instances where the check reveals questionable or unsatisfactory information, the parish or agency should consult with Mark Bromley, Diocesan Business Manager on 5337 7128.

FEES

Application fees effective from 1 July 2005:

$28.30 for the National Name Check for:
- Current and ongoing employees on transfer or promotion;
- New employees (ongoing or fixed term);
- Existing fixed term employees with continuous service requiring renewal of criminal records check;
- New contractors and employees of contractors working in a position of trust;
- Existing contractors and employees of contractors requiring renewal of criminal records check;
- Casual employees.
A reduced fee of $13.00 is available in respect of volunteers. To obtain a reduced fee an organisation must complete an Application Form for the Volunteer Fee for National Police Records Checks to obtain a CVF number. This form is available from the Victoria Police website [http://www.police.vic.gov.au](http://www.police.vic.gov.au) or by telephoning the Victoria Police Public Enquiry Service on (03) 9247 5907. This form requires the organisation to nominate a person or persons responsible for declaring volunteer status.

The CVF number must be entered in the box provided in Section 7 on form 820A when requesting a criminal records check for volunteers in order to obtain the discounted fee.

Parish priests may request the principal of their parish school to make the school’s CVF number available and so avoid the need for separate registration.

In most cases the cost of the criminal records check will be met by the parish or agency.

### PENDING CHANGES

As a result of new legislation titled *Working with Children Act 2005*, the requirement to undertake a criminal records check for all those who work with children will change from July 2006. The new legislation will progressively roll out minimum standards across Victoria for all those who work with children. Individuals will be granted an *assessment notice* if there are no relevant criminal or professional disciplinary history. An advantage over the one-off criminal records check is that it will be continually updated. A continual screening process will be in place for all those working with children against new criminal charges, listing on the Sex Offenders Register or those subject to an extended supervision order under the Serious Sex Offender Monitoring Act.

At this stage, it is anticipated that religious organisations, childcare services, preschools and kindergartens will be checked in 2007/2008.

This policy will be updated and circulated as changes resulting from the legislation take effect.

For further information or advice, please contact the Diocesan Business Manager, Mr. Mark Bromley on 53377128.
STATUTORY DECLARATION

I, ____________________________

(insert name)

of ____________________________

(insert address)

(insert occupation)

do solemnly declare that I do not have any convictions or pending convictions findings of guilt and/or pending charges (non-traffic) in either Victoria, any other state or territory of Australia or under Commonwealth law or in any other jurisdiction.

I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalty of perjury.

Signature of declarant: ____________________________

Declared at ____________________________ this ____________ day of __________________ 2005

Before me ____________________________

(signature of authorised witness)

________________________________________

(name and title of authorised witness)

________________________________________

(address of authorised witness)

The person making a statutory declaration signs the document and reads, without any other formality:

’I solemnly and sincerely declare that this document is signed in my name and handwriting and that the contents of this my declaration are true and correct in every particular.’
After witnessing the signing of the declaration, the person before whom it is witnessed must legibly write their name and title under which they exercise their authority to witness the declaration, together with their address.

**Attachment 2**

**Persons who may witness Statutory Declarations**

- A justice of the peace or a bail justice
- A notary public
- A barrister and solicitor of the Supreme Court
- A clerk to a barrister and solicitor of the Supreme Court
- The Prothonotary or a deputy prothonotary of the Supreme Court
- The Registrar or a deputy registrar of the County Court
- The Principal Registrar of the Magistrates Court
- A registrar or a deputy registrar of the Magistrates Court
- The Registrar of Probates or an assistant registrar of probates
- The associate to a judge of the Supreme Court or of the County Court
- The secretary of a master of the Supreme Court or of the County Court
- A person registered as a patent attorney under Part XV of the Patents Act 1952 (Cth)
- A member of the police force
- The Sheriff or a deputy sheriff
- A member or former member of either house of the Parliament of Victoria
- A member or former member of either house of the Parliament of the Commonwealth
- A councilor of a municipality
- A senior officer of a council as defined in the Local Government Act 1989
- A registered medical practitioner within the meaning of the Medical Practice Act 1994
- A dentist
- A veterinary surgeon
- A pharmacist
- A principal in the teaching service
- The manager of a bank
- A member of the Institute of Chartered Accountants in Australia or CPA Australia or the National Institute of Accountants
- The secretary of a building society
- A minister of religion authorised to celebrate marriages
- A person who holds an office in the public service or statutory authority that is prescribed as an office to which this section applies
- A fellow of the Institute of Legal Executives (Victoria)
Letter of Offer and Letter of Acceptance wording

**Insertion to the letter of offer:**

The practice of the Diocese of Ballarat is to require a criminal records check to be completed for all staff prior to commencement in a parish/agency. This has not been possible in your case. A criminal records check has been initiated but not completed. Consequently, the parishes/agencies offer of employment is conditional upon your declaring that you have not been charged with or found guilty of any offence which would be incompatible with our position of trust and responsibility.

Then either:

A declaration to this effect forms part of your Employment Agreement.

Or

A declaration to this effect is part of the statement of acceptance of the offer.

*If acceptance is by signing an Employment Agreement, i.e. for full and part time employees, the Agreement should contain the following:*

**CRIMINAL RECORDS CHECK**

The employee warrants that they have not been charged with nor found guilty of any offence, which would be incompatible with their position of trust and responsibility. The employee acknowledges that the parish/agency relies on this declaration in offering the position, pending a criminal records check.

The employee has attached a completed statutory declaration that he/she does not have any convictions, findings of guilt and/or pending charges (non traffic) in either Victoria, any other state or territory of Australia or under Commonwealth law or in any other jurisdiction.

*If the acceptance is by letter, i.e. for casual employees, it should contain the following:*

I accept the offer of employment set out in your letter of ......... and warrant that I have not been charged with nor found guilty of any offence, which would be incompatible with my position of trust and responsibility. I acknowledge that the parish/agency relies on this declaration in offering me employment, pending a criminal records check.

I enclose a completed statutory declaration that I do not have any convictions, findings of guilt and/or pending charges (non traffic) in Victoria, any other state or territory of Australia or under Commonwealth law or any other jurisdiction.

A similar process is to be adopted for volunteers.