



AusCheck Privacy Notice - NHS

June 2019

The Department of Home Affairs (the Department) includes the Australian Border Force. The *AusCheck Act 2007* (AusCheck Act) authorises and requires the Department to collect certain personal information to administer the AusCheck scheme.

The *Privacy Act 1988* (Privacy Act) requires the Department to notify an individual of certain matters when it collects personal information about them. This form is your notification of those matters.

This document explains:

- what personal information is collected about you when an application for a background check for the purpose of a National Health Security (NHS) check is made in connection with you seeking authorisation by a registered Entity under the Security-Sensitive Biological Agent (SSBA) Regulatory Scheme to handle SSBAs, access a facility where SSBAs are handled, or access sensitive information relating to SSBAs
- how your personal information will be used, and
- where you can find more information.

What is personal information?

The Privacy Act defines personal information as information or an opinion about an individual who is reasonably identifiable.

Under the Privacy Act personal information may include sensitive information. Sensitive information is a subset of personal information and includes information or opinion about an individual's racial or ethnic origin, political, religious and philosophical beliefs, trade or professional associations or memberships, union membership, sexual orientation or practices, criminal history, health, genetic, and biometric information.

Why is my personal information being collected?

Under the *SSBA Standards 2013* (SSBA Standards), a person who does not currently hold a national security clearance of Negative Vet Level 1 (NV1), Negative Vet Level 2 (NV2), or Positive Vet (PV) must undergo an AusCheck coordinated background check before they can be authorised to handle Tier 1 SSBAs, access a facility where Tier 1 SSBAs are handled, or access sensitive information relating to Tier 1 SSBAs. Entities registered to handle Tier 2 SSBAs under the SSBA Regulatory Scheme may also require persons to undergo a background check. AusCheck requires some of your personal information in order to conduct this background check. Your Entity will apply to AusCheck for a background check on your behalf.

Persons who have undergone a background check are required to notify their Entity of any changes to their name within 30 days of the change. Your Entity will notify AusCheck of the change of name within two business days.

Consent

Under the AusCheck Act, by accepting this Privacy Notice and applying to become an authorised person, you are taken to have consented to an AusCheck coordinated background check.

This consent applies to the initial background check required as part of your application, as well as any further background checks required or permitted by the AusCheck Act or other legislation. This includes:

- a further background check in circumstances where it is reasonably suspected that the information provided for the original background check was incomplete, the application requirements were not met, or the advice given as a result of that check was inaccurate or incomplete, and

- a background check requested by the Secretary of the Department.

A person who has undergone an AusCheck coordinated background check in order to become an authorised person and is convicted of a health security relevant offence must report this conviction to their Entity. Their Entity will report the conviction to AusCheck and a new background check will be undertaken. The person's authorised status will be suspended pending the outcome of the new background check.

What personal information is being collected about me?

Your Entity will collect the information that AusCheck requires to conduct a background check and to perform online verification.

The required information includes:

- **identity information:** your full name, all former full names, all other names, titles, pseudonyms and aliases which you are or were known by, use or have used to identify yourself (variants, including variants in spelling are taken to be different name, titles pseudonyms or aliases), date and place of birth, gender, any other names by which you are known or have previously been known, contact details, current residential address, and all other previous residential addresses for the past 10 years
- a recent **photograph** showing your full face, and head and shoulders
- **work and study information:** the name, telephone number and business address of your employer and/or the name and business address of the institution where you are studying
- **other information:** AusCheck may also need additional information in order to confirm your identity, such as fingerprints or other biometric data.

If an immigration check is requested by your Entity, AusCheck will also need your **immigration information:**

- your passport number, and the number and expiry date of any visa granted to you enabling you to travel to and enter, remain and/or work in Australia.

If your Entity or employer has asked you for any additional personal information, you should contact them to clarify why that additional information is required.

Biometric data is defined as 'identity verification information' in the AusCheck Act and includes data such as your fingerprints. Identity verification information is given additional protection under the AusCheck Act, and may only be collected, retained, used or disclosed for the purposes of verifying your identity for the purposes of the background check. AusCheck can only conduct a background check if the required information is provided. Failure to provide the required information will delay the commencement of your background check.

AusCheck may direct your Entity to provide further information if doing so is necessary for the purposes of meeting background check application requirements, ensure all required information is provided or completing a background check. This direction may be given whilst the background check is being undertaken, or whilst your NHS check is valid. AusCheck may charge for the cost of undertaking a new background check in these circumstances.

How will my personal information be used?

AusCheck will only use your personal information for purposes permitted by law, including:

- determining whether a background check is required or permitted
- conducting and advising on the outcome of a background check
- updating information on an individual who has undertaken a background check,
- providing updated advice on the outcome of a background check if the initial advice was inaccurate or incomplete (this may involve further background checking)
- verifying the identity of an individual
- providing an online verification service that will verify if a person is eligible to become an authorised person
- responding to a national security incident
- performing functions relating to law enforcement or national security.

Your personal information will be stored in the AusCheck database for these permitted purposes.

Your personal information will be used and stored securely in accordance with the Australian Privacy Principles. Your personal information may be disclosed to an overseas recipient but only in specific instances where this disclosure is authorised by legislation.

AusCheck will conduct and coordinate a background check using the information you provide to your Entity. That information may also be used to conduct subsequent background checks (see 'consent' above). The outcome of these background checks affects your eligibility to be an authorised person.

When conducting a background check, AusCheck will disclose your personal information to the following Commonwealth Government agencies:

- **The Australian Security Intelligence Organisation (ASIO):** ASIO will assess your background and any past activities to determine whether there could be a threat to national security. ASIO will keep your information and use it as required for national security purposes.
- **The Australian Criminal Intelligence Commission (ACIC):** The ACIC will check your criminal record in the databases of all Australian legal jurisdictions and supply a copy of your criminal record to AusCheck. AusCheck will provide you with an opportunity to review your security relevant offences before finalising the eligibility assessment. If you dispute the details of these offences, you are required to contact AusCheck in the first instance. AusCheck can provide details of your dispute to the ACIC, but you may need to contact the relevant police in the jurisdiction in which the offence occurred to directly query your criminal record. The ACIC may also use your information to perform functions related to law enforcement purposes, including those purposes set out in the *Australian Crime Commission Act 2002*.

AusCheck will only provide your personal information for other purposes where specifically required or permitted by law such as responding to a national security incident and for law enforcement or national security purposes.

AusCheck will disclose your personal information to other parts of the Department to check your legal right to work in Australia. This information may also be used for immigration compliance purposes.

What happens after my background check is complete?

AusCheck will use the results of these checks to advise your Entity whether you:

- have an 'adverse' or 'qualified' criminal record,
- have an 'adverse' or 'qualified' security assessment
- have the right to work in Australia if requested by your Entity.

If you have a qualified criminal record, your Entity has discretion about whether to authorise you on the basis of your criminal record. AusCheck will provide your Entity with the details of your convictions for health security relevant offences to assist them when making this decision. Your Entity may authorise you for up to 12 months before you must undergo a new background check to be reauthorised.

If you have an adverse criminal record, adverse security assessment, or qualified security assessment, your Entity must not authorise you under the SSBA Standards.

If you do not hold a visa entitling you to work in Australia, your Entity must not authorise you under the SSBA Standards.

AusCheck will keep your personal information on the AusCheck database. Entities, inspectors for the SSBA Regulatory Scheme (where access is provided by Entities), as well as Commonwealth, state and territory authorities seeking access for the purposes of performing functions relating to law enforcement or national security can access this information in certain circumstances authorised by law.

Spent convictions

A spent conviction is a criminal conviction that lapses after a period of time and will not ordinarily be disclosed on a person's criminal record. The Commonwealth spent convictions scheme is contained in Part VIIC of the *Crimes Act 1914* and limits the use and disclosure of certain criminal history information.

AusCheck will not be provided with, and will not use or disclose, information about a conviction which is 'spent' (unless an exclusion applies – see below). This includes convictions that have been quashed or set aside, or for which a pardon has been granted.

A conviction is a 'spent conviction' under the Commonwealth spent convictions scheme if all of the following applies:

- you were not sentenced to more than 30 months imprisonment in relation to the offence
- the 'waiting period' has ended – 10 years since the date of the conviction (or five years if you were dealt with as a minor), and
- you have not been convicted for an offence during the waiting period.

A conviction is also 'spent' under the Commonwealth scheme if it is considered a 'spent conviction' under a state or territory law. Note that AusCheck is exempt from the application of the South Australian spent convictions scheme.

Some exclusions apply to persons undergoing an AusCheck coordinated background check for the purpose of becoming an authorised person. This means that the details of convictions for certain health security relevant offences will be given to AusCheck and used and disclosed in relation to the background check even if they are 'spent'.

If you believe the 'spent convictions' rules have been breached by AusCheck, you can complain to the Office of the Australian Information Commissioner.

Transfer of result of background check to new Entity

Under the SSBA Standards, if you commence work at a different Entity from the one that applied for the background check, you can consent to the transfer of the result of that background check to the new Entity. The new Entity may then consider that result when deciding whether to authorise you under the SSBA Standards. The new Entity will contact AusCheck to verify the result of that check following your consent to transfer results.

If the result of that background check was that you have a qualified criminal record, AusCheck will provide the new Entity with the details of your convictions for health security relevant offences to assist them when deciding whether to authorise you under the SSBA Standards.

The new Entity is able to authorise you for the period up until when a new background check would have been required. For an 'eligible' result, this is two years from the initial background check. For a 'qualified' result, this is 12 months from the initial background check.

Where can I get more information?

The AusCheck section of the Home Affairs website has more information about:

- 'spent convictions'
- how your personal information will be used
- to whom your personal information may be disclosed
- your rights to access and correct your personal information
- your rights to complain about any suspected breach of your privacy
- how your personal information is secured by AusCheck
- the background checking process
- the decision making process and considerations
- processing times and outcome notification
- appeal processes
- obligations to self-report
- transferring an NHS check result, and
- legislation relating to AusCheck.

You can see the website at:

<https://www.homeaffairs.gov.au/about-us/our-portfolios/criminal-justice/crime-prevention/auscheck>.

You can contact an AusCheck staff member with any questions or comments on (02) 6141 2000 or at AusCheck@homeaffairs.gov.au.