



CITY OF CHARLOTTETOWN POLICY
EMPLOYEE CRIMINAL RECORD CHECKS

Policy Number: P-HR-14

Originating Department: Human Resources

Approved By: Council
Council

Date of Approval: November 30, 2018
Amended: May 11, 2020

Purpose:

- 1.1. Conducting criminal records checks as a part of pre-employment screening is a critical part of the hiring process in workplaces where the workplace, client-base, or work itself is sensitive in nature.
- 1.2. Employment positions within the City of Charlottetown (the “City”) require the City to put a high degree of trust in the integrity of its employees. As a provider of public services, it is necessary for the City to exercise due diligence in its hiring processes by ensuring, to a reasonable extent, that employees do not pose a risk to vulnerable citizens or to the City’s interests. Therefore, a Police Reference Check is part of a prudent and consistent approach to the City’s employment process which helps to ensure:
 - (a) public confidence in the public service; and
 - (b) the safety of our employees, citizens and stakeholders.

2.0 Policy:

- 2.1. The City aims to protect the public interest in the delivery of public services by requiring all Prospective Employees to provide a satisfactory Police Reference Check prior to commencement of employment.
- 2.2. Furthermore, the City requires Employees who are charged or convicted of an offence at any time during their employment to report it as soon as reasonably possible to Human Resources. Human Resources will review the details and assess the relevance of the charge or conviction.
- 2.3. The City reserves the right to request an updated Police Reference Check from any Employee, at any time during employment, provided that the Employee is employed in a Designated Position with the City or the City has reasonable grounds for its request for an updated Police Reference Check.
- 2.4. In accordance with the *Human Rights Act*, RSPEI 1988, c H-12, the City will not automatically deny employment to any Prospective Employee, or terminate an Employee’s employment, on the basis that the Prospective Employee or Employee has been convicted of a criminal or summary conviction offence that is **unrelated** to their employment or intended employment.

3.0 Scope:

- 3.1. With the exception of 3.2, this Policy applies to all City employees, including but not limited to permanent, seasonal, casual, and contract employees, students, and interns. This policy is intended to supplement any other requirements imposed by applicable legislation or standards of professional practice. The policy will be implemented in a manner consistent with the *Freedom of Information and Protection of Privacy Act*, RSPEI 1988 c F-15.01, *Human Rights Act*, and any other applicable legislation.
- 3.2. The scope of 3.1 does not apply to personnel employed in the Charlottetown Police Services as they are governed by separate screening requirements as per the *Police Act General Regulations*, PEI Reg EC 141/10 and Police Services Policy.

4.0 Definitions:

- 4.1. **Criminal Record Check** – is a query, based on name and date of birth, of active criminal files in the RCMP National Repository of Criminal Records. It is used to determine the possible existence of a criminal record. A Criminal Record Check is generally used as a preliminary search only to determine if a Fingerprint-based Criminal Record Check may be required.
- 4.2. **Employee or Employees** - means all employees currently employed with the City of Charlottetown, including but not limited to permanent, seasonal, casual, and contract employees, students, and interns.
- 4.3. **Designated Position or Designated Positions** – positions designated by the City as requiring a Police Reference Check as a condition of ongoing employment, based on the City's assessment that the position:
 - (a) has access to Vulnerable People;
 - (b) places the employee in a position of trust or care for Vulnerable People;
 - (c) requires the employee to work with Vulnerable People in the ordinary course of employment;
 - (d) is responsible for public safety, protecting the security of people and/or material assets;
 - (e) is responsible for the application, implementation or enforcement of statutes, regulations or by-laws;
 - (f) involves a significant amount of power and/or discretion which is exercised independently;
 - (g) is responsible for managing, collecting or accessing amounts of money; and/or

(h) has ability to override or bypass financial controls.

- 4.4. Fingerprint-based Criminal Record Check** – is a fingerprint-based search of active criminal files in the RCMP National Repository of Criminal Records. The results of the search will produce a certified criminal record product.
- 4.5. Fingerprint-based Vulnerable Sector Check** – is a fingerprint-based search of active criminal files in the RCMP National Repository of Criminal Records, and pardoned criminal files associated with sexually-based offences. The Fingerprint-based Vulnerable Sector Check is used to verify the existence of a criminal record and a sexual offence conviction for which an individual has received a pardon, and produces a summary of an individual’s offence convictions, non-convictions (where authorized) and sexual offence convictions for which the individual has received a pardon (where authorized) that are released in accordance with federal laws. The results of this verification will produce a certified vulnerable sector product.
- 4.6. Police Reference Check** – a process which verifies whether an individual has a criminal record in Canada, and provides relevant details from police service databases. A Police Reference Check can be a Criminal Record Check, Fingerprint-based Criminal Record Check, Vulnerable Sector Check, or Fingerprint-based Vulnerable Sector Check.
- 4.7. Prospective Employees** – means a person to whom an offer of employment has been made conditional on the provision of a Police Reference Check satisfactory to the City of Charlottetown. An offer of employment, where applicable, may include positions for employees (i.e. permanent, seasonal, casual, and contract employees), student placements, and volunteers.
- 4.8. Vulnerable People** – are persons who because of their age, disability or other circumstances, are in a position of dependence on others or are otherwise at greater risk than the general population of being harmed by persons in a position of authority or trust.
- 4.9. Vulnerable Sector Check** – is a query, based on name and date of birth, of active criminal files in the RCMP National Repository of Criminal Records, and pardoned criminal files associated with sexually-based offences. The Vulnerable Sector Check is used to determine the possible existence of a criminal record and a sexual offence conviction for which an individual has received a pardon. A Fingerprint-based Vulnerable Sector Check is required if the Vulnerable Sector Check is inconclusive as to the existence of a sexual offence conviction for which the individual received a pardon.

5.0 Policy Guidelines:

5.1. Police Reference Check Requirements for Prospective Employees:

- 5.1.1. As part of the pre-employment screening process, all prospective employees are required to provide a Criminal Record Check to the

City. The Criminal Record Check must be dated within the three-month period prior to the start date of employment. In all such cases, the offer of employment shall be conditional on the City being satisfied that the prospective employee either has no criminal record or has a criminal record which is unrelated to the prospective employee's intended employment, in accordance with the *Human Rights Act*.

- 5.1.2. In addition to a satisfactory Criminal Record Check, a satisfactory Vulnerable Sector Check is required to be provided by prospective employees who are applying to a position where the prospective employee is being entrusted with the care of, or working with, vulnerable people.

5.2. Police Reference Check Requirements for Employees:

- 5.2.1. An employee in a designated position that was previously designated as not requiring a Police Reference Check, will not be required to submit a Criminal Record Check while the employee remains employed in that position.
- 5.2.2. If the employee applies to a different position, is being considered for a transfer or demotion, if new job duties are assigned, or the employee's position is reclassified, that position will be evaluated by the City, in consultation with the Human Resources Department, to determine whether the position is a designated position, such that a Criminal Record Check will be required for that employee, in which case the employee will be required to submit a satisfactory Criminal Record Check prior to offer and appointment, assignment, or reclassification.
- 5.2.3. For Entry Level Seasonal and Casual Employees who are regularly laid off for a portion of the year, an updated Criminal Record Check will be required every three (3) years. When an Entry Level Seasonal or Casual employee returns to the City after a regular layoff period, the Entry Level Seasonal or Casual Employee will sign an affirmation form (see: Appendix A) stating that they have had no convictions during their layoff period.
- 5.2.4. In addition to a Criminal Record Check, a Vulnerable Sector Check is required prior to an employee's appointment to a position determined by the City as being entrusted with the care of, or working with, vulnerable persons.
- 5.2.5. The City determines which positions require a Vulnerable Sector Check.

6.0 Criminal Record Check Process:

- 6.1.** A prospective employee or employee who is required to submit a satisfactory Police Reference Check, shall make application in person for a Criminal Record Check or Vulnerable Sector Check, where applicable, to their local police authority or private accredited fingerprinting agency, as directed (see Appendix B: Procedure to Obtain Police Reference Check).
- 6.2.** Where the Criminal Record Check or Vulnerable Sector Check, where applicable, indicates that the prospective employee or employee may have a criminal record, Human Resources shall request that the prospective employee provide a Fingerprint-based Criminal Record Check or Fingerprint-based Vulnerable Sector Check (See: Appendix B – Procedure to Obtain Police Reference Check).
- 6.3.** In the event that the Criminal Record Check is unavailable in a timely fashion, the appointment may proceed in consultation with Human Resources and conditional upon submission of a satisfactory Criminal Record Check. The prospective employee or employee will then be required to meet that condition as soon as possible thereafter, but in any case, within the applicable probationary or trial period.
- 6.4.** A prospective employee or employee may complete a self-declaration, in the form attached, which outlines any past criminal history which can then be verified through local police, or the prospective employee or employee may be required to provide fingerprints to confirm their identity and satisfactorily complete the Police Reference Check requirements.

7.0 Satisfactory Criminal Record/Vulnerable Check:

- 7.1.** For the sake of this policy, a satisfactory Criminal Record Check is either:
 - (a) an indication from the Charlottetown Police Service (“CPS”) that no criminal record/charges exist; or
 - (b) an indication from CPS that a criminal record/charge does exist and has been assessed and determined by the City, in consultation with Human Resources, to be unrelated to the prospective employee or employee’s intended employment or employment in accordance with the *Human Rights Act*.
- 7.2.** For the sake of this policy, a satisfactory Vulnerable Sector Check is a confirmation from the police agency of the relevant jurisdiction that a Vulnerable Sector Check has been completed and has returned no relevant results.

8.0 Assessing relevance of criminal convictions or charges identified on the Criminal Record Check:

8.1. In assessing the relevance of charges, or criminal or summary conviction offence convictions identified on the Criminal Record Check prior to appointment, the City, in consultation with Human Resources, and others as required, will consider the following factors:

- (a) The relationship of the offence(s) to the level and nature of the position assignment;
- (b) The number and nature of the charges and/or convictions;
- (c) When the offence(s) occurred;
- (d) The individual's accomplishments and employment history since the time of the conviction; and
- (e) Any other relevant considerations.

9.0 Assessing relevance of charges and/or convictions subsequent to appointment:

9.1. As soon as an employee becomes aware that s/he has been charged with an offence(s) under:

- (a) the *Criminal Code of Canada*, RSC 1985, C-46; and/or
- (b) the *Controlled Drugs and Substances Act*, SC 1996, c 19,

The employee shall report the charge, as soon as reasonably possible, to Human Resources by completing the Self Declaration Form (Appendix A). The City will work with Human Resources, and others as required, to review the details of the charge(s) and assess their relevance to the employee's position within the City.

9.2. Failure to report a charge and/or conviction as soon as reasonably possible, in accordance with this Policy, may result in disciplinary action up to and including dismissal, in accordance with the City of Charlottetown Corrective Discipline Policy and any applicable Collective Agreement.

9.3. In assessing the relevance of charges and/or convictions subsequent to appointment, Human Resources is responsible for prompt investigation of the circumstances of the charge(s) and/or conviction(s) to determine an appropriate response that will protect the best interest of the City pending the resolution of the charge(s), and/or the outcome of court proceedings. This investigation will be done with on-going consultation with City Management, and others as required.

9.4. The absence of legal culpability regarding the charge(s) and/or conviction(s) does not eliminate the City's obligation to investigate and/or address a charge.

10.0 Payment for Criminal Record Checks:

10.1. External applicants pay for their own Criminal Record Check.

10.2. Current employees who have applied for a new position within the City and require a Criminal Record Check will pay for their Criminal Record Check for a subsequent appointment to a different position.

10.3. Current employees without a Criminal Record Check who are moving to another position as a result of employer-initiated action, such as reassignment, reclassification, involuntary transfer or demotion, will have their Criminal Record Check paid for by the City;

10.4. Current employees who are regularly laid off for a portion of the year and are required to complete a Criminal Record Check every three (3) years will be required to pay for their own Criminal Record Check.

10.5. Current employees who are applying for positions that require a Vulnerable Sector Check are required to pay for their own Vulnerable Sector Check.

11.0 Confidentiality:

11.1. The information contained in the Police Reference Check will be forwarded by the Prospective Employee or Current Employee to Human Resources marked "Confidential."

11.2. The Police Reference Check will be stored in a secure file with Human Resources. The information contained in the Police Reference Check is strictly confidential. Access to such information is restricted to designated administrative employees charged with responsibility for management of all Police Reference Check information and to persons directly involved in the employment placement process. It will only be used in relation to the initial employment or appointment decision.

APPENDIX A

CRIMINAL RECORD CHECK- AFFIRMATION FORM

Employee's Name:	
Return to Work Date:	Position:
Supervisor:	Department:

I hereby affirm that I have had no criminal convictions since the date of the last Criminal Record Check submitted to my employer, the City of Charlottetown. I understand and agree that should this status change at any point during my employment, it is my responsibility to advise my Supervisor at the City of Charlottetown of this change and that failure to do so could result in termination from my position at the City of Charlottetown.

Employee's signature

Date



**SELF-DECLARATION OF
CRIMINAL RECORD INFORMATION**

I, _____ give consent to Charlottetown Police Services to verify the accuracy of Criminal Record Information, which I have self-declared below, against the National Criminal Record Repository.

Have you ever been convicted of a criminal offence for which you have not been pardoned, or been granted an absolute discharge in the past year or been granted a conditional discharge in the past three (3) years?

YES NO (Circle One) If yes, please provide details on ALL convictions.

OFFENCE	Disposition Date (Y/M/D)	LOCATION	PENALTY

Signature of Applicant

Date

The above information is _____ is not _____ accurate.

Signature of Police _____ Police Stamp:

APPENDIX B

PROCEDURE TO OBTAIN A POLICE REFERENCE CHECK

Employees that are providing public services for the City are required to have a high degree of trust and integrity. The City has recently adopted requirements for Police Reference Checking **Effective November 30, 2018 Council has approved this policy.**

Where do I take my CRC? Please bring your Police Record Check in a sealed envelope clearly marked "Confidential" to Human Resources, located on the 3rd floor of City Hall, before you start work or attend orientation. You may leave the form in a sealed envelope at the front desk of City Hall to send up to Human Resources.

Where do I get my VSC/ CRC?

If you are **over 18 and live in Charlottetown** you can get your Police Reference Check at the following locations:

1. C5 ID and Fingerprinting Solutions Inc. at 393 University Ave – Unit # 11 Charlottetown, PEI, call 902-892-1211 or visit their website at www.c5id.com
2. Safran Morpho / Global ID Services at 119 Kent Street, Suite 160, Charlottetown, PEI, call (902) 892-0002 or visit their website at www.fingerprinting.ca and click on PEI for more information.

If you are **under 18 and live in Charlottetown** you can get your Police Reference Check at the Charlottetown Police Station, 11 Kirkwood Drive. You will need to identify that you are under 18 when you apply.

If you **live outside of Charlottetown** you will need to get your Police Reference Check at your local RCMP detachment.

Please note, when you go for your Police Reference Check, you must provide two pieces of identification; one has to be a **photo ID** and **must contain your current physical street address.**