



Ministry of Education, Heritage & Arts

SCHOOLS POLICY AND PROCEDURES

POLICE CHECK POLICY - VOLUNTEERS

Version Control – Final Version of 24 October 2019

1. Purpose

- 1.1. This document details the policy and procedures for assessing and accepting Police Checks.

2. Definitions

- 2.1. Applicant is a person applying for a Volunteer position or other role with the MEHA.
- 2.2. Assessor is the MEHA employee reviewing the Police Check.
- 2.3. Higher Education Institution as defined by the *Higher Education Act 2008* means an educational institution in Fiji that provides award-conferring post-secondary education including, but not restricted to, Technical and Vocational Education Centres, secretarial schools, language schools, hospitality training centres, caregiving training providers, performing arts and sports academies, religious educational institutions, colleges and universities.
- 2.4. MEHA is the Ministry of Education, Heritage and Arts.
- 2.5. MEHA Staff includes any personnel paid by the Ministry of Education, Heritage and Arts.
- 2.6. Police Check is an Application for Police Clearance (Fiji) or similar screening check by a police force or other government or government-nominated organisation.
- 2.7. Political Risk for the purpose of this policy refers to the risk that an Assessor's decision, or that of a MEHA staff member in relation to the Police Check, may expose the Minister for Education or the Government of Fiji to potential difficulty, or embarrassment.
- 2.8. School is a facility registered/recognised as a School with/by the MEHA.
- 2.9. School Post Holder means a person appointed as a Principal, Head Teacher, Head of Campus, a Vice Principal, Assistant Principal, Assistant Head Teacher or Head of Department.
- 2.10. Student means a minor who is under the age of 18 or a person who is over the age of majority who is enrolled to study at a School.
- 2.11. Subject is the individual undergoing the Police Check.
- 2.12. Teacher is any person employed as a Teacher in a School.

- 2.13. Visa is a permit granted by the Fiji Department of Immigration to reside, work, volunteer or study in Fiji.
- 2.14. Volunteer is any person not formally employed as a Teacher or School Post Holder by the MEHA who wishes to provide support to the work of a School, either funded by a Volunteer Organisation or without financial compensation. For the purpose of this policy, a Volunteer does not include a Tourist. Tourists visiting Schools are covered in the Tourists In Schools policy.
- 2.15. Working With Children Check is a pre-employment screening check which ensures a child-safe working environments. A Working with Children Check or similar assessment that determines whether an individual has a criminal record which may place children in danger is a suitable alternative to a Police Check.

3. Policy Statements

- 3.1. The MEHA is committed to providing a safe environment for all Students and MEHA Staff. To support this commitment, the MEHA will require certain personnel visiting or working in Schools to undergo a Police Check. This check helps verify whether the individual is a suitable person to have contact with Students.
- 3.2. The circumstances in which a Police Check is required will be outlined in the relevant MEHA policy, but will generally involve situations where a person who is not a Parent, Guardian or MEHA Staff member has contact with Students. Where a situation is not covered by a MEHA Policy, the advice of Head Human Resources (for MEHA Staff) and Head and Learning and Teaching (regarding Volunteers) should be sought.
- 3.3. The MEHA's primary duty of care is to Students and MEHA Staff. While the rights of volunteers must be fairly balanced against this responsibility, in cases of doubt, the best interests of MEHA Staff and Students must be paramount. While making decisions regarding Police Checks may be sensitive, MEHA Staff should feel empowered to make decisions in the best interests of Students and MEHA Staff.
- 3.4. Paragraph 203 of the Fiji Government General Orders 2011 states that Fiji Government employees must have a satisfactory police record. All staff engaged by the MEHA must therefore hold a Police Check that meets the requirements of this policy.

3.5. Types of Police Checks

- 3.5.1. For the purpose of this policy, the following checks are required:
 - 3.5.1.1. Australia: An AFP Police Check (Code 37) is required (state/territory 'working with children/vulnerable people' checks are not designed to be used across Australian states or territories or internationally).

- 3.5.1.2. UK- An International Child Protection Certificate (a DBS check is for work in the UK, not internationally).
- 3.5.1.3. US- An FBI Records Checks
- 3.5.1.4. Canada- RCMP criminal record check
- 3.5.1.5. For all other locations, go to <https://immi.homeaffairs.gov.au/help-support/contact-us/offices-and-locations/list> and select the country, then search for police check, criminal record check, police clearance or similar.

3.5.2. This list may be updated in MEHA circulars, guidelines or other subsidiary guidance to this policy.

3.6. Funding of Police Checks

3.6.1. Police Checks are to be obtained at the Subject's expense.

3.7. Frequency

3.7.1. Police Checks for Volunteers must be renewed annually, at a minimum. More frequent renewals may be requested where a contract or activity is renewed, their circumstances change in a way that may affect their Police Check eg: are arrested, or where a School Head or MEHA Staff member has reason to be concerned about an individual's activities.

3.8. No Discrimination

3.8.1. MEHA Staff must comply with the *Human Rights Commission Act 2009*. Specifically, MEHA Staff must not discriminate against a Subject on the basis of actual or supposed personal characteristics or circumstances, including race, ethnic origin, colour, place of origin, gender, sexual orientation, birth, primary language, economic status, age or disability.

3.9. Police Check Requirements

3.9.1. Requirement 1: No older than three months

3.9.1.1. Police Checks must be no greater than three months old when provided to the Assessor.

3.9.1.1.1. Most Police Checks are only valid on the day of issue, as they are a reflection of a person's criminal record up to and as of that date. Even though Police Checks may be noted as being valid for up to 12 months from the date of issue by the issuing police service, this lapse of time still allows for an individual to have committed a crime in the intervening period. To minimise the risk that an individual commits a crime between the time of obtaining a Police Check and

applying with the MEHA, the MEHA limits the period of acceptability to three months.

3.9.2. Requirement 2: Five Year Checkable Background

3.9.2.1. Personnel with uncheckable backgrounds pose a potential risk to Students and MEHA personnel. The MEHA will therefore only accept Subjects whose police record can be validated for a consistent five year period from the date of application. **A Police Check is required for all countries in which the individual has lived for 12 months or longer over the past five years and for all countries of citizenship.**

3.9.2.1.1. Note: International checks can take up to six months to be provided. Applicants for Volunteer roles should not be accepted without a Police Check. Other Applicants may be accepted if the Permanent Secretary approves alternative checks as an interim measure, see paragraph 3.9.2.3. As there is a risk in accepting personnel without a valid Police Check, this interim measure should only be used in limited circumstances and not as a standard fall back position because someone failed to apply for a Police Check in advance or wishes to 'rush through' an application.

3.9.2.2. When applying for a Fijian Police Clearance, international checks may be obtained by providing the letter in Attachment A and paying the requisite fee.

3.9.2.3. The Permanent Secretary may approve the consideration of Subjects who do not have a five year checkable background in circumstances where a Police Check cannot be obtained due to unrest in the location, but:

3.9.2.3.1. the individual must make a statutory declaration for all countries that the individual lived in for 12 months or longer over the past five years and for all of the individual's countries of citizenship, where it has not been possible to obtain a criminal record check. The statutory declaration should be on the form at the following link: <http://www.economy.gov.fj/forms.html?download=223:forms> and must be made in front of a person listed in the explanatory note.

3.9.2.3.2. a character reference from an employer, religious leader or other respected community member or government official must be provided. Such references should be in writing and verified by a follow up email or telephone call, and for Teachers and Volunteers, meet the Good Character Test outline below. At least two references should be obtained for each location.

3.9.2.3.3. a risk assessment must be completed and the risk deemed acceptable by Head HR (for MEHA Staff) or Head, Learning and Teaching (for Volunteers).

3.9.3. Requirement 3: Good Character Test

- 3.9.3.1. Assessors must consider whether the Subject is a person of good character, and consider the following¹:
 - 3.9.3.1.1. any conviction of, or charge against, the Subject
 - 3.9.3.1.2. any behaviour that:
 - 3.9.3.1.2.1. does not satisfy a standard of behaviour generally expected of someone who will undertake the role the Subject is applying for
 - 3.9.3.1.2.2. is otherwise disgraceful or improper, or
 - 3.9.3.1.2.3. shows that the Subject is unfit for the role.
- 3.9.3.2. The MEHA will not engage anyone who has a prior conviction for child abuse, neglect, paedophilia or related offences (such as domestic violence) if that person will in any way have direct or indirect contact with children.
- 3.9.3.3. Subjects must not allowed contact with Students where they have a criminal conviction, charge or juvenile record previous for the following crimes under the *Crimes Act 2009* (Fiji) or similar crimes in other jurisdictions:
 - 3.9.3.3.1. Sections 76-132 – offences against the international order
 - 3.9.3.3.2. Sections 195-199 – rescue and escapes and obstructing court officers
 - 3.9.3.3.3. Sections 206-224 – sexual offences
 - 3.9.3.3.4. Sections 237-247 – murder, manslaughter and infanticide
 - 3.9.3.3.5. Sections 250-267 – offences connected with murder or suicide
 - 3.9.3.3.6. Sections 274-277 – assaults
 - 3.9.3.3.7. Sections 278-287 – offences against liberty.
- 3.9.3.4. Assessors should not allow Subjects to have contact with Students where any doubt exists about their character or criminal history.
- 3.9.3.5. Offences involving fraud or dishonesty should be considered where an individual applies for a role relating to finance, audit, or any role relating to the handling, management or recording of funds or goods.

¹ These considerations are based on section 13(2) of the *Fiji Teachers Registration Act 2008*
Policy Owner: Head, Learning and Teaching

- 3.9.3.6. The advice of the Solicitor-General should be sought in all cases where there is a concern regarding an individual's criminal history but where the *Rehabilitation of Offenders (Irrelevant Convictions) Act 1997* indicates that a Subject should be considered for a role.

3.10. Sharing Information with the Department of Immigration

- 3.10.1. Police Checks may be shared with the Department of Immigration where a Visa is being requested for a Volunteer or other person seeking to work in the MEHA, in a School or a Higher Education Institution.
- 3.10.2. The Department of Immigration Visa assessment process may uncover any criminal convictions overseas. All letters of support or similar documentation to the Department of Immigration should request that any information of concern is raised with the Ministry, to enable the Ministry to reconsider its support for the individual.

3.11. Appropriate Handling of Police Checks

- 3.11.1. MEHA Staff must maintain the confidentiality of Subject Police Checks and all communications regarding the Police Check².
- 3.11.2. The contents of Police Checks must only be discussed with those MEHA staff who need to know the information. Personnel with a need to know include MEHA staff providing advice to the Assessor about the Medical Assessment to perform their role.
- 3.11.3. Records must be kept, transferred and disposed of securely.
- 3.11.4. Police Checks of a deceased Subject should only be disclosed with clear legal authority such as a subpoena or writ.

3.12. Compliance and Audit

- 3.12.1. Audits will be conducted to assess compliance with this policy.
- 3.12.2. MEHA staff who do not comply this policy may be disciplined.

3.13. Delegation

- 3.13.1. All duties in this policy may be delegated, in writing. However, responsibility may not be delegated.

² Section 24, *Constitution of the Republic of Fiji 2013*

4. Procedures

- 4.1. The Subject is asked to obtain a Police Check as part of the Volunteer process. The Subject is provided with a copy of the letter at Annex A to accompany their Police Check request, and they are instructed to pay the requisite fee.
- 4.2. Upon receipt of the Police Check, the Assessor determines whether the Police Check complies with this Policy. Where the Police Check complies with this Policy, the Assessor may proceed with considering the Subject's application under the relevant process.
- 4.3. Assessors clarify doubts with the originator, where possible, regarding the content of the Police Check. Questions regarding the applicability of the *Rehabilitation of Offenders (Irrelevant Convictions) Act 1997* are referred to the Solicitor-General via the Permanent Secretary.
- 4.4. Where the Police Check does not comply with this Policy, the Assessor declines the Subject's application. Where an Assessor is concerned about the legality of their assessment, the opinion of the Solicitor General is sought via the Permanent Secretary.

4.5. Uncheckable backgrounds

- 4.5.1. The Assessor obtains the names and contact details of two referees per location and contacts them by email or phone to verify the reference contents.
- 4.5.2. If satisfied that references meet the Good Character Test, the Assessor then undertakes a risk assessment to determine whether the Subject should be engaged as a Volunteer, and approaches to minimise the risk noted. Risk registers used by other education departments may be useful, such as the Victorian Department of Education's Risk Register and SWOT analysis matrix. The risk assessment is reviewed by Head, Learning and Teaching.
- 4.5.3. The Assessor then drafts a submission to the Donor Harmonisation Unit outlining whether the Subject should/should not be engaged as a Volunteer, based on the risk assessment, Police Check and any other relevant information. All references and the risk assessment are included. The Donor Harmonisation Unit attaches all supplements regarding Volunteers with uncheckable backgrounds to the Volunteer blanket approval request to the Permanent Secretary.

4.6. Liaison with Department of Immigration

- 4.6.1. Once Permanent Secretary Approval is granted, the Donor Harmonisation Unit or Recruitment Panel Member provides the letter in Annex B to the Department of Immigration with a list of all proposed Volunteers who will seek a Volunteer Visa for a role with the MEHA. The Department is requested to advise the MEHA where any information

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of concern is uncovered in the Visa process, to allow the Ministry to reconsider its support for the Volunteer.

- 4.6.2. Where the Department of Immigration discloses information of concern about a potential Volunteer which indicates the individual is unsuitable to Volunteer with the MEHA, the Donor Harmonisation Unit prepares a submission to obtain the Permanent Secretary's approval to disqualify the individual from Volunteering with the MEHA for the position sought.

4.7. Appropriate Handling of Police Checks

- 4.7.1. All information is locked up when not in use, and when in use, must not be made visible to personnel without a need to know the information.
- 4.7.2. When transferred, identifying details are covered so they are not visible.
- 4.7.3. Police Checks are disposed of by shredding or via a secure document destruction company.

5. Key Search Terms

- 5.1. Child Protection, Crime, Criminal Conviction, Police Check, Recruitment, Recruitment Checks, Recruitment Police Checks, Teachers, Volunteers, Working with Children Check.

6. Review Arrangements

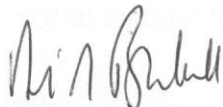
- 6.1. This policy will be reviewed one year after approval by the Permanent Secretary and subsequent endorsement by the Honourable Minister.

Annexes

Annex A - Ministry Letter to Fiji Police - Overseas Check

Annex B - Sample Letter to Department of Immigration - Volunteers

Approved for implementation



Alison Burchell

**Permanent Secretary for Education,
Heritage and Arts**

Date: 2 / 11 / 2019



**MINISTRY OF EDUCATION,
HERITAGE & ARTS**

Quality Education for Change, Peace and Progress



Resident Address: Marela House, 19 Thurston Street, Suva, Fiji.

Ph: (679) 3314477

Postal Address: Private Mail Bag, Government Buildings, Suva, Fiji.

Fax: (679) 3303511

File Ref:

Date:

**The Officer in Charge
Criminal Records Office
P.O. Box 239
Suva,
Fiji Island**

REQUEST FOR INTERNATIONAL POLICE CHECK

This applicant is seeking a position with the Ministry of Education Heritage & Arts.

To determine their suitability please conduct an Interpol check to determine any:

- International Travel of concern
- Listing on international sex offender registers or similar, and
- Any criminal convictions outside of Fiji.

Please provide the completed check to:

Name:

Title:

Address:

Email:

Phone number:

Yours faithfully

ALISON BURCHELL
Permanent Secretary



MINISTRY OF EDUCATION,
HERITAGE & ARTS

Quality Education for Change, Peace and Progress



Resident Address: Marela House, 19 Thurston Street, Suva, Fiji.
Postal Address: Private Mail Bag, Government Buildings, Suva, Fiji.

Ph: (679) 3314477
Fax: (679) 3303511

File Ref:

Date:

The Director of Immigration
P O Box 2224
Government Buildings
Suva

Dear Sir,

Re: **APPROVED VOLUNTEERS 2019**

Please find attached a list of all volunteers approved by the Ministry of Education Heritage and Arts for 2019. Details of their proposed volunteer locations and the timeframe of their volunteer position are included.

The Ministry of Education supports the granting of appropriate Visas for all Volunteers listed therein, for the periods of their proposed Volunteer position.

Should your Department discover information of concern when considering the Visa applications of these individuals, please advise me so that we may reconsider our support for their role with the MEHA.

ALISON BURCHELL
Permanent Secretary

cc: Head, Learning and Teaching

Encls: (list enclosures)
