### **Human Resources Manual**

Directive 517: Criminal Record Checks

#### CRIMINAL RECORD CHECKS

#### **PURPOSE**

- 1. This directive:
  - a. provides guidelines for requesting criminal record checks (CRC) and Vulnerable Sector Checks for positions within the Government of Nunavut (GN); and
  - b. identifies actions to be taken when a CRC indicates an individual has or may have a criminal record.

#### **APPLICATION**

- 2. The following guidelines apply to all applicants for positions in all GN departments and public bodies, including current GN employees, who have been determined to require CRCs and Vulnerable Sector Checks.
- 3. Any employment contract, contract for services, or other form of contract may contain a provision which allows for the application of these guidelines.

#### **DEFINITIONS**

- 4. Assessment means a risk assessment approved by the Director of Recruiting and Staffing or the appropriate Director of Regional Operations at the Department of Finance in consultation with the Deputy Head of the employing department to determine if the information contained in the CRC or Declaration of Criminal Record, as attached in Appendix A, places the GN, its staff or its clients at risk. The following factors are used in the determination of risk:
  - a. the relevance of the recorded incident or pattern of incident(s) in relation to the duties and responsibilities of the position;
  - b. the nature and severity of the abuse of trust that would occur in the event that the individual was to behave in a manner specified in their record;
  - c. the time that has elapsed between a conviction and the job application;
  - d. the conduct of the individual since the conviction:
  - e. an established pattern of repeat adverse behavior relevant to the duties and responsibilities of the position; and
  - f. any reason to suggest that adverse behavior may be repeated and threaten the GN's ability to carry on business safely and efficiently.
- 5. **Bona Fide (Justified) Occupational Requirement** means a condition of employment that is imposed that is necessary for the safe, efficient and reliable performance of the job, the absence of which would be impossible to



accommodate without undue hardship to the employer. In this directive, a satisfactory CRC is a bona fide (justified) occupational requirement.

- 6. **Criminal Record Checks (CRCs)** are completed by the Royal Canadian Mounted Police (RCMP) or a RCMP authorized police service in Canada to identify whether an individual has been convicted of any crime(s).
- 7. **Disclosure of Criminal Record** means the disclosure by an applicant of any criminal record in writing in the form found in the attached Appendix A, which disclosure will be verified by the provision of a fingerprint verified CRC.
- 8. **Highly Sensitive Position** is a position of high integrity, character and is designated as such based on its duties involving contact with children, vulnerable persons, or residents in the GN's care.
- 9. **Position of Trust** denotes a position that is based on one or more of the following criteria:
  - a. duties involving laying charges, investigating offences, court proceeding, evidence admitted to court and security for prisoners;
  - duties involving direct control of large amounts of cash, goods or restricted drugs;
  - c. duties involving international travel;
  - d. duties involving secure systems or facilities;
  - e. duties involving responsibility for security of public property and/or assets;
  - f. primary duties involve providing advice to a member of the Executive Council or one of its committees; or
  - g. decision making at the level of deputy head, assistant deputy head or director.

### 10. Satisfactory Criminal Record Check means

- a. a criminal record or vulnerable sector check that indicates no criminal record exists; or
- b. a criminal record check that indicates a criminal record exists and that an assessment completed by the Director of Recruiting and Staffing or the appropriate Director of Regional Operations at the Department of Finance in consultation with the Deputy Head of the employing department found the information contained in the criminal record or Disclosure of Record is not relevant to the duties being performed or do not present a significant risk to the GN, its staff and its clients or the public.
- 11. **Vulnerable Sector Check** involves screening for the presence of sexual offence convictions that are subject to a record suspension/pardon. This screening is done to ensure the safety of those individuals in the care of the



GN who are at risk of being harmed due to an exceptional level of dependence on others, for example, children, individuals with physical or developmental disabilities, senior citizens or prisoners.

#### **PROVISIONS**

- 12. It is a Bona Fide (Justified) Occupational Requirement for applicants to all Positions of Trust, including casual positions, to provide a Satisfactory CRC. The CRC must have been completed no more than six months prior to hire date.
- 13. It is a Bona Fide (Justified) Occupational Requirement for applicants to all Highly Sensitive positions to provide a Satisfactory CRC in addition to a Vulnerable Sector Check. Both checks must have been completed no more than six months prior to hire date.
- 14. Classification of positions as Positions of Trust or Highly Sensitive Positions is determined by the employing departments in conjunction with Job Evaluation and must be included in each job description and job advertisement.
- 15. GN employees who apply on different positions or who are being considered for a transfer assignment or promotion to a Position of Trust or a Highly Sensitive Position, or who assume such additional duties in their current positions, are required to submit a Satisfactory CRC or Vulnerable Sector Check prior to appointment, transfer or reclassification.
- 16. If a CRC indicates there is no criminal record, the job offer, transfer or reclassification can go forward.
- 17. When the CRC indicates that there is or may be a criminal record, the applicant is required to disclose the nature of the criminal record to the staffing consultant in order to be considered for the position. The applicant must use the form found in the attached Appendix A.
- 18. When the CRC indicates that there is or may be a criminal record, an assessment will be completed and the following decisions may be made:
  - a. the offer of employment, transfer or reclassification is withdrawn or deferred;
  - b. the employment and/or continued employment to be contingent on meeting specific conditions; or
  - c. specific restrictions or sanctions to be imposed to suit the particular circumstances.

- 19. A Vulnerable Sector Check is required prior to a job offer being made to an applicant for a Highly Sensitive Position.
- 20. Vulnerable Sector Checks for GN employees working in Highly Sensitive Positions are required to be updated every five years unless otherwise specified in the job offer.
- 21. GN employees are responsible for disclosing to their supervisor any criminal charges and/or convictions that occur while employed, pursuant to the Nunavut Public Service *Code of Values and Ethics*.
- 22. A refusal to obtain a CRC or Vulnerable Sector Check, providing false information when undergoing a CRC and/or failing to make disclosures as required for a CRC for the GN, may result in:
  - a. denial of an offer of employment;
  - b. removal from the position; and/or
  - c. discipline up to and including termination.
- 23. When a current GN employee is unable to obtain a satisfactory CRC or Vulnerable Sector Check, a discussion will be held with the employee and alternative work arrangements may be considered. The GN may decide to terminate the employment relationship when there are exceptional circumstances, such as:
  - a. reasonable alternative work arrangements are not possible;
  - b. the employee refuses alternatives that are offered; or
  - c. the employee's criminal record represents an unacceptable risk.
- 24. Disclosure of information resulting from CRCs and Vulnerable Sector Checks is restricted to the individuals necessary to and directly responsible for the staffing of the position of trust or highly sensitive position.
- 25. CRC and Vulnerable Sector Check applicants are responsible for the payment of fees associated with the completion of record checks.
- 26. CRCs and Vulnerable Sector Checks obtained during the staffing process are sealed and retained for a period of one year after which they are destroyed.

#### **AUTHORITIES AND REFERENCES**

27. *Public Service Act* S.Nu. 2013, c. 26 Sections 6-7



- 28. Human Rights Act
- 29. Nunavut Public Service Code of Values and Ethics

### **CONTACTS**

30. For clarification or further information, please contact:

### Director, Recruiting and Staffing

Department of Finance Iqaluit, Nunavut X0A0H0 (867) 975-6222

OR

## **Director, Employee Relations and Job Evaluation**

Department of Finance Iqaluit, Nunavut X0A0H0 (867) 975-6211

OR

## **Directors, Regional Operations**

Igloolik (867) 934-2056 Rankin Inlet (867) 645-8065 Cambridge Bay (867) 983-4042