



SECTION: Human Resources

POLICY: HR 22

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Police Record Checks and Offence Declarations Policy

PREAMBLE

Regulatory amendments to the Child, Youth and Family Services Act, 2017 (CYFSA) establish that police record check (PRC) requirements for the child and youth sector, effective January 1, 2025. The regulations establish consistency and clarity in regulation for the child and youth services sector including roles that require checks as well as their type and frequency.

A police record check (PRC) is a search of police records of an individual. The *Police Record Checks Reform Act, 2015* (PRCRA) authorizes three types PRCs: a Criminal Record Check, a Criminal Record and Judicial Matters Check, and a Vulnerable Sector Check. A regulatory exemption under *Ontario Regulation 347/18: Exemptions* of the PRCRA permits disclosure of additional types of information than what is generally available through a Vulnerable Sector Check - regulatory amendments refer to this type of prescribed search as a Broad Record Check under section 121 *Ontario Regulation 155/18: General Matters under the Authority of the Lieutenant Governor in Council* made under the *Child, Youth and Family Services Act* (CYFSA). Refer to Appendix A for *Types of Information Disclosed within a Police Record Check*.

To ensure that Contact Brant complies with the *Child, Youth and Family Services Act 2017*, and the O. Reg. 308/24, this policy outlines the requirements for police record checks and Offence Declarations for employees, volunteers, and students. **Board members for an organization such as outs are not required by legislation nor our insurance to have a police record check as they have not direct role with children, youth and families served.**

As per the Police Record Check Reform Act, Police Services in Ontario only provide record checks to applicants under 18 when applying for an employment or volunteer position directly with the municipal, provincial, or federal government.

Brantford Police Services provided the following clarification:

The police are required by law to ensure the position meets these very narrow criteria. While the individual policies of employers may dictate that a Police Vulnerable Sector Check (PVSC) is required for certain positions, this does not obligate the police to provide this level of screening if these criteria cannot be satisfied. If the position only involves occasional contact with vulnerable clients, such as a receptionist or administrative role, or a tradesperson with temporary or occasional access to the building or property, then this is considered 'incidental' contact, and would not qualify.

When in doubt, consider the three key points (above) to determine if it would reasonably meet the requirements for eligibility. If the position does not qualify for a Vulnerable Sector Check (VSC), the Criminal Record and Judicial Matters Check (CRJMC) would be more appropriate. The Brantford Police Service will make the final determination and reserves the right to substitute a Criminal Record and Judicial Matters Check (CRJMC) in place of a Vulnerable Sector Check (VSC). If this is the case, you will be notified by e-mail prior to the completion of the check. There are no refunds, full or partial, if an inappropriate report is selected.

Additional information received from MCCSS regarding police record checks (PRC) identified a vulnerable sector check is required by our employees under CYFSA for: *Persons with a professional affiliation with a service provider or is seeking a professional affiliation with a service provider and because of such professional affiliation may interact, without supervision, with a child or young person receiving a service from the service provider.*

POLICY

The scope of this policy applies to all employees and students, and board members.

1. *Initial Checks:* All employees and students are required to submit the required police record check at the commencement of their duties at Contact Brant.
2. *Triennial Checks:* All employees and students subject to this policy must submit a new police record check every three years from the date of their last check.
3. *Offence Declarations:*
 - a. Employees and students: In years when a new police record check is not required (i.e., the first and second years after the last check), employees and students must submit a signed Offence Declaration.
 - b. **Board members must submit a signed Offence Declaration at the commencement of their duties at Contact Brant.**

Procedures

Police Record Checks:

1. The type of police record check required will be determined based on the role and its responsibilities concerning direct access to vulnerable populations including children and youth.
 - a. All employees providing direct program support will be required to submit a Vulnerable Sector Check.
 - b. All administrative employees will be required to submit a Criminal Record and Judicial Matters Check.
 - c. Students and volunteers working directly with clients will be required to submit a Vulnerable Sector Check.
 - d. Students and volunteers under 18 will not be required to undergo a police record check as per legislation; these individuals must always shadow an employee and never be given unsupervised access to clients.

2. *Hiring/onboarding process*: Employees and students will be required to submit the appropriate police record check during the hiring/onboarding process with the expectation that the completed police record check, or proof of their request to have the record check completed, will be submitted before their role commences. In instances where the police record check is not received from police services in a timely manner, individuals will be required to submit an *Offence Declaration* for an interim period.
3. *Triennial Checks*: At least four weeks before the triennial anniversary date of the last submitted police record check, the Chief Executive Officer and/or Executive Assistant will notify the individual that they are required to submit a new police record check. The notification will include deadlines and instructions for completing the process.
4. *12 month's Break in Service*: For a break of more than 12 months of service, employees will submit a police record check before returning to work; if the police record check has not been returned by police services prior to the employee's return date, employees must submit an *Offence Declaration* proof of their request to have the record check completed.
5. Individuals are required to obtain their police record check from their local police service. Most police services have online application portals.
Note: Only the person required to provide a police record check (PRC) can request the PRC from police services
6. Contact Brant will cover the cost of these police record checks in full.
 - a. Individuals will be reimbursed upon submission of a valid receipt.
7. Individuals must submit the results of the police record check within 5 days of receipt from the police service to the Chief Executive Officer or Executive Assistant by email, mail or in person.
 - a. Individuals who wish to provide further information about the contents of the police record check and its relevance to the role they are seeking or holding can submit an additional written statement of relevance with their police record check submission.
8. The police record check submission will be reviewed confidentially by the Chief Executive Officer to ensure that the check complies with relevant laws and meets organizational standards for safety and security while considering bona fide occupational requirements and the Ontario Human Rights Code, specifically the protected ground of record of offences.
 - a. Any issues identified during the review will be addressed privately and respectfully with the individual to determine the appropriate next steps.

Declarations:

9. In years when a police record check is not required (i.e., the first and second years after the last police record check), individuals must sign and submit Contact Brant's *Offence Declaration Form* by the anniversary date of the last submitted check.

10. Upon reaching the time for an Offence Declaration, the Chief Executive Officer and/or Executive Assistant will notify the individual at least four weeks before their required submission date. The notification will include deadlines and the *Offence Declaration* form.
11. Board members must sign and submit Contact Brant's *Offence Declaration Form* as part of the onboarding process.
12. According to the Child, Youth and Family Services Act, individuals in the scope of this policy have a duty to provide Contact Brant with a timely notice of charge or conviction under the *Criminal Code (Canada)*.
 - a. Individuals must submit a *Notice of Charge of Conviction Form* to the CEO.

Non-Compliance:

13. Failure to comply with this policy, including submitting required documents by the specified deadline, may result in suspension of duties without pay until compliance is achieved. Continued failure to comply may lead to disciplinary actions, up to and including termination of employment or contract, in accordance with Contact Brant's disciplinary policies.

Privacy and Confidentiality:

14. All procedures related to police record checks and Offence Declarations will be conducted in a manner that respects the individual's privacy and dignity.
15. The information obtained through these checks and declarations will be used solely to ensure the safety and security of the vulnerable populations we serve.
16. All records of police record checks and Offence Declarations will be securely stored in the individual's Human Resource Record and in compliance with the *Personal Information Protection and Electronic Documents Act (PIPEDA)*, other relevant privacy legislation, and Contact Brant policies.
 - a. Access to these records will be limited to authorized personnel only.
 - b. Under the CYFSA, records cannot be disclosed if doing so would contravene any other law of Canada.

Appendix A

Types of Information Disclosed within a Police Record Check

✓ Requested X Not requested

Authorized Information		Criminal Record Check	Criminal Record and Judicial Matters Check	Vulnerable Sector Check	Broad Record Check
Type of information	Time Period				
Criminal convictions for which a pardon has not been issued or granted	<ul style="list-style-type: none"> • Indefinite for indictable and hybrid offences • 5 years for summary offences 	✓	✓	✓	✓
Findings of guilt under the <i>Youth Criminal Justice Act</i> during the applicable period of access under the Act	<ul style="list-style-type: none"> • Varies based on type of record, per federal law 	✓	✓	✓	✓
Absolute discharges	<ul style="list-style-type: none"> • 1 year, per federal law 	X	✓	✓	✓
Conditional discharges set out in a probation order	<ul style="list-style-type: none"> • 3 years, per federal law 	X	✓	✓	✓
Outstanding charges or warrants to arrest an individual	<ul style="list-style-type: none"> • Indefinite 	X	✓	✓	✓
Court orders (excludes mental health court orders, withdrawn court orders and restraining orders)	<ul style="list-style-type: none"> • Indefinite 	X	✓	✓	✓
Findings of not criminally responsible on account of mental disorder (excludes findings that resulted in an absolute discharge)	<ul style="list-style-type: none"> • 5 years 	X	X	✓	✓
Convictions for which a pardon has been granted, where authorized under the <i>Criminal Records Act</i> (Canada).	<ul style="list-style-type: none"> • Indefinite 	X	X	✓	✓
Non-conviction information in accordance with section 10 of the PRCRA	<ul style="list-style-type: none"> • Indefinite 	X	X	✓	✓
Outstanding restraining orders made against the person under the <i>Children's Law Reform Act</i> (s. 35), the <i>Family Law Act</i> (s. 46) or the <i>Child, Youth and Family Services Act</i> (s. 137 & s. 279.3)	<ul style="list-style-type: none"> • Indefinite 	X	X	X	✓
Every contact between the person and a police service for which there is a written record unless disclosing the information could reasonably be expected to interfere with a law enforcement matter, a police service has not made the person aware of the contact, the person was a minor at the time contact, or the information is not relevant to the person's suitability to perform caregiving duties for a child, or to reside in a place where a child is residing and receiving care)	<ul style="list-style-type: none"> • Indefinite 	X	X	X	✓
Every contact between the person and a police service in relation to actions taken against the person under the <i>Mental Health Act</i> because of a determination under that Act that the person was suffering or apparently suffering from a mental disorder of a nature or quality that would likely result in serious bodily harm to the person or to another person or in serious physical impairment of the person.	<ul style="list-style-type: none"> • 5 years 	X	X	X	✓