

Australian Federal Police

Website: <http://www.afp.gov.au>

Phone: 02 6202 3333

You can apply to the AFP for a criminal record check if you are not sure which states/territories you have a criminal record in, or you:

- are seeking employment with the Commonwealth Government;
- require a check under federal/national law (e.g. for immigration purposes);
- are seeking employment overseas;
- are trying to adopt, including overseas adoption;
- are applying for a visa.

DISCRIMINATION IN EMPLOYMENT

If you feel you have been discriminated against in employment because you have a criminal record, you can lodge a complaint with the Australian Human Rights Commission.

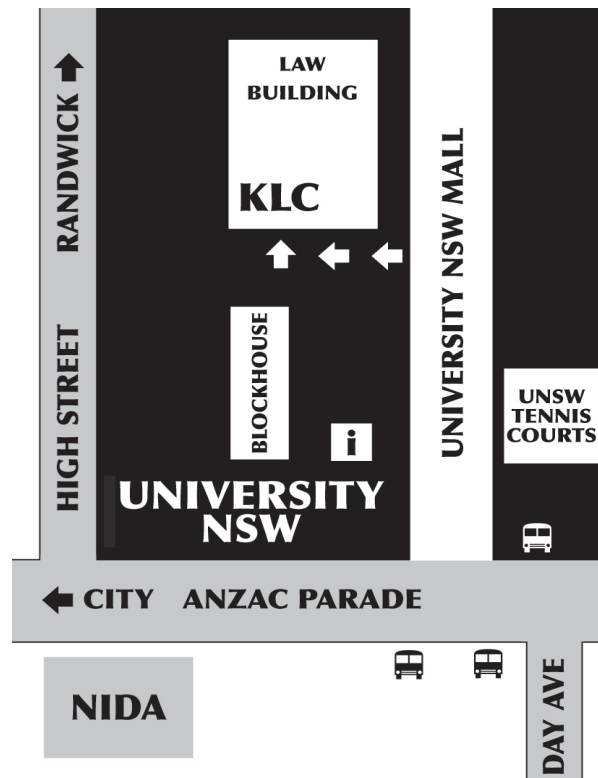
There is an exception to the ban on criminal record-based discrimination if your record is relevant to the particular job. This will depend on a number of factors including the 'inherent requirements' of the job.

The Commission has issued "Guidelines for the prevention of discrimination in employment on the basis of criminal record", which you can find on their website.

Complaints Line: 1300 656 419

Website: <http://www.humanrights.gov.au>

Updated July 2009



LOCATION

Kingsford Legal Centre is located on the ground floor of the Law Building, University of New South Wales, Anzac Parade, Kensington.

Enter the university at the main entrance on Anzac Parade, walk down the main walkway and turn down the 2nd path on the left. The entrance to the legal centre is opposite the Uni Bar.

POSTAL ADDRESS

F8-003

Kingsford Legal Centre

University of New South Wales

NSW, 2052

CONTACT DETAILS

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www.kingsfordlegalcentre.org



Criminal
records

THE UNIVERSITY OF
NEW SOUTH WALES



While every care has been taken to make this information accurate, this pamphlet is not a substitute for legal advice. You should get legal advice about your specific situation.

A criminal record lists the criminal convictions recorded against you by a court.

You will have a conviction listed on your record if:

- you have been found guilty of an offence in court; or
- you have pleaded guilty to an offence in court; and
- the court has recorded a conviction against you.

RECORDED CONVICTIONS - ADULTS

A conviction will be recorded automatically if you are found guilty of an offence as an adult (18 years or over).

In special circumstances, a court may find you guilty of an offence but not record a conviction (under s10 of the *Crimes (Sentencing Procedure) Act 1999*). Those offences may still be taken into account by courts if you are sentenced for any later offences.

RECORDED CONVICTIONS - MINORS

A magistrate in the Children's Court may only record a conviction against a person aged 16 and over. However, a minor of any age who is facing more serious charges in a higher court (e.g. the District Court) may have a conviction recorded against him/her.

Juvenile matters where you were found guilty but no conviction was recorded may still be taken into account by a court if you are sentenced for future offences.

Convictions recorded against you as a minor will **not** automatically disappear when you turn 18.

STATE AND FEDERAL/NATIONAL CONVICTIONS

Most convictions relate to offences under New South Wales (state) law, for example convictions for assault or shoplifting. Convictions for offences under federal/national law are less common. Examples include offences relating to tax or social security.

If a conviction is recorded against you under either NSW law or federal/national law, that conviction will be listed on your criminal record.

DISCLOSURE OF CRIMINAL RECORDS

You may need to disclose your criminal record when applying for a job or for certain licenses. What you have to disclose will depend on the questions you are asked. Some application forms may even ask you to disclose traffic offences such as minor speeding fines.

Government departments can get access to your criminal record in certain circumstances, for example if you are applying for a government job. Private employers cannot gain access to your criminal record without your consent.

SPENT CONVICTIONS

A conviction may become 'spent', meaning that it is no longer listed on your criminal record. A conviction can become spent if you have remained crime free for a period of:

- 3 years if you were convicted by the Children's Court; or
- 10 years if you were convicted by any other court.

If you have a NSW conviction, it **cannot** become spent if:

- you were sentenced to prison for more than six months;

- it was a conviction for sexual offences; or
 - the victim of the offence was a child.
- Any federal/national conviction can become spent unless you were sentenced to more than 30 months imprisonment.

SPENT CONVICTIONS: DISCLOSURE AND OTHER ISSUES

Once a conviction is 'spent' you no longer have to disclose it to anyone except in certain circumstances.

For example, you must still disclose 'spent' convictions when you apply:

- for employment in certain positions of trust, for example justices of the peace, police officers, or providers of child care services;
- for certain licenses (e.g. casino employee, security industry or firearms licences).

A court can consider your spent convictions if you are being sentenced for later offences.

ACCESS TO CRIMINAL RECORDS

You can get a copy of your criminal record from either NSW Police or the Australian Federal Police by filling out an application form. There is usually a fee.

NSW Police

Website: <http://www.police.nsw.gov.au>

You can apply to the NSW Police Criminal Records Section for a 'National Criminal History Record Check' if you need a copy of your record for visa, adoption, paid employment or some licensing purposes. Phone: 02 8835 7888

If you want a copy of your criminal record for your personal use/information, you should apply to NSW Police's Freedom of Information Unit. This record will show all your convictions, including ones that are spent. Phone: 02 9689 7122