



Human Resource Policy 1.02

Subject: POLICE RECORD CHECKS AND DRIVER'S ABSTRACT POLICY

Scope: ALL COUNTY & LIBRARY BOARD EMPLOYEES (EXCLUDING STRATHMERE LODGE EMPLOYEES)

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Purpose:

The Corporation of the County of Middlesex (the "County") makes 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, contract employees, volunteers, and students do not present a potential risk to the safety of persons under the County's care or to the assets of the County.

Persons who have a record of offences may pose such a risk depending upon the position or volunteer function for which they are being considered or currently hold. Criminal Record Checks, Criminal Record and Judicial Matters Checks, Vulnerable Sector Checks and Drivers' Abstract Checks (referred to collectively as "checks") are required for certain designated positions within the County.

Scope:

This policy applies to all County non-union and unionized employees, contract employees, volunteers, and students whose employment requires them to work with the public in vulnerable sectors and County assets.

The Department Head and Human Resources will determine which positions in the County shall be designated as having a requirement to obtain a check(s) from the following departments:

- a. Administration
- b. Social Services
- c. Library
- d. Children's Services (EarlyON)
- e. Treasury
- f. Transportation
- g. Information Technology



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All employees, contract employees, volunteers, and students with a designated requirement must immediately inform the Department Head and Human Resources of any charges or convictions against them which may affect their ability to perform the essential duties of their job.

Policy:

The County has a responsibility to protect and maintain the safety of the public and its employees and volunteers, County assets as well as comply with applicable legislation and other requirements.

These checks are requested by the County for those employees, contract employees, volunteers, and students who work or are applying to work with vulnerable persons to ensure that employees, contract employees, volunteers, and students have not engaged in harmful behaviour in the past that could put others at risk.

It is important for the County to use these checks carefully. The results of the checks will be kept secure and as confidential. These checks are not a substitute for proper hiring practices including reference checks.

This policy will not be applied in a manner to violate any rights under the *Ontario Human Rights Code*, the *Municipal Freedom of Information and Protection Act*, any employment agreement, or collective agreement.

Definitions:

Annual Declaration Form: A written declaration signed by the employee or volunteer listing all convictions for offences under the Criminal Code of Canada for which a pardon has not been granted up to the date of the declaration.

Bona Fide Occupational Requirement: A requirement or qualification of a position, that is essential to performing the duties of a particular position. To be a Bona Fide Occupational Requirement, the position must have the following:

- a clear Police Record Check is mandated by legislation or by policy of a Provincial or Federal authority; or
- the individual performing the position will be in a position of trust or authority over vulnerable persons; or
- the position requires the incumbent to handle significant amounts of money in a relatively unsupervised environment; or
- the position is one that involves security or safety of assets or persons; or
- a clear Police Record Check is required to fulfill some other requirement of the position



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Designated Positions: County positions, whether non-union and unionized, volunteers, and students, which have been identified by the applicable Department Head and Human Resources, through a legislative requirement or as a result of the position, as requiring a Police Record Check.

Designated positions are those where the essential duties require the following:

- employees or volunteers to have contact with and/or operate in a position of trust or authority over children or vulnerable persons; or
- employees or volunteers whose job duties include financial transactions which involve a significant flow of money and/or involve handling purchase orders, credit cards or valuable property; or
- that the position or volunteer placement is required by statute or agreements with other agencies to have a Police Record Check

Driver's Abstract Check: This check is a government-issued document with information relating to an individual's driving history/record. It contains general information about: the driver; licence status; issue and expiry date; active Highway Traffic Act and Criminal Code of Canada convictions; suspensions and reinstatements over past 3 years; conviction dates; offence date; demerit points; and description(s) of violations.

Police Record Checks: A check of records held by the police where the main source of data is obtained from the Canadian Police Information Centre (CPIC). There are three types of Police Record Checks:

1. **Criminal Record Check (CRC):** This check is intended for applicants seeking employment and/or volunteering with agencies where a basic CRC is requested (e.g. retail). This check is NOT intended for applicants who are seeking employment and/or to volunteer with vulnerable persons. This check only contains information from the CPIC database.
2. **Criminal Record and Judicial Matters Check (CRJMC):** This check releases information relating to criminal convictions that resulted in an absolute or conditional discharge, as well as outstanding criminal charges and warrants to arrest, and certain court orders.
3. **Vulnerable Sector Check (VSC):** In addition to the information provided in the Criminal Record Check, the Vulnerable Sector Check identifies whether or not an individual has a sexual offence recorded in their name in Canada and if a pardon has been granted. This check is only used for individuals seeking employment and/or volunteer opportunities with children or vulnerable persons and where

there is a Bona Fide Occupational Requirement, depending on the nature of the position.

Vulnerable Persons: All children who are less than 18 years of age, and/or persons who, because of their age, a disability, or other circumstances, whether temporary or permanent, are in a position of dependence on others, or are otherwise at a greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.

Procedure:

1. Pre-Condition of Employment

- 1.1 An applicant for a designated position will be informed in the job posting and at the commencement of an interview of any check(s) and the required type of check. The successful candidate will be provided with a letter required to accompany their submission to the applicable police department. Written consent forms must be completed by the applicant for submitting to the police.
- 1.2 A successful candidate to whom an employment offer is made will be required to obtain the appropriate check(s) at their own expense, if any, as a condition of employment. The check(s) must be the original document. Photocopies will not be accepted. If the check(s) are unsatisfactory to the County, the individual will not be permitted to be employed with the County.
- 1.3 Prior to commencing employment, a candidate must provide the County with their check, or if the timing does not allow for that, their written declaration that they have never been convicted of a criminal offence and that the check has been applied for except for:
 - a) EarlyON, where the *Child Care and Early Years Act, S.O. 2014, c.11*, as amended, states that checks must be conducted before the person begins their employment, and every five (5) years with an annual offence declaration in the years where a new VSC is not required.
- 1.4 If the applicant has recently obtained the appropriate check(s), the County will accept the documentation as long as it is the original document, and provided that it is dated no more than six (6) months prior to the applicant's start date.
- 1.5 Candidates who will be required to drive County-owned vehicles must possess a valid driver's licence with a class of licence that is appropriate to the vehicles being driven.



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Candidates will be required to show proof of a valid driver's licence that is in good standing and free from any infractions or demerit points upon commencement of employment.

- 1.6 The checks are not the only tool used to determine suitability for a position and minimize risk; however, failure to consent to a check or the failure to disclose any convictions for which a pardon has not been granted, as required to be disclosed, may result in the revocation of an offer of employment and/or the termination of employment. Further, if a candidate is unable to obtain a check prior to commencing employment, the County, at its sole discretion, may terminate the employment without notice or pay in lieu of notice should the candidate's record reveal anything, in the County's determination, that makes the candidate unsuitable for employment.

2. New Volunteers

- 2.1 A current Vulnerable Sector Check must be provided before any new volunteer will be allowed to interact with vulnerable persons.
- 2.2 A successful candidate to whom a volunteer offer is made will be required to obtain the appropriate check(s) at their own expense, as a condition of volunteering. The check(s) must be the original document. Photocopies will not be accepted. If the check(s) are unsatisfactory to the County, the individual will not be permitted to be employed with the County.
- 2.3 The County reserves the right to accept or deny volunteer assistance. If a volunteer receives a check that is "Not Clear", they will be given the opportunity to explain in writing why the volunteer believes they have received a check that is "Not Clear". This information will be considered in the context of the nature of the offence(s) and the specific duties of the position. A meeting will be held with the Department Head and Human Resources to assess the effect of this information on the volunteer engagement decision.
- 2.4 If the volunteer's written explanation is acceptable to the County, the individual can begin to volunteer. If the volunteer chooses not to provide a written explanation or their written explanation is unsatisfactory to the County, the individual will not be permitted to volunteer with the County.
- 2.5 If the volunteer previously provided a check, a new check will not be required when the candidate is assigned new duties or transferred to new responsibilities.



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3. Existing Employees and Volunteers

- 3.1 On an annual basis, existing employees or volunteers in designated positions will be required to complete an Annual Offence Declaration Form, attached at Appendix "A" to this policy, to declare the current status of their criminal record.
- 3.2 Existing employees or volunteers who have not previously provided a check and are transferred into a designated position shall obtain checks in accordance with this policy, at the County's expense. The County, at its discretion, may request from an employee or in a designated position to provide a Police Record Check at any time, at the County's expense.
- 3.3 An employee or volunteer in a designated position, who, at any time, is charged with or convicted of a criminal offence, shall contact either their Department Head and/or Human Resources immediately to discuss the conviction and any possible impact on their employment. Examples of past or current charges or convictions an employee or volunteer is required to report include but not limited to:
- any sexual offence under the Criminal Code (Canada)
 - any violations under the *Controlled Drug and Substances Act*
 - any criminal offence involving minors
 - crimes of violence which include, but are not limited to, threats, assaults and use, possession, distribution or concealment of a weapon or imitation of a weapon
 - propagation of hate literature or incitement to hatred
 - possession, distribution or sale of any pornographic or violent material
 - theft, fraud, property-related crimes, break and enter
 - other offences involving dishonest or fraudulent acts
 - other offences specifically related to the job
- 3.4 The Department Head shall inform Human Resources immediately thereafter. Failure by an employee or volunteer to disclose current charges or convictions may result in disciplinary action up to and including termination.
- 3.5 In addition, on an annual basis, an employee or volunteer that operates a vehicle on behalf of the County will have their driver's abstract checked to verify that they possess a valid driver's licence that is in good standing and free from any infractions or demerit points. The County reserves the right to verify an employee's driver's licence with the Ministry of



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Transportation and to examine at any time the driving record of an employee whose job function requires them to drive on the business of the County.

4. Emergency Provision

- 4.1 Under normal circumstances, a candidate or volunteer shall not commence employment in a designated position until a current Police Record Check has been supplied. However, if an employee is hired or volunteer is accepted during a pandemic and no Police Record Check was provided, the County shall ensure that a Police Record Check is provided within three (3) months after the employee or volunteer has started.

5. Privacy and Confidentiality

- 5.1 Personal information collected as a result of a check is necessary for the proper administration of a lawfully authorized activity under Sections 27 to 33 of the *Municipal Freedom of Information and Protection of Privacy Act*.
- 5.2 The County ensures the confidentiality of all information collected, and that such information will be maintained and secured by the Human Resources Department and will only be disclosed on a limited and necessary basis under this policy.



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POLICE RECORD CHECKS AND DRIVER'S ABSTRACT POLICY APPENDIX "A"

ANNUAL OFFENCE DECLARATION FORM

In accordance with the County's Police Record Checks and Driver's Abstract Policy, HR Policy 1.02, all employees and volunteers in designated positions are required to complete an annual declaration form declaring the current status of their criminal record. Failure to disclose current charges or convictions may result in disciplinary action up to and including termination.

Name: _____ Date: _____

Department: _____ Position: _____

I, _____, DECLARE that since my last Police Record Check collected by the County, or since the last Annual Offence Declaration Form submitted, that:

- ☐ I have no convictions under the Criminal Code of Canada up to and including the date of this declaration.

OR

- ☐ I have been convicted of the following criminal offence or offences under the Criminal Code of Canada for which a pardon under Section 4.1 of the Criminal Records Act has not been issued or granted.

List of offence(s):

Offence	Date	Court Location	Convictions



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OR

- ☐ I am under 18 years of age and unable to provide a Vulnerable Sector Check. I declare I have no convictions under the Criminal Code of Canada, or convictions for which a pardon has not been issued or granted under the Criminal Records Act (Canada).

I CERTIFY that all information given in this declaration is true, correct, and complete to the best of my knowledge.

Date: _____ Signature: _____

If employee or volunteer is under the age of 18, also:

I, _____, am the parent/guardian of the employee or volunteer, and certify that all information given in this declaration relating to the employee or volunteer is true, correct, and complete to the best of my knowledge.

Date: _____ Signature: _____