

## Introduction

The purpose of these guidelines is to provide the AFP delegate with a framework to ensure consistent, fair and transparent assessment of the character suitability of applicants for employment with the AFP.

Section 24 of the *Australian Federal Police Act 1979* (cth) (the **AFP Act**) provides for the engagement of an AFP employee subject to conditions which include (but are not limited to) security and character clearances. These guidelines reflect community expectations that all AFP appointees are held to the highest level of integrity. These guidelines seek to define minimum AFP character benchmarks for prospective applicants across all AFP roles and responsibilities.

The delegate has discretion to consider the inherent and unique requirements of individual roles and apply these guidelines accordingly.

This guideline complements the AFP Human Resources Policy, the AFP Recruitment Policy, and the AFP Professional Standards Policy.

The development of these guidelines has included analysis and benchmarking of entrance requirements of other Australian state and territory policing organisations. These guidelines are consistent with the Spent Convictions Scheme under Part VIIC of the *Crimes Act 1914* (Cth) (the **Crimes Act**) and also with section 19 of the *Firearms Act 1996* (ACT) (the **ACT Firearms Act**).

## Why assess “character”?

The AFP’s integrity is critical to its viability. The Australian Human Rights Commission accepts the proposition that it is an inherent requirement for a police officer to be a person of the highest standard of integrity and to be of good character and reputation (*Gordon v Emergency Services Telecommunication Authority and Victoria Police 2006 HREOC Report No 33*). A police officer is responsible for enforcing laws and regulations and making decisions in relation to the arrest or otherwise of members of the public, conducting criminal and accident investigations, guarding prisoners in police cells and maintaining the peace at demonstrations and other public events. A sworn police officer is also required to carry a firearm and is regularly placed in a position where opportunities for corruption present themselves. Further, sworn police officers usually do not work in close proximity or under the close supervision of their superior officers.

The AFP’s position is the all appointees, sworn and unsworn, must be held to the same high standards of integrity. The AFP’s broad mandate is supported by its diverse workforce which includes sworn, unsworn, and seconded employees and contractors. Appointees across the AFP’s areas of business have access to sensitive information, areas, and equipment that are associated with the intrusive powers that the AFP is provided with under law to fulfil its responsibilities. The AFP Professional Standards Policy notes “AFP appointees must exercise their powers, observe the law and uphold AFP professional standards as the government, AFP Commissioner and community expects.” Further, the AFP’s Commissioner’s Order on Professional Standards requires

that "All AFP appointees must be aware of the AFP's integrity framework and maintain the highest level of professional standards both in their official and private capacities."

### **Assessing character**

The *Australian Federal Police Regulations 1979* (Cth) provide that all employment decisions must be based on the following values:

- (a) impartiality and professionalism;
- (b) merit;
- (c) freedom from discrimination;
- (d) openness and accountability;
- (e) fairness;
- (f) equity in employment;
- (g) effectiveness.

An assessment of applicants' character considers, based on available information, his/her ability to comply with the AFP's professional standards both in an official and private capacity. This assessment is aided by responses to the Employment Suitability Questionnaire (attached) that is provided to all applicants to the AFP.

The questionnaire and these guidelines capture elements of the AFP's security and integrity frameworks and the responses are assessed accordingly. Non-disclosure of criminal history (spent or otherwise) or disclosure of any issue that could impact on the assessment of good character will be considered.

It is open for the delegate to seek further information from the applicant surrounding the circumstances of any offence or issue disclosed before making a final decision not to proceed with their application.

### **Firearms Act 1996 (ACT)**

Schedule 2, Part 2.2 of the ACT Firearms Act exempts AFP members from the requirements of this Act, in relation to the possessing or using a firearm in exercise of their functions as a member. In addition, section 12(1)(a) of the AFP Act provides that an AFP employee is not required, by reason of a law of a state or territory to obtain a licence or permission for doing any act or thing in the exercise of his or her powers or the performance of their duties.

However from a policy perspective, it would be reasonable for the AFP to refuse to progress an application for a sworn or protective service role (where there is an inherent requirement to be able to carry a firearm) in circumstances where the delegate forms the view that the applicant would not likely be eligible to hold a firearms licence in the Australian Capital Territory (or any other jurisdiction) because of a past conviction, or some other attribute.

### **Spent Convictions Scheme**

A prospective employee must disclose all convictions, spent or otherwise to the AFP when seeking employment with the AFP. Under Part VIIC, Division 3 of the *Crimes Act*, if a person's conviction is spent, the person is not required to disclose to any other person, the fact that the person has been charged with, or convicted of the offence. However, these 'non-disclosure' provisions do not apply to persons seeking employment with a law enforcement agency, such as the AFP. This allows the law enforcement agency to make fully informed decisions in relation to its assessment of prospective appointees.

Where a prospective appointee has disclosed a conviction (spent or otherwise), their suitability for employment must be assessed by the delegate once he or she has given genuine consideration to the person's entire application. Applicants must not be automatically excluded from employment with the AFP based on the disclosure of a spent conviction alone.

In circumstances where a prospective employee has disclosed a previous conviction (spent or otherwise) the delegate may take into account the following relevant matters when assessing that person's character:

- date of the offence(s) and conviction;
- age of applicant at the time of the offence/s or conduct;
- seriousness of offence/s or conduct;
- frequency or repeated nature of the offence/s or conduct which indicates a pattern of behaviour in relation to alcohol, drugs, aggression, dishonesty or socially unacceptable behaviour;
- applicant's conduct and lifestyle since the offence; and
- role in which the applicant will perform in the AFP.

### **Exclusion Periods**

Should an applicant fail to meet the AFP's character standards, the applicant may be excluded for a period of time including indefinitely (ie greater than 10 years). The exclusion period reflects a reasonable period of time in which a constant period of good behaviour proves the applicant's ability to meet the AFP's expectations of good character.

A delegate may indefinitely exclude an applicant from employment with the AFP if the applicant's history is particularly significant. The below offences/circumstances and periods of exclusion are provided as a guide to assist the delegate to apply some consistency to applicant exclusions. The exclusion periods indicate a period of time from the offence listed which an applicant would need to show good conduct before being reasonably considered for employment within the AFP.

However, the delegate may disregard an exclusion period or apply a different period as they deem appropriate, after taking into account the entire application and previously mentioned circumstances of any conviction.

A delegate may consider a longer or indefinite exclusion in the following circumstances:

- the applicant has been given any sentence of imprisonment (including suspended sentences and periodic detention);
- the applicant has been convicted of or otherwise proven to have committed any:
  - indictable offence (including indictable offence heard summarily);
  - offence for assault, hinder, obstruct or resist a Police Officer or any other public official;
  - personal violence offences, including domestic violence, sexual assault or assault occasioning bodily harm;
  - dishonesty offences, including fraud, obtaining benefit by deception, forgery, impersonation;
  - corruption activities or related offences;
  - drug related offences;

- firearm or weapon related offences;
- summary offence not outlined in this section on more than one occasion;
- offence for driving under the influence of alcohol (regardless of level) on more than one occasion; or
- offence for driving under the influence of illicit drugs.
- the applicant is subject of a current/outstanding arrest warrant, including first instance and Family Law.;
- the applicant knowingly or deliberately fails to disclose relevant information or provides false or misleading information during the application process; and
- the applicant fails to satisfy the requirements to obtain a security clearance.

Lesser exclusion periods are suggested as follows:

<b>Excluded from selection process due to conviction history</b>	<b>Period of exclusion</b>
One conviction for minor street offences	5 years from date of offence
One conviction for any criminal (wilful) damage to property offence	7 years from date of offence
One conviction for any Public order offence	5 years from date of offence
One Breach of the Peace or move on notice	5 years from date of offence
One lodgement / charge for Drunkenness or Disorderly behaviour in a Public place	5 years from date of offence
One conviction for Theft or Stealing (single offences as a juvenile only)	10 years from date of offence
One conviction for receiving or possessing stolen property (single offences as a juvenile only)	10 years from date of offence

#### **Traffic Offences:**

<b>Excluded from selection process due to conviction history</b>	<b>Period of exclusion</b>
One conviction for a low range driving under the influence (0.05 grams or more but less than 0.08 grams)	5 years from date of offence
One conviction for a mid range driving under the influence (0.08 grams or more but less than 0.15 grams)	7 years from date of offence
One conviction for a high range driving under the influence (0.15 grams or more)	10 years from date of offence
Demerit point accumulation and	2 years from date of suspension of licence

suspension of licence	
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<b>Excluded from selection process due to conviction history</b>	<b>Period of exclusion</b>
One conviction for a serious driving offence including high range speed (>30km/hr over the speed limit), negligent driving, any hoon offence resulting in disqualification or suspension of licence, driving whilst disqualified or suspended, drive in a manner dangerous, negligent driving causing injury	2 years from date of offence
More than one conviction for serious driving offences	Delegate discretion to apply indefinite exclusion or a lesser exclusion
Other minor traffic offences, including low/mid range speed (<30km/hr over the speed limit), talking on mobile phone, not wearing seatbelt.	One year exclusion from most recent offence and consideration of longer exclusion if total of minor offences is excessive ie exceeds total years of driving.

**Other issues:**

<b>Excluded from selection process due to conviction history</b>	<b>Period of exclusion</b>
Subject of a current court ordered Apprehended Violence Order (or equivalent) or a current interim Apprehended Violence Order (or equivalent)	Exclusion whilst the order is in place [Consider effect of Section 19 <i>Firearms Act 1996</i> (ACT)]
Subject of a Apprehended Violence Order (or equivalent) which has expired, been dismissed or revoked	Delegate discretion depending on circumstances including time since Order was in place [Consider effect of Section 19 <i>Firearms Act 1996</i> (ACT)]
Subject of an order under the <i>Firearms Act 1996</i> or corresponding law that prohibits the person from possession or using a firearm	Exclusion whilst the order is in place [Consider effect of Section 19 <i>Firearms Act 1996</i> (ACT)]
Bankruptcy	Delegate discretion considering any related offences
Employment terminated/dismissed from any other public service/government department.	Delegate discretion depending on circumstances of termination/dismissal and integrity check provided by relevant agency
Inappropriate and/or Criminal associations*	Delegate discretion on individual's likely ability to comply with AFP's professional standards both on and off duty.

\*Inappropriate and/or Criminal associations for the purpose of this guideline are determined to be 'Declarable associations' under the *AFP National Guideline for Integrity Reporting* which are defined as:

- AFP appointees currently suspended due to integrity issues
- former members of any law enforcement or intelligence agency who are known or suspected to have left due to integrity issues, regardless of how their employment ended
- known criminals or people suspected to be engaged in criminal activity, including 'social' drug use
- people closely affiliated with or related to known criminals
- groups or organisations known or perceived to be involved in unlawful activity (e.g. outlaw motorcycle gang activities of any kind)
- membership of groups or organisations that might be perceived to be involved in unlawful activity by a reasonable person
- members of groups or organisations known to be involved in unlawful activity
- close associations with individuals, groups or organisations with what a reasonable person would consider to be extreme political, social or religious views such as being willing to cause unlawful injury or damage in support of those views.

### **Delegate's decision**

Once a decision not to proceed with an application for employment/engagement with the AFP has been made, it is final and there is no course for internal review. The candidate will be advised of the outcome and if applicable, any exclusion periods before another application can be submitted. However, applicants may still seek external review of the decision not to proceed with an offer of employment by an application to the Federal Magistrates' Court or the Federal Court under section 5 of the *Administrative Decisions (Judicial Review) Act 1982* (Cth) or via the Australian Human Rights Commission alleging discrimination on the basis of criminal record (see s3(1)) of the *Australian Human Rights Commission Act 1986* (Cth).

Contact for further information: AFP Recruitment

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