

# CRIMINAL RECORDS SCREENING CERTIFICATE AND VULNERABLE SECTOR CHECK POLICY

YMCA OF NEWFOUNDLAND AND LABRADOR

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# Table of Contents

<b>Policy</b>	<b>3</b>
<b>Termination</b>	<b>4</b>
<b>Privacy Statement</b>	<b>4</b>
<b>Purpose</b>	<b>4</b>
<b>Application of the Policy</b>	<b>5</b>
<b>Review</b>	<b>7</b>
<b>Responsibility for Obtaining the Criminal Records Check and Vulnerable Sector Check and Cost</b>	<b>8</b>
<b>Implementation</b>	<b>8</b>
<b>APPENDIX A: Volunteer CRC Waiver Form</b>	<b>9</b>

# 1. Policy

An up to date (issued within 6 months) Criminal Records Check (CRC) and, for some positions as required by policy or regulation, Vulnerable Sector Check (VSC) are required for all YMCA employee and volunteer positions prior to commencing employment or volunteerism (see section 5). Regulated Child Care Staff must follow the regulations for Newfoundland and Labrador. Upon approval from the Department of Education, an affidavit may be accepted: a) when a current employee or volunteer criminal record check and vulnerable sector check is outside the three (3) year expiry and the YMCA has a receipt for an updated background check is on file, or; b) when a new employee or volunteer criminal record check and vulnerable sector check is issued from another Canadian province or outside of Canada. The new employee or volunteer whose background check is from another Canadian province must apply for one with RNC/RCMP after three (3) months of relocating to Newfoundland and Labrador. The new employee or volunteer whose background check is from outside of Canada must apply for one with RNC/RCMP after six (6) months of relocating to Newfoundland and Labrador. All forms of advertising used to recruit and select staff and volunteers will include a statement that YMCA offers of employment (or volunteer assignment) are contingent upon the successful completion of a Criminal Records Check (CRC) and, if applicable, a Vulnerable Sector Check (VSC). It is to be received prior to the individual starting their employment or voluntarism with the YMCA.

The Criminal Records Check shall consist of a check through the Canadian Police Information Computer (CPIC) for criminal code charges, as well as criminal convictions for which a pardon has not been granted, and a Vulnerable Sector Check (RNC or RCMP). A federal government security check is also acceptable. Third party agencies will be used for the purpose of obtaining a Criminal Records Check at the discretion of Human Resources. Positions that require a Criminal Records Check and Vulnerable Sector Check must be requested by the employee/volunteer through the RNC or RCMP.

**\*Criminal Records Check and Vulnerable Sector Check exemptions apply to the following:**

- Advisory committee volunteers who have no potential contact with children or vulnerable adults while fulfilling their advisory committee roles including the Board's Nominating Committee.
- Philanthropic development and fundraising volunteers who have no potential contact with children or vulnerable persons while fulfilling their YMCA role.
- Vulnerable Sector Check Exemption for positions with direct delivery: Staff and volunteers under the age of 18 years old who provide direct programming to children, youth, and vulnerable persons, with a permanent residence under the jurisdiction of an RCMP detachment (see section 5 for application of Vulnerable Sector Check Exemption Form). When they reach legal age (18 years old) they must request a Vulnerable Sector Check from the RCMP.

## 2. Terminology

**Criminal Records Check** is a search of the records held in the information database of a policy agency. It may include a check of national or local regional police records. Basic types include Police Criminal Records Check or Police Information Check or Police Vulnerable Sector Check. At the end of the process, a report is issued.

**Vulnerable Person** means people who, because of their age, disability, or other circumstance, are more vulnerable than others. This includes but is not limited to persons under the age of 18 years old, persons with neurological, cognitive, or physical disabilities, older adults (65 years of age or older), newcomers/temporary residents and foreign workers, persons experiencing homelessness or are geographically or socially isolated. Types main types of abuse, but are not limited to: physical abuse, sexual abuse, emotional abuse, neglect, and financial abuse.

**Non-Direct Programming** for staff and volunteers means that the position in which they work or volunteer does not require them to interact with children, youth, and/or vulnerable persons to perform their job/volunteer duties.

**Direct Programming** for staff and volunteers means that the position in which they work or volunteer requires them to interact with children, youth, and/or vulnerable persons to perform their job/volunteer duties.

**Break of Employment/Volunteerism** means when an employee or volunteer separates from the Association for longer than 6 months. This could include, but is not limited to maternity/paternity leave, workplace injuries, or long-term disability leave.

## 3. Privacy Statement

The YMCA of Newfoundland and Labrador (the “Association”) is committed to protecting the privacy of the personal information of its members, employees, donors and other stakeholders by following responsible information handling practices in keeping with privacy laws, including the Personal Information Protection and Electronic Documents Act (“PIPEDA”) and provincial privacy legislation. The Association values the trust of those we deal with, and of the public, and recognizes that maintaining this trust requires that we be transparent and accountable in how we treat the information that you choose to share with us. See Privacy Policy on staff portal for more information. *All information obtained is strictly confidential. Reports of all checks will be maintained in personnel files and/or in a secure location.*

## 4. Purpose

This is a precautionary measure designed to seek confirmation that employees and volunteer potentially providing direct service to children or vulnerable adults do not have a criminal history which could make them unsuitable for positions of trust.

As per the YMCA Child Safety Policy and Vulnerable Persons Policy, the information provided by the results will only be used for the purpose of hiring for the YMCA and will not be disseminated to any other person or organization. All information will be kept confidential. If an employee/volunteer misplaces the original document, they may ask their supervisor for a copy.

## 5. Application of the Policy

- A. All new staff and volunteers for non-direct programming positions must agree to participate in a third party background check to obtain a Criminal Records Check. All new staff and volunteers for direct programming positions must provide their supervisor with an original or digital copy of the Criminal Records Check and Vulnerable Sector Check prior to commencing work/volunteerism and must be kept in the individual's personnel file (Payworks). Regulated Child Care staff must follow the regulations for Newfoundland and Labrador and any additional requests are accepted by the Department of Education. Employees/volunteers who break employment/voluntarism with the YMCA and return later as an employee/volunteer to the YMCA will follow the same process for new hires/volunteer recruits. ***A request for a VSC Exemption Declaration Form will be required for those under 18 years of age with a permanent residence under a jurisdiction of an RCMP detachment by the Child Protection Lead.*** Supervisors are to ask the Child Protection Lead for a copy of this form each time they are requesting to use it. The monitoring procedure consists of a tracking records in Payworks between Human Resources and the Child Protection Lead indicating the staff and volunteers who are under the legal age who require to have a VSC Exemption Declaration Form on file, along with their birth date. The Child Protection Lead approves all VSC Exemption Declaration Forms.
- B. All current staff and volunteers must have a Criminal Records Check and if applicable for the position, a Vulnerable Sector Check on file.
- C. All positions at the YMCA require a Criminal Records Check and if applicable for the position, a Vulnerable Sector Check. The following staff and volunteer positions are **exempt** from providing a Vulnerable Sector Check. In the event that their job/volunteer duties change, they may be required to provide a Vulnerable Sector Check upon request.
- Executive Staff (i.e., CEO, COO, CFO, CDO, VP)
  - Administration/Project Office Staff and Volunteers (i.e., Human Resources, Payroll and Accounting Support, Office Administrator, Information Systems, Marketing, Occupational Health and Safety, Philanthropy, Advisory Committee Members, Board Members)

This section of the policy will be updated as new YMCA Staff and Volunteer positions are created within the Association.

- D. Individuals under the age of 18 will not appear in the Vulnerable Sector Check reports completed by RNC or RCMP. However, individuals with a permanent residence under a jurisdiction of an RNC detachment are able to request and obtain a Criminal Records

Check and Vulnerable Sector Check. An exemption will be made for those under the age of 18 with a permanent residence near an RCMP detachment in which a VSC Exemption Declaration Form must be properly signed by the Child Protection Lead (Lori Evans) and placed in their file. If a prospected employee/volunteer has a prior conviction, the conviction will show in their Criminal Records Check.

- E. If a Criminal Records Check reveals a prior criminal record for a prospective employee/volunteer, the following factors should be considered in determining whether to employ/place the individual at the YMCA of Newfoundland and Labrador (see Section 6):
- the type of offence
  - number of convictions
  - how long ago the offence occurred and the individual's age at the time of the conviction(s)
  - what rehabilitative efforts have been made by the individual
  - the relevance of the offence to the position involved
  - potential risk to the YMCA in accepting the individual into the position
- F. The Human Rights Act, Section 14, prohibits an employer from refusing to employ, or otherwise discriminate against an employee on the basis of a conviction for an offence that is unrelated to their employment.
- G. An employer must consider the circumstances of the conviction to decide if it is related to the employment of an individual. All relevant circumstances must be included:
- Does the behaviour for which the charge was laid, if repeated, pose any threat to the employer's ability to carry on its business safely and efficiently?
  - What were the circumstances of the charge and the particulars of the offence involved, e.g. how old was the individual when the events in question occurred, were there any extenuating circumstances?
  - How much time has elapsed between the charge and the employment decision? What has the individual done during that period of time? Has the individual shown any tendencies to repeat the kind of behaviour for which they were charged? Has the individual shown a firm intention to rehabilitate?
- H. The Association will accept Criminal Records Checks and Vulnerable Sector Checks for international candidates who have been in the province for less than 6 months. After the 6 months of Canadian residence has elapsed, they must agree to participate in a Criminal Records Check process of request a Criminal Records Check and Vulnerable Sector Check from the RNC or RCMP to continue employment or volunteerism.

If the YMCA of Newfoundland and Labrador refuses to hire the applicant after a good faith consideration of the above factors, the YMCA's decision would likely not amount to discrimination in breach of the Human Rights Act.

## 6. Review

This shall form only part of the selection process. Successful candidate(s), from the interview process, with a criminal record shall not be automatically disqualified from the job competition. Should an applicant have a criminal record or issues flagged by the Criminal Records Check or Vulnerable Sector Check the supervisor(s) shall present all circumstances to the CEO and one other member of the Executive Team before reaching a final decision and final approval for hiring will be required in writing from the CEO.

The employee's or volunteer's immediate supervisor or Human Resources will review the Criminal Records Check and Vulnerable Sector Check. Upon receipt of a clear Criminal Records Check and Vulnerable Sector Check, the supervisor or Human Resources will follow usual procedures to activate employment or volunteer services.

In the event a Criminal Records Check or Vulnerable Sector Check is returned with disclosures, the CEO and one other member of the Executive Team and the supervisor(s) or Human Resources will determine if the disclosures put the Association at risk, having regard to the provisions of the Human Rights Act, 2010. If in their opinion there is no risk, the Criminal Records Check and Vulnerable Sector Check will be filed in the personnel file with a note verifying a review took place that is signed by the CEO.

If in the opinion of the CEO and one other member of the Executive Team and there is potential risk, the prospective employee or volunteer may be given the opportunity to provide explanations. The CEO and one other member of the Executive Team shall then determine if an offer of employment/voluntarism should be made or denied, or if employment/voluntarism should be terminated.

When there is a disclosure of convictions or charges of a member of the Board of Directors that may cause a risk to the Association, the matter will be reviewed by the Board Chair and CEO. The Board Chair and CEO shall determine if the volunteer position should be denied or terminated and propose the removal process for resolution by the Board.

Should the prospective employee and volunteer choose not to show the related summary to the supervisor, neither employment nor volunteer services will commence.

### 6.1 Workplace Violence

The Occupational Health and Safety Regulations, 2012, provides that an employer is required to inform workers who may be exposed to the risk of injury from violence of the nature of the risk and the precautions that may be taken. Where, following a risk assessment, an employer determines that such a risk exists, employers have the duty to provide information related to the risk of violence from persons who have a history of violent behavior and whom workers are likely to encounter in the course of their work. As per the OHS Regulations, 2012, sections 22.1 (Risk Assessment), 23 (Violence Prevention), and 24 (Instruction to Workers) are relevant.

## 7. Responsibility for Obtaining the Criminal Records Check and Vulnerable Sector Check and Cost

It will be the responsibility of the candidate/employee/volunteer to obtain a Criminal Records Check and Vulnerable Sector Check, or to participate in obtaining a Criminal Records Check through a third party agency. The Association will cover the cost for obtaining these documents.

1. The Association (YMCA supervisor or Human Resources) will issue a *Volunteer CRC Waiver Form* requesting no application fees be charged for volunteers. **See Appendix A.**
2. The Association will cover the cost or reimburse employees for the cost of a Criminal Records Check and Vulnerable Sector Check for all employees. Reimbursement is provided after a receipt and an Expense Reconciliation Form has been provided to the Association.
3. The Association will reimburse employees on the next payroll to cover the cost of obtaining a new Criminal Records Check and Vulnerable Sector Check as part of the annual CRC renewal process.

## 8. Implementation

This policy took full effect on 1 May, 2007 and was revised for clarity on 19 February, 2009, and again on 19 December 2012, and again on 20 February 2013, again on 22 September 2016, and again on 7 February 2022, and again on 17 June 2022, and again on 19 August 2022, and again on 22 November 2022, and again on 26 January 2023, and again on 24 March 2023 and again on September 13, 2023, and again on March 27, 2024.

From time to time the CEO or designate may require updated Criminal Records Check and Vulnerable Sector Checks to be obtained.



APPENDIX A

Volunteer CRC Waiver Form

DATE

INSERT LOCAL/PROVINCIAL Police address

To Whom It May Concern:

The YMCA is a charity that provides opportunities for all to grow in spirit, mind, and body. We provide access to all in employment, enterprise, newcomer, child care, and health programs, all of which are based on the YMCA core values of caring, honesty, respect, responsibility and diversity. Many of our programs are run by volunteers and volunteer development is part of our commitment to building strong kids, strong families, and strong communities.

**VOLUNTEER FULL NAME** has applied to become a volunteer with the YMCA of Newfoundland and Labrador and as such we will require that they obtain a Criminal Records Check and Vulnerable Sector Check. Please process this application and waive the fee as normal for all volunteers in our organization.

If you have any questions regarding this letter, please contact me at **(INSERT supervisor or HR phone number)** or by email at [NAME@nl.ymca.ca](mailto:NAME@nl.ymca.ca).

Sincerely,

**SUPERVISOR/HR NAME**

**SUPERVISOR/HR TITLE**

**SUPERVISOR/HR LOCATION**