

## Instructions and Tips for Creating Compliant Policies and Procedures: Criminal Reference Check Policy and Procedures (O. Reg. 137/15, s. 65)



### Mandatory Information

The following information **must be included** in your child care centre's written policies and procedures on staff screening measures and criminal reference checks to demonstrate compliance with requirements under the [Child Care and Early Years Act, 2014](#) and [O. Reg. 137/15](#):

- The process for obtaining a vulnerable sector check (VSC) or attestation
- The process for submitting an offence declaration (OD)
- How the confidentiality of information contained in a VSC, OD or attestation will be protected
- The way in which any information revealed in a VSC, OD or attestation may be considered and used
- The additional measures that will be put in place when a situation described in subsection 61(1) of O. Reg. 137/15 occurs to protect the children who interact with the person until the VSC is obtained

### Other Considerations

The following are some tips and other considerations for developing your written policies and procedures on staff screening measures and criminal reference checks. These are not mandatory, but they will support the development of more comprehensive and high-quality policies and procedures:

#### **General**

- Provide definitions for ambiguous terms used throughout your document.
- Include a space to put the date that the policy was last developed and/or updated.
- Break down your procedures into a step-by-step process that is easy to understand and follow and that includes clear roles and responsibilities.
- Link this policy to other policies and procedures that have been established and implemented (e.g. written process for monitoring compliance and contraventions, etc.).
- Consider and use terminology that is regionally applicable when referring to police record checks (e.g. police information check, criminal reference check, etc.)
- Be clear about the intent of your policy and what you are trying to achieve through its implementation.

#### **Consultation and Resources**

- Consult resources about all the best practices that could support your program in setting out processes for obtaining VSCs and attestations, and submitting ODs (e.g. using the OD and attestation forms available on the [Forms Repository](#), etc.).

## Processes and Expectations to Include

- Reflect other regulatory requirements in your policy and procedures (e.g. document retention requirements, serious occurrence reporting, etc.)
- Set out whether police record check documentation will be kept electronically or in hard copy for your child care centre and what the contingency plan will be if a situation arises where electronic copies cannot be provided for inspection (e.g. due to system outages, battery failures, etc.).
- Describe how VSC records will be managed where police departments provide VSCs by email.

## When developing your process for obtaining a vulnerable sector check (VSC), an attestation and an offence declaration (OD):

- Get to know how long it takes for local police departments in your region to provide a VSC and set those timelines out in your policy.
- Be clear about whose responsibility it is to apply for, pay for, own and retain a police record check and/or attestation.
- Clarify the procedure where a person who has provided their VSC or attestation needs to keep or take their original VSC or attestation (e.g. taking and retaining a true copy).
- Set out processes for obtaining VSCs for international persons, particularly individuals who have not spent a period of their adult life in Canada.
- Set out what will happen where a person's work permit or work visa says they cannot work with children.
- Clarify that VSCs must be obtained from the city or town in which an individual resides, where applicable.
- Include other regulatory police record check requirements and provisions, such as:
  - ensuring that VSCs are conducted by a police force;
  - ensuring that VSCs are prepared no earlier than six months before the day they are obtained by the child care centre;
  - ensuring that the child care centre obtains a VSC for every employee before the person begins their employment;
  - ensuring that the child care centre obtains a VSC for every volunteer or student who is on an educational placement with the licensee, before the person begins interacting with children at the child care centre;
  - allowing the child care centre to accept a copy of a VSC instead of the original document for students and volunteers that is more than six months old, as long as an offence declaration that addresses the period since that day is also provided by the student/volunteer;

- the requirements to obtain new VSCs on or before every fifth anniversary after the date of the most recent VSC;
  - the applicable requirements to obtain a new VSC or OD when there are breaks in relationship between a person and the licensee;
  - how a criminal record check can be obtained in place of a VSC if any statute of Ontario or Canada prohibits the disclosure of information contained in a VSC in respect of a person;
  - how no person is required to provide or obtain a VSC or OD in respect of a person who is under 18 years old;
  - how a statement that discloses every previous finding of guilt under the *Youth Criminal Justice Act* (Canada) must be obtained within one month of a person turning 18 years old, if that person interacts with children at a child care centre and the person received an adult sentence; and
  - how a person who turns 19 and who interacts with children at a child care centre must be required to apply to obtain a VSC within one month after turning 19 years old.
  - the requirements to obtain ODs or attestations for other persons providing child care or other services to children at a child care centre;
  - the requirements to obtain new ODs in every calendar year except the year a VSC is obtained, and any time a person is convicted of an offence under the *Criminal Code* (Canada); and
  - the requirements for the period that ODs must address and the timeframes within which they must be obtained.
- Add other Ministry of Education requirements regarding police record checks, such as providing valid police record check documentation when applying for a new licence.
  - Set out a requirement that offence declarations be dated.
  - Establish a process for obtaining ODs that is manageable where there is a large number of persons from whom ODs are required, such as creating a regular schedule for offence declarations to be provided.

**When developing how the confidentiality of information contained in a VSC, OD or attestation will be protected and the way in which any information revealed in a VSC, OD or attestation may be considered and used:**

- Mention that every effort will be made to protect the privacy of individuals who provide any documentation related to criminal history, except when information must be disclosed for the purpose of implementing the procedures in the policy and for legal reasons.
- Identify where police record checks and related documentation will be securely stored and clarify who will have access to the information.

- Describe how the child care centre will advise an individual who will not be hired or received as a volunteer, student, or other person providing child care or other services to children at a child care centre of the reason for not hiring/engaging the individual, where there are concerns about criminal history findings that may put children in care at risk.

**When developing additional measures that will be put in place to protect the children who interact with a person until a VSC is obtained:**

- Include other regulatory police record check provisions, such as:
  - permitting a person who has not provided a VSC to start their employment or volunteer position at a child care centre if the person is required to apply to obtain a VSC as soon as reasonably possible, the length of time required to obtain a VSC justifies it, and additional measures are put in place to protect children who interact with the person until the VSC is obtained.
- Consider and include various additional measures that can be put in place to protect children until a VSC is obtained where a person is allowed to start their position or interact with children before a VSC is obtained, ensuring that they are reasonable, applicable and achievable for your child care centre (e.g. additional monitoring, conditional offer letters, obtaining ODs, ensuring the person is never left alone with children, etc.).
- Include measures for how new hires, students or volunteers will be trained and oriented on child care centre policies, procedures, individualized plans and programming where a VSC has not yet been provided.