



## Abilities Centre Policies

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### 1 POLICY

- 1.01 Abilities Centre recognizes that as a service provider to the vulnerable sector it must ensure the safety of members.
- 1.02 The type of police record check will vary depending on the relationship to our operations.
- 1.03 For positions that require a criminal reference check, candidates will be required to obtain a criminal reference check report (from either BackCheck by invitation and/or the local police service), and to provide that report to Abilities Centre prior to receiving an unconditional offer of employment.
- 1.04 Criminal records will not necessarily disqualify a candidate from receiving an offer of employment. However, the nature and circumstances surrounding the criminal record will be evaluated.
- 1.05 Any concerns regarding the suitability of a candidate with a criminal record for employment shall be referred to the Executive Director who shall make a final determination.
- 1.06 In accordance with the *Ontario Human Rights Code* legislation, employers have the legally protected right to exclude applicants from employment who would otherwise pose a risk to the safety and security of its members. As a service provider to the vulnerable sector, the Abilities Centre will follow a Bona Fide Occupational Requirement Exception to ensure the protection, safety and security of its members.
- 1.07 Police record information shall be kept in a confidential, secure personnel file.
- 1.08 As a condition of employment, all staff and volunteers must notify the Abilities Centre within five days of being charged or convicted of a criminal offence.
- 1.09 As a condition of employment and safe operating practices, no employee or volunteer should ever be alone with a member.

## **2 PURPOSE**

2.01 The purpose of this policy is to ensure the well-being and safety of all members, staff, volunteers, and others with whom we do business.

## **3 SCOPE**

3.01 This policy applies to all employees, volunteers and independent contractors.

3.02 Where the circumstances dictate, or when required by legislation, and before a successful candidate's hiring may be finalized, some candidates will be required to provide a criminal reference check prior to receiving an unconditional offer of employment.

## **4 RESPONSIBILITY**

4.01 Managers are responsible for:

- a) Determining whether an employee or volunteer is at all likely to ever work directly and specifically with vulnerable sector members in a position of authority and/or trust.
- b) Advising candidates for employment or volunteer work of the requirement for a police record check.
- c) Advising HR to request a BackCheck invitation for an employment candidate, or Volunteer Coordinator in case of volunteer.

4.02 The Manager, HR is responsible for:

- a) Initiating a BackCheck invitation for potential employment or contractor candidate.
- b) Reviewing the report, and where the report is anything other than "clear," bringing the report to the attention of the Executive Director.

4.03 The Volunteer Coordinator is responsible for:

- a) Initiating a BackCheck invitation for potential volunteer candidate.
- b) Reviewing the report, and where the report is anything other than "clear," bringing the report to the attention of the Executive Director.

4.04 Where necessary, it is the candidate's responsibility to provide the Hiring Manager with a current police record check, and potentially a vulnerable sector search, from the local police service, at his or her own expense.

4.05 It is the responsibility of the Executive Director to deal with any concerns raised by a criminal record, and to assess the risk, if any, posed by hiring a candidate with a criminal record.

## **5 DEFINITIONS**

**"Police Record Check (PRC)"** is a report from a local police service or a criminal background checking service.

**"Criminal record"** means a conviction for a federal offense for which a pardon has not been granted.

**"Vulnerable Sector"** are members of society defined in the Criminal Records

Act as persons who, because of age, disability, or other circumstances, whether temporary or permanent are:

- a) In a position of dependence on others, or
- b) Are otherwise at a greater risk than the general population of being harmed by a person in a position of authority or trust relative to them.

This includes children, youth, senior citizens, people with physical, developmental, social, emotional, or other disabilities, as well as people who are victims of crime or harm. The vulnerability may be a temporary condition or permanent.

“**Vulnerable Sector Search (VSS)**” is a police service query of the Pardoned Sex Offender database.

“**Bona Fide Occupational Requirement**” is part of *Ontario Human Rights Code* legislation that recognizes there may be legitimate reasons for employment discrimination on the prohibited ground of record of criminal offences; such may be relevant where a person is applying for work within the vulnerable sector and accordingly, the *Code* provides an exemption for discrimination based upon record of offences, age or gender where it is reasonable and a bona fide occupational requirement or qualification because of the nature of the employment.

## **6 PROCEDURE**

- 6.01 All employees and volunteers (including Board Members) must be subjected to a current / new criminal record check and a query of local police records nationally as a condition of employment. At management’s discretion, credit checks may also be considered.
- 6.02 Candidates who are subject to a criminal reference check shall be given written notice of the requirement, outlining the need for it, along with a deadline to provide the criminal reference check. Alternatively, the candidate may be requested to consent to a criminal background check conducted by a third-party provider at the expense of Abilities Centre. The results of such criminal background check shall be reviewed prior to the candidate receiving an unconditional offer of employment.
- 6.03 Third-party Police Record Checks will be conducted by BackCheck.com at the initiation of Abilities Centre (administered by Human Resources).
- 6.04 Criminal Reference Checks shall be reviewed by the hiring Manager, and if there is any concern about a particular candidate, the file shall be referred to the Executive Director for determination of the candidate’s suitability for the position.
- 6.05 For those working directly and specifically with the Vulnerable Sector, and the employee or volunteer is in a position of authority or trust, a Vulnerable Sector check will be completed. This specifically includes any individual working directly with Thrive and/or Adult Social Club program. Exceptions to this general rule are individuals who have had a Vulnerable Sector check done in the past four (4) years upon acceptable proof to Abilities Centre of the check being completed.

- 6.06 All employees and volunteers that require the PRC will renew the report annually, and those that require the VSS will renew the report every fourth year.
- 6.07 Candidates / employees / volunteers are responsible for the cost of the Police Record Checks, which Abilities Centre will reimburse by expense claim in the event the result is clear or a conviction deemed exemptible.
- 6.08 The Executive Director will, as necessary, evaluate a record of conviction in light of the following factors:
- a) The specific duties and responsibilities of the job in question and the relevance of the criminal record to the position;
  - b) How long ago the conviction/crime occurred;
  - c) Any efforts taken by the individual to rehabilitate him/herself;
  - d) The risk posed to clients, other staff, Abilities Centre property; and
  - e) Any other considerations mandated by legislation.
- In making this determination, the Executive Director has a fiduciary responsibility and a “duty of care” as a service provider to the vulnerable sector that the appropriate decisions are made regarding the safety of Abilities Centre members.
- 6.09 In the event that an applicant should be excluded from the hiring pool, the Executive Director will ensure that the incident is documented. The documentation will clearly demonstrate that the Abilities Centre is exercising its legal obligation to discriminate on the basis of a bona fide occupational requirement due to the potential threat posed to the vulnerable sector.
- 6.10 All records of police record checks and credit checks shall be kept in the personnel file for that individual.

## **7 REFERENCES**

*Ontario Human Rights Code*

*Personal Information Protection & Electronic Documents Act*

## **8 ATTACHMENTS**

Attachment A - BackCheck Request Form

Attachment B - VSS Letter for Employees and Independent Contractors

Attachment C - VSS Letter for Volunteers