

## Employment & Other Reference Checks

Policy Number: HR.12-02

Sub-Topic: Recruitment

Topic: Employee Attraction & Retention

Applies to: All Employees

## Policy Statement and Strategic Plan Linkages

The Town of Newmarket is committed to ensuring community safety and security. For this reason, the Town requires potential and current employees to provide various types of reference checks to ensure programs and services are delivered to safeguard public trust. This Policy aligns with Newmarket's Strategic Plan vision, mission, and core values of accountability and accessibility.

## Purpose

The purpose of this policy is to define employer requirements and the suitability of various reference checks on prospective candidates and employees based on the duties and responsibilities of the job in the delivery of municipal programs and services to the community.

## Definitions

**Bona Fide Occupational Requirement (BFOR):** a standard, factor, requirement or rule rationally connected to the performance of a job that has been adopted in good faith and is in the belief that it is reasonably necessary to accomplish the job and does not contravene human rights legislation. BFOR's are clearly stated in job descriptions.

**Criminal Record and Judicial Matters Check:** a reference check conducted by the employer which includes: a criminal records check; the results of a search of outstanding entries and charges, such as criminal convictions from the Canadian Police Information Centre (CPIC) and/or local data bases; a summary of convictions for five years; outstanding entries, such as charges and warrants, judicial orders, peace bonds, probation and prohibition orders; absolute and conditional discharges; and convictions where a records suspension has been granted if authorized under the Criminal Records Act or another act or regulation.

**Driver Abstract:** a provincial document which confirms a driver's licence is valid and in good standing.

**Employment Reference:** a reference check conducted by the employer with: a previous and/or current employer; other character reference submitted; police; and/or educational

institution that verifies and includes information on various, requested police checks, driver abstract, character references and education credential verification.

**Incomplete Results:** the response released by a police agency resulting from a request for a police check. The employer considers a satisfactory result when a police check comes back “clear”. Incomplete results could occur when verification of identity (for example fingerprints) has not been confirmed or the originator (candidate or employee) did not give the police agency permission to release results from a police check. In the case of a Vulnerable Sector Check (VSC), the police service will contact the employer in writing indicating that they were unable to complete the VSC. In this case, the applicant’s results are considered to be “not satisfactory” to the employer.

**Negative Results:** the results from an investigative databank and local indices that indicates there is no criminal history and is added as an attachment to the police check.

**Police Criminal Record Check (PCRC):** a basic police check that includes criminal convictions from the Canadian Police Information Centre (CPIC) at the national level.

**Police Record Check:** a series of specific checks conducted by a police agency upon written consent from an employee or candidate that are required in the job description including a Criminal Record Check, Criminal Record and Judicial Matters Check, and a Vulnerable Sector Check.

**Positive Results:** the results from an investigative databank and local indices that indicates there is a criminal history.

**Vulnerable Person:** a person who, because of their age, disability or other circumstances whether temporary or permanent, is in a position of dependence on others or is 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 and in the ordinary course of employment.

**Vulnerable Sector Check (VSC):** a check, conducted on job candidates or employees “in a position of trust or authority” with vulnerable people, of national and local police records which includes information on criminal offenses the individual has been found guilty of and received an absolute discharge, conviction(s), and all available police contacts, not included in criminal record or criminal record and judicial matters checks.

## **Provisions**

Job descriptions, job postings and advertisements include requirements for Police Record Checks and driver’s license checks.

### **Driver’s Licence:**

Human Resources will conduct driver’s abstract checks on an annual basis for employees requiring a valid driver’s licence in good standing for employment purposes and will review the requirement and the check in relation to conditions of employment.

An employee requiring a driver's licence in good standing as identified in their job description does not maintain their driver's licence in good standing, progressive discipline up to and including termination of employment could result.

Candidates must provide Human Resources with proof of a valid driver's abstract dated within 30 days from the date (before or after) of a conditional offer of employment.

**Police Checks:**

Candidates or employees receiving a conditional offer of employment are required to submit a Police Record check that is clear or satisfactory to the employer before confirming the offer of employment. The prospective employee or current employee must provide written consent to the Human Resources Department to have a check undertaken. It is the employee's responsibility to share the results of the check with Human Resources.

Positions requiring a police check as identified in the lists "Police check by Commission" and "Police check by Requirement" appended to this Policy are designated based on the following criteria:

- The position is responsible for the direct care, custody and/or control of a child/children or vulnerable person(s) as provided for in the job description.
- The position may require access or entry to private property or is responsible for law enforcement.
- The position safeguards municipal assets, documents or information; has authority over financial controls; and/or has significant power/authority and /or discretion that is exercised independently in the context of bylaw enforcement related to public safety.

The police check must receive a negative result or must be satisfactory to the employer to confirm the suitability of the candidate or employee for employment for the particular position. An incomplete result received from a Vulnerable Sector Check is unacceptable and considered unsatisfactory. Incomplete police checks could render the candidate or employee unsuitable for employment. Therefore the candidate or employee may not meet the conditions of the offer of employment resulting in the withdrawal of a conditional offer of employment by the employer.

The employer will review the results of a positive police check with the candidate or the employee to determine if the record of offence that exists would render the candidate or employee unsuitable for employment in the position applied for.

Police Record Checks must be obtained (at the expense of the employer) every 5 years after the commencement of employment for regular full-time and regular part-time positions that require them.

Police Record Checks when required, will not be requested in advance of a conditional offer of employment. Confirmed offers of employment are contingent upon the completion of police checks that are satisfactory to the employer. Police Record Checks conducted within 6 months of the conditional employment offer date will be accepted.

In the event of a conviction of a criminal offence subsequent to hiring, the employee is required to disclose this information to the employee's Department Head, designate and/or Human Resources immediately. Consideration will be given to the risk and relevance of the particular conviction, nature of the circumstances, whether the record would damage the reputation of the Town or affect the public's confidence in municipal services in relation to the employee's job, and a determination will be made as to whether the employee can continue to work in that capacity. A criminal offence conviction could impact the employee's employment status with the employer when concerns from Police Record Check results represent an unacceptable risk in performing the duties of the designated position. Failure to disclose such a conviction would be considered a breach of trust and as such is subject to progressive discipline up to and including termination of employment.

### **Reference Checks:**

Human Resources coordinates and conducts all employment reference checks as part of the recruitment process prior to extending an offer of employment. Human Resources staff and hiring managers must be trained on how to collect and use information obtained through all types of reference checks, including knowledge of the job, awareness of human rights, and privacy legislation related to all types of employment reference checks, consistent with the Human Rights Code.

Employment reference checks conducted by Human Resources for employees may include a validation of performance based on current information on the employee's personnel file as well as contacting the current supervisor for an employment reference check.

An employment reference check conducted by Human Resources for external candidates will include confirmation of the candidate's employment and credentials with the candidate's previous and/or current employer, confirmation of job related skills, absenteeism, tardiness, etc. A minimum of 3 employment reference checks will be conducted for external candidates.

### **Former Employees:**

Human Resources shall conduct and provide employment references for employees who have terminated employment. These types of references will confirm the position held, length of time in the job, and job duties and responsibilities. Any additional information would be provided if a recent and duly authorized performance review was on file.

## **Cross-References**

Corporate Procedure:

Employment & Other Reference Checks Procedure HR.12-02-001

Corporate Policy:

Employee Code of Conduct

Harassment and Discrimination Free Workplace Policy HR.5-01

Health and Safety Policy Statement

Mileage Allowance, Licence & Automobile Insurance HR.8-05  
Position Administration HR.9-08  
Progressive Discipline HR.4-01  
Recruitment & Selection Policy HR.12-01

**Other Government Legislation:**

Provincial legislation as amended from time to time including but not limited to:  
Employment Standards Act and Regulations  
Human Rights Code  
Municipal Freedom of Information and Protection of Privacy Act  
Occupational Health and Safety Act & Regulations  
Police Record Checks Reform Act

**Notes:**

- 1) The Police Record Checks Reform Act prohibits a record check provider from conducting a police record check in respect of an individual, unless the request contains the individual's written consent to the particular type of check.
- 2) The Act permits the disclosure of certain types of information in relation to each type of check (e.g. a criminal record check discloses every criminal offence of which the individual has been convicted for which a pardon has not been issued or granted). However, the Act only permits the disclosure of "non-conviction information". In response to a vulnerable sector check, provided the information satisfies the prescribed criteria for "exceptional disclosure". In certain circumstances, the Act also prohibits disclosure of information that is more than a year old.
- 3) The Act prohibits a record check provider from disclosing information to any other person aside from the individual who is the subject of the check, unless the individual is provided with an opportunity to review and consents to the disclosure of the same.
- 4) Individuals being screened will be able to control the type of information disclosed because a police record check provider must obtain the individual's written consent before the check is conducted and before the record check provider discloses information authorized for disclosure by the Act to the requesting organization or person.

**Appendices**

Employment & Other Reference Checks Guidelines and FAQ  
Offence Declaration form  
Reference Authorization form/Candidate Questionnaire  
Police Check by Commission  
Police Checks Requirements CRJM Check Summary  
Police Checks Requirements VSC Check Summary  
Police Record Checks in Ontario Chart

## **Contact**

Human Resources Department or by email at [hr@newmarket.ca](mailto:hr@newmarket.ca)

## **Policy Details**

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