



# Australian College of Care Workers

## POLICY ON CRIMINAL HISTORY MEMBERS OF ACCW

### Purpose

To protect the public and build confidence in the community that Care Workers meet the fit-and-proper criteria to provide care to the elderly and vulnerable groups in our Australian society.

The Board will decide whether a Care Worker's criminal history is relevant to care in their chosen field of care practice in metropolitan or regional areas of Australia. While every case will need to be decided on an individual basis, ten factors provide the basis for the Board's consideration.

The Criminal History policy applies to all applicants for registration and all registered care workers, including students who are required to undertake work placements during their study.

In deciding whether a Care Worker's Criminal History is relevant to the Board will consider the following factors:

1. The nature and gravity of the offence or alleged offence and its relevance to care practice.
2. The period since the Care Worker they are committed, or allegedly committed, the offence, with consideration on recent offences.
3. Whether a finding of guilt or a conviction recorded for the offence or a charge for the offence is still pending.

In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:

a. convictions

b. findings of guilt

c. pending charges

d. non-conviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt, taking into account the availability and source of contextual information which may explain why a non-conviction charge did not result in a conviction or finding of guilt.

4. The sentence imposed for the offence.

The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

5. The ages of the Care Worker and any victim at the time a care worker committed

or allegedly committed, the offence.

The Board may place less weight on offences committed when the applicant is younger, and particularly under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

6. Whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since a Care Worker committed, or allegedly committed, the offence.

The Board will generally place less or no weight on offences that have been decriminalised since the care worker committed, or allegedly committed the offence.

7. The Care Worker's behaviour since he or she committed, or allegedly committed, the offence.

Indications that the offence was an aberration and evidence of ethical conduct or rehabilitation since the commission, or alleged commission of the offence, will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.

8. The likelihood of future threat to a consumer in care.

The Board is likely to place significant weight on the likelihood of future threat to a client in care.

9. Any information was given by the Care Worker.

Any information provided by the Care Worker such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the care worker's criminal history.

10. Any other matter that the Board considers relevant.

The Board may take into account any other matter that it considers relevant to the application or notification. A Board will not require an applicant or registered care worker to provide further information that may prejudice their situation pending charges and the Board must not draw any adverse inference as a result of the fact that information has not been provided.

### **Criminal History**

- every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law;
- every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence;
- every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.

Declaration about criminal history, applicants must declare their entire criminal history, from Australia and any other country, including any spent convictions.

Effective: August 2019