



Committee of Whole

Meeting Date: September 27, 2022
Submitted by: Jessica P. Ngai, Director of Human Resources
SUBJECT: POLICE RECORD CHECKS AND DRIVER'S ABSTRACT
POLICY

BACKGROUND:

The Human Resources department conducts regular reviews of human resource policies to ensure that they remain current and consistent with legislation and best practices. County Council previously approved a policy, titled Police Record Checks and Driver's Abstract Policy (HR Policy 1.02), which sets out the direction and procedure for pre-conditions of employment; new employees; volunteers; and existing employees. The current HR Policy 1.02 applies to all County, Strathmere Lodge and Library Board employees with the exception of Middlesex-London Paramedic Service employees.

Following a review of the new *Fixing Long-Term Care Act, 2021* (the "FLTCA") and the current HR Policy 1.02, it was determined that Strathmere Lodge requires a separate policy on police record checks in order to meet the requirements set out in the FLTCA and its regulations.

ANALYSIS:

The County has a responsibility to make every reasonable effort to ensure the safety and security of persons who are under the County's care, protect County assets, and comply with applicable legislation, which efforts include ensuring that candidates considered for employment, current employees, students, and volunteers do not present a potential risk to the safety of persons under the County's care or to the assets of the County.

On April 11, 2022, the FLTCA was proclaimed into force to regulate Ontario's long-term care home sector, and replaces the *Long-Term Care Homes Act, 2007*.

An important change to the FLTCA is the enhanced screening measures and ongoing declarations for all employees, volunteers and members of the licensee's board of

directors, its board of management or committee of management or other governing structure.

The obligation for Strathmere Lodge's employees and volunteers to provide a clean police record check as a pre-condition of employment has been a continuing requirement under the repealed *Long-Term Care Homes Act, 2007*; however, in addition, the FLTCA now requires employees to declare, on an ongoing basis, whether or not they have been convicted of a prescribed offence and/or professional misconduct.

In addition to the requirement for employees and volunteers, the FLTCA now requires all members of the Lodge's governing body to provide clean police record checks and to declare, on an ongoing basis, whether or not they have been convicted of a prescribed offence and/or professional misconduct. This requirement is set out in Section 81 of the FLTCA, which states the following:

Screening measures

81 (1) Every licensee of a long-term care home shall ensure that screening measures are conducted in accordance with the regulations before hiring staff and accepting volunteers.

Police record checks

(2) The screening measures shall include police record checks, unless the person being screened is under 18 years of age.

When agency staff is hired

(3) For the purposes of subsection (1), a staff member who is agency staff, as that term is defined in subsection 80 (2), is considered to be hired when they first work at the home.

Where convicted of certain offences, etc.

(4) Every licensee of a long-term care home shall ensure that no staff member is hired and no volunteer accepted by the licensee if they have been,

- (a) convicted of an offence prescribed in the regulations; or
- (b) found guilty of an act of professional misconduct prescribed in the regulations.

Same

(5) No licensee shall permit any person who has been convicted of an offence described in clause (4) (a) or found guilty of an act described in clause (4) (b) to be a member of the licensee's board of directors, its board of management or committee of management or other governing structure.

Time periods

(6) Where the regulations so provide, the restriction on hiring or membership set out in subsection (4) or (5) may only apply during a time period set out in the regulations.

Individuals, who, at any time, are charged with or convicted of a criminal offence, must immediately report any charges or convictions to either the Administrator, Chief Administrative Officer and/or Human Resources to discuss the conviction and any possible impact on their employment.

The prescribed offences and professional misconduct convictions that must be reported for the purposes of Section 81(4) (a) and (b) of the FLCTA are as follows:

- any offence under the *Fixing Long-Term Care Act, 2021*, the *Long-Term Care Homes Act, 2007*, the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*
- any offence referenced at section 742.1 of the Criminal Code (Canada)
- any offence under the *Cannabis Act* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada)
- any other provincial or federal offence if the offence involved:
 - improper or incompetent treatment or care of a vulnerable person that resulted in harm or a risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
 - abuse or neglect of a vulnerable person that resulted in harm or risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
 - unlawful conduct that intentionally resulted in harm or a risk of harm of any kind to a vulnerable person, including but not limited to physical, emotional, psychological or financial harm, or
 - misuse or misappropriation of a vulnerable person's money
- An act of misconduct as a member of a health profession as defined in the *Regulated Health Professions Act, 1991*.
- An act of misconduct as a member of a regulated profession as defined in the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006*.
- An act of misconduct under any other scheme governing a profession, occupation or commercial activity, including a scheme a person is not required to participate in in order to practice or engage in the profession, occupation or activity.

All findings of guilt are required to be disclosed by employees, volunteers and members of County Council/Committee of Management except in the circumstances set out in the Declaration Form at Schedule "A" and "B".

In preparing the proposed Police Record Checks and Driver's Abstract Policy for Strathmere Lodge (HR Policy 1.02.1), a number of amendments were made to the current Police Record Checks and Driver's Abstract Policy, HR Policy 1.02.

FINANCIAL IMPLICATIONS:

As a condition of employment or to volunteer at Strathmere Lodge, all successful candidates will be required to obtain the appropriate check(s) at their own expense with the exception of the members of the Lodge's governing body where the County will reimburse the members for such costs.

The County, at its discretion may request from an existing employee or volunteer to provide a Police Record Check, at the County's expense. Depending on where the Police Record Check is requested from the cost ranges from \$41.00 to \$45.00 for employment purposes and \$0.00 to \$16.00 for volunteers requesting vulnerable sector check.

RECOMMENDATION:

THAT Police Record Checks and Driver's Abstract Policy – Strathmere Lodge (HR Policy 1.02.1) and Police Record Checks and Driver's Abstract Policy (HR Policy 1.02), as amended, be approved, and that the Corporate Administrative Policy and Procedure Manual be updated.

Attachment:

1. Police Record Checks and Driver's Abstract Policy – Strathmere Lodge (HR Policy 1.02.1)
2. Police Record Checks and Driver's Abstract Policy (HR 1.02), as amended