

Dear Senators / MPs

I note that the Joint Committee of Public Accounts and Audit is now preparing its report of the enquiry on *Australian Government Security Arrangements: Personnel Security and Domestic Passenger Screening - Inquiry based on Auditor-General's reports 38 and 43 (2017-18)*. The Committee, in its deliberations, no doubt considered the implications of changes to the operation of the Protective Security Policy Framework (PSPF) which came into effect at the beginning of this month but, noting that the Committee appears not to have had the benefit of hearing from industry practitioners, I wanted to offer some observations that may assist the Committee's perspectives.

The changes to the PSPF impose significant additional requirements with the inclusion of financial dimensions for 'Baseline' vetting and expanded pre-employment screening tests. The extension of financial history checking to the largest category of security clearances will generate an additional load on the resources of AGSVA and its industry partners, potentially adding further stress to the already challenging timeframes for concluding these processes by introducing additional data points to be assessed by the vetting officer. The revisions to Personnel Security element 12 (PERSEC 12): Eligibility and suitability of personnel now require employing entities to obtain assurance of a person's suitability to access Australian Government resources (and compliance with a range of concomitant safeguards) as a *pre-employment* screening process. As the Principal of one of AGSVA's most highly-rated Industry Vetting Panel members, I believe these changes – while vital to strengthening confidence in the integrity of the workforce delivering government services – will pose a range of challenges that require fresh thinking and innovative solutions.

I attach for Committee members' consideration a copy of a newsletter – Vetting Vantage Point – that discusses a range of issues associated with implementing the recent PSPF changes and that points to some potential solutions, including the innovative application of leading-edge technologies. The approaches advocated in the newsletter directly address the PSPF implementation challenges without risking any dilution of standards: the Attorney General's Adjudicative Guidelines are applied throughout.

I would welcome the opportunity to meet with you to expand on the approaches I believe can address the new requirements and which will address the concerns raised by the Committee during its hearings. I would also be able to demonstrate how our innovative use of Artificial Intelligence can contribute to ensuring that Australian Government personnel security standards are maintained at the highest levels and with optimum efficiency.

Yours faithfully,

Edward Barker

# VETTING VANTAGE POINT

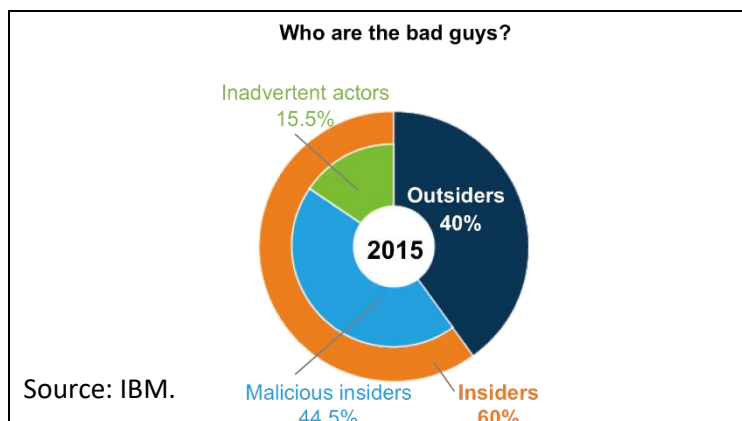
## 2018 PROTECTIVE SECURITY POLICY FRAMEWORK UPDATE

**“Is vetting 1 million citizens to stop 1,800 rogue users, at a cost of \$627m, necessary?”**

Revisions to the Protective Security Policy Framework (PSPF) were activated this month, with important changes to PSPF: 12 Eligibility and suitability of personnel” placing personnel security front and centre. Cyber security concerns continue to feature strongly in public discourse: the community is concerned about how institutions, both public and private, manage data, and those who manage data know that each breach brings greater costs<sup>1</sup>.

Integrity and confidence in the APS features strongly in current and future capability requirements of many Agencies. Confidentiality and integrity are identified specifically in Corporate Plans as key strategic risk areas. As an AGSVA Industry Vetting Panel (IVP) member processing around 8-10% of all PV clearances, we understand the need to ensure that Commonwealth resources are kept safe. As suitability experts, who understand the Attorney General's Adjudicative Guidelines better than most, we offer you our vantage point and on how these changes may have significant implications

Personnel security and cyber security are intrinsically linked. IBM data<sup>2</sup> shows that only 40% of data breaches originate outside an organisation. Malicious intent by insiders account for more than 44% of breaches and more than 15% of breaches are caused by inadvertent action: improved suitability screening can only improve these disturbing figures.



<sup>1</sup> [Data breach after data breach, is costing \\$2.4m per breach](#)

<sup>2</sup> [The people you trust most could be planning the next big cyber attack on your company](#)

# VETTING VANTAGE POINT

## Let's look at the PSPF changes

### Change #1 Strengthening Baseline Clearances.

The Baseline Security Clearance is now expanded: financial history checks are now required for all clearance levels, including Baseline:<sup>3</sup>

<b>Financial history check</b>	<p><b>Requirement 3cii</b> mandates for all clearance levels (Baseline to Positive Vetting, inclusive) that vetting agencies conduct a financial history check.</p> <p>The purpose of this check is to consider whether:</p> <ol style="list-style-type: none"><li>the clearance subject is living beyond their means, for example spending more than they earn or is impulsive and irresponsible with their spending</li><li>there is any history of unmanaged debt</li><li>the clearance subject has failed to meet financial obligations, including submission of tax returns, payment of rent and debts, bankruptcy and denial of credit.</li></ol> <p>Where there are concerns about a clearance subject's financial situation, particularly unexplained wealth or a high level of debt, additional checks may be warranted. The Attorney-General's Department recommends that vetting agencies determine appropriate checks on a case-by-case basis.</p> <p>Where a clearance subject has indicated that they have been bankrupt or insolvent, the Attorney-General's Department recommends that the vetting agency request a bankruptcy check in writing through the Insolvency and Trustee Service Australia.</p> <p>If a clearance subject has a history of financial defaults, is in a difficult financial situation or if there are concerns about the clearance subject's finances, the vetting agency may seek a credit history check from an accredited financial credit check organisation.</p>
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This is a significant validation and strengthening of this level's clearance relevance, given that the 2015 independent Review of Whole-of-Government Internal Regulation (Belcher Red Tape Review<sup>4</sup>) proposed scraping the Baseline Clearance. As one of the Adjudicative Guideline's "Factor Areas" is "Financial Considerations", the inclusion of this element at this level bolsters the number of data points to be assessed by the vetting officer. The requirement for financial history records to be checked for Baseline clearances recognises the relationship between misdemeanour by trusted insiders and the financial pressures of modern living. Enhanced screening of this factor in security clearances will mitigate the risk posed by undisclosed adverse financial histories.

<sup>3</sup> <https://www.protectivesecurity.gov.au>

<sup>4</sup> <https://www.finance.gov.au/publications/reducingredtape/>

# VETTING VANTAGE POINT

The PSPF requires anyone who accesses Commonwealth systems to be screened for suitability<sup>5</sup>



## 12 Eligibility and suitability of personnel

### A. Purpose

1. This policy details the pre-employment screening processes and standardised vetting practices to be undertaken when employing personnel and contractors. These processes provide a high-quality and consistent approach to managing personnel eligibility and suitability risk across government.

### B. Requirements

#### B.1 Core requirement

*Each entity must ensure the eligibility and suitability of its personnel who have access to Australian Government resources (people, information and assets).*

*Entities must use the Australian Government Security Vetting Agency (AGSVA) to conduct vetting, or where authorised, conduct security vetting in a manner consistent with the Personnel Security Vetting Standards.*

2. Pre-employment screening is the primary activity used to mitigate an entity's personnel security risks. Entities may use security clearances where they need additional assurance of the suitability and integrity of personnel. This could be for access to security classified information, or to provide greater assurance for designated positions.

#### B.2 Supporting requirements

3. The supporting requirements clarify conditions for pre-employment screening and security clearances. This includes outlining the respective responsibilities of sponsoring entities and authorised vetting agencies in relation to security clearances.

#### Supporting requirements for eligibility and suitability of personnel

#	Supporting requirements
Requirement 1. Pre-employment screening	Entities must undertake pre-employment screening, including: <ol style="list-style-type: none"> <li>a. verifying a person's identity using the Document Verification Service</li> <li>b. confirming a person's eligibility to work in Australia, and</li> <li>c. <u>obtaining assurance of a person's suitability</u> to access Australian Government resources, including their agreement to comply with the government's policies, standards, protocols and guidelines that safeguard resources from harm.</li> </ol>

The meaning of the term 'suitability' is laid out in the PSPF Adjudicative Guidelines called "Suitability Indicators" – namely Honesty, Trustworthy, Tolerant, Maturity, Loyalty and Resilience (HTMLR). The risk for the successful implementation of this change is that agencies may seek to interpret the meaning of 'suitable' in sub-optimal ways and, in the pursuit of efficiency, routinely outsource this additional assurance to their recruitment panels.

<sup>5</sup> <https://www.protectivesecurity.gov.au>

# VETTING VANTAGE POINT

The recruitment business model is conflicted, however. It asks Recruiters to deliver competence and talent. Disqualifying candidates based on a background check or character is the antithesis of the recruitment model. Because of this, some of the nation's largest agencies just duplicate this process: they have the recruiter recommend candidates who are 'possibly' suitable and then the agency does its own security / suitability checks.

In practice, the 'security check department' inside the agency often analyses a 'black mark' database check, such as National Criminal History Check, which costs a little more than a few dollars. It's official, often legislatively mandated and therefore has some value. But its use as a standard of character, or to comply with suitability indicators (HTTMLR), is fallacious. Even going a step further to include a Statutory Declaration which in effect says, "I declare that I am a good person with good character" may have some deterrent value but offers little substantive assurance. Referee checks about the candidate's prior work performance may also have limited value since referees are commonly nominated on an assumption of a broadly favourable commentary. The limited value offered by these approaches falls short of the genuine, substantive assurances that the PSPF is articulating.

Scoping documents<sup>6</sup> used in a recent Royal Commission, Researchers described the combination of a "Police Check + Referee Check" as being '[futile](#)' for safeguarding organisations. That is why the Sex Abuse RC [Recommendations](#) included better and more rigorous initial and ongoing screening practices.

**We live in a society that trades in trust.** If what lies beneath a candidate's profile is never properly screened for trustworthiness, then there remains a large mass of residual risk.

## Let's consider the practical implications

Should agencies or entities covered by the PSPF "**use security clearances where they need additional assurance of the suitability and integrity of personnel**" as PSPF#12 now recommends?

Let's examine a small number of agencies with requirements to engage either flexible workforces or allow systems access by multiple external parties.

Australian Bureau of Statistics (ABS): The ABS has a temporary workforce of approximately 17,000 for its Census collection activities; even with the growth in on-line completion of the Census, a large proportion of the ABS' temporary workforce engages directly with citizens, including entering their properties, and conveying material containing some of the most sensitive data gathered by the Australian Government. What would be the community's expectation of a minimum level of clearance for a representative of the ABS who they might allow into their homes? A Baseline Clearance is surely the minimum.

Australian Electoral Commission (AEC): The AEC has approximately 75,000 temporary election workers charged with servicing the most fundamental democratic entitlement, the right to vote. AEC temporary election workers have access to records of up to 15.5 million Australian voters, and handle the ballot papers that reflect the will of the voters in electing their government. What would be the voters' expectations of a minimum level of clearance for someone entrusted with those responsibilities? Even a Baseline Clearance would not offer assurance about freedom from foreign interference but it would markedly enhance the current standards under which only 30% or so of the workforce has any form of screening.

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<sup>6</sup> [http://www.parentingrc.org.au/images/Resources/Scoping\\_review\\_Evals-of-pre-employment-screening-practices/Scoping-review\\_Evaluations-of-pre-employment-screening-practices-to-prevent-csa.pdf](http://www.parentingrc.org.au/images/Resources/Scoping_review_Evals-of-pre-employment-screening-practices/Scoping-review_Evaluations-of-pre-employment-screening-practices-to-prevent-csa.pdf)

# VETTING VANTAGE POINT

Australia's Digital Health Agency: The former privacy commissioner [Malcolm Crompton](#)<sup>7</sup> said of digital health records that they "will not be secure unless a widespread audit of every GP clinic in Australia is conducted. It may well be military-grade [security] on the central servers of the My Health Record system [but] it's demonstrably not military-grade for all of those 900,000 practitioners."

If the Australia Digital Health Agency, with its 900,000 users require access to Commonwealth systems to create, read, update, delete sensitive personal information, then a Baseline Clearance should be considered a logical and appropriate product that provides 'additional assurances' of the user's suitability to access a commonwealth system.

Consider the financial impact on the Commonwealth and Taxpayer:	
If the ABS orders Baseline Clearances x \$637ea = \$10m	
If the AEC orders Baseline Clearances x \$637ea = \$44m	
If the ADHA orders Baseline Clearances x \$637ea = \$573m	<b>Total = \$627m</b>

If you extrapolate this concept out to other Agencies and other programs of work, you can see how PERSEC is conceivably a billion industry. However, to put that into perspective, the AGSVA's Industry Vetting Panel, who process up to 95% of clearances, has a budget of around \$40million per year. This is about the same amount of money [that Queensland Train Drivers](#) received – just for overtime - last year.

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<sup>7</sup> Cyber attacks rise in Australia's data breach numbers Cyber attacks rise in Australia's data breach numbers Health sector continues to have most incidents. <https://www.itnews.com.au/news/cyber-attacks-rise-in-australias-data-breach-numbers-499323>

# VETTING VANTAGE POINT

As a nation, how willing are we, how prepared are we to strengthen PERSEC in order to have safer, more secure and prosperous workplaces?

The [2018 ANAO Audit of AGSVA](#) also revealed around 1:1131 Baseline cases are initially considered adverse and awarded a WITHHOLD recommendation (a polite way to describe them is complex.)

Table 2.4: Case durations for complex and non-complex cases, 2015–16 to 2016–17

Clearance level	Case type	Number of (ratio) cases	Average case duration (days)	Benchmark timeframes delays	
Baseline	Non-complex		CLEAR.D.LIFE CL0 (AI) 27x faster	27.4	One month (~30 days)
	Complex	1:1131	144x faster	144.8	5.3x DELAY
NV1	Non-complex		CLEAR.D.LIFE CL1 41x faster	123.1	Four months (~120 days)
	Complex	1:491	213x faster	640.1	5.2x DELAY
NV2	Non-complex		CLEAR.D.LIFE CL2 19x faster	186.9	Six months (~180 days)
	Complex	1:220	70x faster	697.2	3.7x DELAY
PV	Non-complex		CLEAR.D.LIFE CL3 51x faster	512.6	Six months (~180 days)
	Complex	1:22	79x faster	792.6	4.4x DELAY

Using the 1:1131 ratio, the **AEC** is running the risk of having 60 people who are not loyal to Australia or who are untrustworthy. The **ABS** might have 15 in its midst who are considered high risk. At least 800 potential rogue trusted insiders will be accessing health records across Australia. Given that data breach rates in the health industry is the worst of all industries, combined with IBM research indicating that 44.5% of all breaches are done by malicious trusted insiders, the trust, integrity and assurances of these programs (and others not highlighted here) could not be more stark or urgent.

As you can see from the above graphic, the higher the clearance level and the higher the number of people assessed to be unsuitable. That is because we have incrementally more data points to analyse. Now that the Baseline Clearance process has been beefed up to include finances, this 1:1131 ratio could easily become 1:500, which means that **1,800** trusted insiders accessing commonwealth resources are deemed unsuitable.

# VETTING VANTAGE POINT

## Change #2 Pre-employment suitability occurs before employment is offered

The PSPF#12.C.1.6 also states that the pre-employment suitability screen should be done after the merit list is complete, but before an employment contract is offered.

4. Requirement 1 applies to all personnel; this includes security cleared and non-security cleared personnel, contractors and others who will have access to Australian Government resources. Requirements 2 and 3 apply to security cleared personnel only.

### C. Guidance

#### C.1 Pre-employment screening

5. Pre-employment screening includes:

- a. mandatory and recommended pre-employment checks applied to provide a level of assurance about the individual's suitability to access Australian Government resources
- b. entity-specific checks to mitigate security threats applicable to the entity that are not addressed by minimum pre-employment screening.

6. The Attorney-General's Department recommends that entities conduct and finalise pre-employment and entity-specific screening after the conclusion of the merit selection process but prior to an offer of employment or contract. Where checks are not completed prior to engagement, it is recommended that entities make the employment or contract conditional on satisfying the required checks within a reasonable timeframe.

7. Completing screening prior to engagement is particularly important for positions that have been identified as requiring a security clearance. If an individual is found to be unsuitable as part of the pre-employment and entity-specific screening, entities must not seek a security clearance for the individual (see Requirement 2c).

This change was advocated in the Journal of the Australian Institute of Professional Intelligence Officers Volume 25 Issue 2 (2017), in an article called "[Breaking down barriers through proactive effective vetting management.](#)"

But, can anyone imagine delivering a pre-employment suitability clearance, within days, for potentially hundreds if not thousands of people?

The work that my team of security vetting officers do, to get to reach an adverse recommendation takes time to come to, while remaining lawfully compliant. 1 in 4 complaints to the Human Right Commission being classified as Criminal Record Discrimination.



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### Discrimination in Employment on the Basis of Criminal Record

Sunday 1 June 2008 to Sunday 1 April 2012

#### Discrimination in Employment on the Basis of Criminal Record

In recent years the Australian Human Rights Commission has received a significant number of complaints from people alleging discrimination in employment on the basis of criminal record. The complaints indicate that there is a great deal of misunderstanding by both employers and people with criminal records about discrimination on the basis of criminal record.

- 23% of all complaints received by the Commission under the **AHRC Act** were on the basis of criminal record discrimination (July 2010 – June 2011)

**MORE PROJECTS**

- OPCAT: Optional Protocol to the Convention against Torture
- Human Rights and Technology
- Roundtable on human rights and mega sporting events in the Commonwealth
- Federal Discrimination Law 2016



# VETTING VANTAGE POINT

[https://www.humanrights.gov.au/publications/human-rights-record-recruitment-chapter-5#5\\_10](https://www.humanrights.gov.au/publications/human-rights-record-recruitment-chapter-5#5_10)

## 5.10 Assessing a job applicant's criminal record against the inherent requirements of the job

In some cases, the connection between the criminal record and the job will be clear enough for the employer to decide easily on the suitability of the applicant for the job. For example, the employment of a person with a particular criminal record may be prohibited by legislation.

However, *in most cases* it will be unclear to the employer simply on the basis of the results of a police check alone whether or not the conviction or offence is relevant to the inherent requirements of the job. The result of a police check may include information which an employer may not fully understand, and may also include errors. Police checks also only include very basic information and do not include any details about the circumstances of the offence.

An employer will generally need to discuss the relevance of the criminal record with the job applicant, or invite them to provide further information, in order to assess whether the person can meet the inherent requirements of the job.

A discussion with the job applicant may take place in the standard interview process, as discussed above. The employer may also wish to provide the job applicant with the opportunity to discuss the criminal record with one person only, rather than with an entire interview panel. An employer may also provide the questions he or she wishes to discuss in writing prior to the meeting.

The type of information which an employer may need to consider when assessing the relevance of a person's criminal record includes:

- the seriousness of the conviction or offence and its relevance to the job in question
- whether in relation to the offence there was a finding of guilt but without conviction, which indicates a less serious view of the offence by the courts
- the age of the applicant when the offences occurred
- the length of time since the offence occurred
- whether the applicant has a pattern of offences
- the circumstances in which the offence took place, for example if it was an offence that took place in a work, domestic or personal context
- whether the applicant's circumstances have changed since the offence was committed (for example, past drug use)
- whether the offence has been decriminalised by Parliament or it was an offence overseas but not in Australia
- the attitude of the job applicant to their previous offending behaviour
- references from people who know about the offending history.

This process is also relevant when considering the criminal record of a current employee against the requirements of their current position, promotion or transfer.

The more information available to the employer, the greater the likelihood that an employer can exercise reasonable judgment in assessing the connection between the criminal record and the inherent requirements of the job.

Given the assessment process described above, it is likely that an employer will scrutinise such an applicant more heavily than other applicants. Employers should be aware that this extra scrutiny may place added pressures on such applicants and employers should do their best to make the process as open as possible.

Similar to the 8 considerations found in the Attorney General's Personnel Security Adjudicative Guidelines, section 235.



# VETTING VANTAGE POINT

## Questions to consider:

**Q.** *Does the Australian preemployment screening industry (including AGSVA) have capacity and capability?*

**Quality:** How is the consistency of suitability determinations being managed or controlled at the moment?

**Capable:** Is the pre-employment industry capable of delivering PSPF-compliant suitability screening?

**Throughput:** Does the industry have the ability to process the volumes required to meet current and future demand?

**Timeliness:** Can vetting / preemployment screening decisions be achieved inside the shortlisting process?

**Q.** *With NDIS Suitability Clearance currently being developed, WWCC doing their own thing at the State Level plus an "Aged Care Suitability Clearance" coming down the track (via the latest Royal Commission), does coordination and standardisation need to be addressed pre-emptively in order to limit inconsistent vetting practices and bring everyone back to the AG's PSPF standards and suitability indicators of HTTMLR?*

**Q.** *Have Entities/Agencies considered and budgeted for these pre-engagement and subsequent annual check activities?*

**Q.** *Is outsourcing suitability assessments to recruitment agencies the appropriate method to resolve the issue?*

**Q.** *Will the PSPF-defined suitability standards truly be practiced in reality? Do you want them to be?*

**Q.** *Can the AGSVA with their expertise in vetting and the PSPF, able to meet the demand outlined in this report?*

**Q.** *Is the AGSVA willing and able to create new products that cater to its customer's non-national security / suitability clearance demands?*

**Q.** *Does the AGSVA have its hands full with national security clearances? (processing just 10,000 Baseline per year)*

**Q.** *Is there a void that can be filled by other vetting groups in the 'non-national security vetting' space?*

# VETTING VANTAGE POINT

## Enter AI

What if there was a PSPF-compliant suitability clearance that claims to be able to meet this demand head on?

We have developed the world's first AI vetting platform. Designed by Australian intelligence, security, vetting and suitability experts we have been able to streamline the **suitability** aspects of the pre-employment screen, without duplicating Agency's work (to establish identity).

The advertisement features a white background with black and green text. At the top left, it reads 'THE WORLD'S FIRST ARTIFICIAL INTELLIGENCE VETTING OFFICER' in bold, with 'WORLD'S FIRST' in green. Below this is the tagline 'A BACKGROUND SCREENING SOLUTION FOR THE CHALLENGES OF THE COMPLEX MODERN WORKFORCE'. To the right is a portrait of a woman with dark hair, wearing a white shirt, with the text 'Meet Stephanie' above her. On the left side of the advertisement, there is a green checkmark icon in a square, followed by the text 'PSPF-Compliant Suitability Clearance. Faster, Smarter, Fairer, Better. Unprecedented Scalability. Powered by Domain Experts.' At the bottom left, there is a logo for 'CLEAR LIFE' consisting of three interlocking puzzle pieces (red, black, and white) and the text 'CLEAR LIFE THE MISSING PIECE IS A CLEAR LIFE'. To the right of the logo is the website 'www.clear.life' and the phone number 'Call 02 6171 4171'. At the bottom left of the advertisement, it says 'Limited Time: Ask about the Early Access Partner Program'.

We have demo'd 'Stephanie' in front of AGSVA, ASD and ASIO at a recent Crown Vetting All Staff Vetting Conference on the Sunshine Coast and continue those discussions with our partners. The AGSVA is the Commonwealth's natural channel and mechanism for vetting services. With our AI platform, we can augment and assist the AGSVA and potentially other state-based vetting groups (eg. WWCC) to deliver capability and consistent standards at scale.

Importantly we can do this at a **fraction** of the cost of the official AGSVA Baseline clearance.

We are willing to discuss our vantage point further in a public hearing or in a private setting.

Author: Edward Barker  
Founder, Clear Life 02-6171 -4171  
Principal, Crown Vetting 02-6111-2970  
PO Box 1616, Tuggeranong, ACT, 2901  
PO Box 617, Maroochydore, QLD, 4575