

CLBC Criminal Record Check Policy: Service Delivery

Q1. What are the changes to the CLBC Criminal Record Check Policy?

A1. CLBC has changed the *Criminal Record Check Policy* to comply with and exceed the *Criminal Records Review Act* (CRRA). It is now named the *Criminal Record Check Policy: Service Delivery*.

The CRRA requires that anyone who works with vulnerable adults directly, or who has, or may potentially have, unsupervised access to vulnerable adults through their work, be cleared for such work based on a criminal record check through the Ministry of Public Safety and Solicitor General (MPSSG). Police record checks are no longer required under CLBC policy.

The responsibility for clearing an applicant or determining the suitability of an applicant if a criminal record is found lies solely with MPSSG. CLBC staff have no decision making role or discretion regarding the suitability of an applicant where a criminal record is found.

CLBC policy exceeds CRRA requirements in several areas as the health, safety and well being of individuals supported by CLBC are paramount. In addition to the CRRA requirement for criminal record checks for anyone who works with vulnerable adults directly, or who has, or may potentially have unsupervised access to vulnerable adults, CLBC policy requires a criminal record check to be completed for:

- any person aged 18 and over living on the same premises as an individual in a CLBC funded Shared Living arrangement
- volunteers, students, trainees, practicum placements or others under the supervision of a service provider

CLBC policy also requires that any person, whose duties may include transporting individuals supported by CLBC, submit a personal driver's abstract for review prior to starting work and at least every five years thereafter. The person's driver's abstract must indicate a clean record or indicate that their driving record does not contain serious enough offenses to pose risk.

Q2. What is the Criminal Records Review Act (CRRA)?

A2. The CRRA is a BC law. Its original purpose was to help prevent the physical and sexual abuse of children by requiring persons working with children to be cleared for such work based on a criminal record check.

Effective January 1, 2011 the CRRA was amended, expanding its original intent to include persons who work with vulnerable adults as defined in the CRRA. The changes are intended to help protect vulnerable adults from financial, physical or sexual abuse, by ensuring that the people working with them do not pose a risk based on a criminal record. It applies to persons who work with individuals supported by CLBC.

Criminal record checks done through the Criminal Records Review Program are a legislative requirement under the CRRA. Any person who refuses to complete a criminal record check or a required re-check must not be permitted to work with or have unsupervised access to vulnerable adults.

Q3. Does a person, who works with vulnerable adults, require a new CRRA check if they had a local police criminal record check completed within the past 5 years; or if they had already been cleared to work with children in the past 5 years?

A3. Yes. A new criminal record check is required to comply with current CRRA expectations in both situations.

If a police check was done in the past five years, it does not meet the new CRRA requirements and the CRRA criminal record check process must be done.

A clearance to work with children does not meet the CRRA requirements for working with vulnerable adults because the list of offenses for working with vulnerable adults is more detailed and includes offenses such as financial offences (e.g. fraud and theft).

Q4. If a service provider recently rehired a former employee or hired someone who completed a CRRA check with a previous employer, are they required to complete another CRRA check if a copy of the clearance from the previous employer is provided?

A4. Yes. Any person in a new position with a new employer is required to complete a new CRRA check.

Any break in service with the same employer also requires a re-check. If the employer/employee relationship or the applicant/organization relationship is formally severed, this is considered a break in service and a new check must be conducted.

Q5. Who administers the CRRA checks and what does the CRRA check look for?

A5. The checks are conducted by the Criminal Records Review Program of MPSSG.

A person's criminal record history is reviewed against the list of relevant/specified offences in the CRRA. For the list of the relevant/specified offences see:

<http://www.pssg.gov.bc.ca/criminal-records-review/offences-reviewed/index.htm>

Q6. What is the deadline for compliance with the CLBC policy?

A6. The MPSSG deadline to be in compliance with the CRRA is **September 30, 2011**. All persons as described in the *Criminal Record Check Policy: Service Delivery* are required to have completed a criminal record check and submit a personal driver's abstract for review by September 30, 2011.

Q7. What happens if a record is found through a criminal record check by MPSSG?

A7. If the check/re-check by the MPSSG reveals a record involving a relevant/ specified offence as listed in the CRRA, the following process occurs:

- MPSSG sends a notice of adjudication letter to the employer or organization.
- A separate letter may also be sent to the person (applicant) requesting additional information about the circumstances of the offence(s) found.
- If the person disputes the existence of the record, they are required to be fingerprinted to confirm identity.
- An adjudicator from MPSSG gathers and reviews all relevant information. This may include police and court documents, written submissions from the person, and telephone/personal interviews with the person, victim(s) or other persons or agencies.
- The adjudicator prepares a recommendation of 'risk' or 'no risk' to the Deputy Registrar, MPSSG.
- The Deputy Registrar makes the decision whether or not the person poses a risk to vulnerable adults. A determination of 'no risk' means the person is cleared to work with vulnerable adults.
- The decision is sent in writing to the employer or organization and the person.
- If a record is found as a result of a CRRA check/re-check and it is one of the relevant/specified offences, the person will have the opportunity to explain the circumstances.
- The person may ask for reconsideration of a determination of 'risk'.

It is possible that a re-check of a person with a previously clean CRRA check may turn up a record. This is because the list of offences being looked for has expanded. If this happens, the record will be reviewed and adjudicated by the MPSSG as above.

Having a record related to one of the listed offenses does not automatically mean that the person is not allowed to work with vulnerable adults. The MPSSG adjudicator will determine the risk based on a full review of the circumstances. If MPSSG makes a determination of 'risk', that person must not work with vulnerable adults.

NOTE: A person, who fails to submit additional information if requested after a record is found, or refuses to be fingerprinted in the case of a dispute over identity, is considered to have withdrawn from the CRRA process. MPSSG will make a determination of 'risk' based on information available, which may affect the person's employment, contract status or standing with their college/body.

Q8. What information regarding the record is shared with the organization?

A8. Organizations or employers will not see the particulars of a person's criminal record. However, they may request written reasons for a decision, and these may contain references to the criminal record.

Q9. What if a person's position requires registration with a professional college/governing body?

A9. Some professional colleges/governing bodies are required under CRRA to have all members checked against the expanded list of offences during their five year re-check. Specific colleges/bodies will arrange for these re-checks on their members. For example, psychologists that CLBC contracts with may have already had their check completed if they are registered with the College of Psychologists of British Columbia. When the check has been completed by the professional college/governing body, an additional check is not required by CLBC.

Q10. How do the changes to the Criminal Records Review Act and CLBC policy specifically affect service providers?

A10. All individuals supported by CLBC are considered to be 'vulnerable adults' under the CRRA definition. The changes in the policy apply to CLBC funded service providers and their staff, volunteers, students, or others who may have unsupervised access to vulnerable adults. All such persons will be required to complete criminal record checks.

These changes affect CLBC service providers in several ways:

- Anyone who works with vulnerable adults directly, or who has or potentially has unsupervised access to vulnerable adults through their role, is now required to be cleared for such work based on a criminal record check as prescribed by the CRRA.
- The list of relevant/specified offenses in the CRRA has been expanded to include offenses that could pose a risk to vulnerable adults, as well as to children. This includes financial offences such as theft and fraud, as well as sexual, drug and violent offences.
- Anyone working with vulnerable adults must undergo a re-check every five years.

Q11. What are service providers' responsibilities for the CRRA check?

A11. The CLBC policy is identified as a service requirement in the Service Terms and Conditions of service provider's agreements with CLBC. Service providers must meet the requirements of the CLBC policy and fulfill the responsibilities required of organizations under the CRRA as follows:

- Service providers must ensure that they and all other persons who may work with or have unsupervised access to vulnerable adults, as defined in the CRRA, complete the *Consent to a CRIMINAL RECORD CHECK* form and forward it to the MPSSG.
- Persons doing this for the first time must produce two pieces of valid current identification, one of which must be government-issued and include the employee's name, date of birth, signature and photo (e.g. Driver's License).
- Anyone working with vulnerable adults who is charged with or convicted of an offence listed in the CRRA, at any time after completing the CRRA check, must promptly report the charge or conviction to CLBC, and submit a new, signed *Consent to a CRIMINAL RECORD CHECK* form.

- Service providers must ensure the required actions are taken as outlined in the legislation and the CLBC policy.

Q12. What are service providers' responsibilities for the driver's abstract requirement?

A12. The service provider will request and review driver's abstracts when transportation may be part of the person's duties. The service provider will need to review abstracts where a personal driver's abstract shows one or more driving offenses and determine if the offense is serious enough to render the person unsuitable to transport individuals supported by CLBC.

Q13. What is the MPSSG fee for the criminal record check and what is the fee for a driver's abstract from ICBC?

A13. The MPSSG fee is \$20.00 per criminal record check as of April 2011. There is no fee for a personal driver's abstract.

Q14. How will CLBC inform service providers of the changes to policy?

A14. CLBC will inform service providers by:

- providing *Questions and Answers* to answer questions about the policy and the changes to the CRRA
- sharing information regionally with service provider groups
- providing information to the CEO Network and CLAN
- posting information on the CLBC website
- updating Service Terms and Conditions in service provider's agreements with CLBC

Q15. Are there different responsibilities for Direct Funding Agents?

A15. For additional information about Direct Funding Agents' responsibilities, see page 6.

Q16. Are there different responsibilities for Home Sharing Providers?

A16. For additional information about Home Sharing Providers' responsibilities, see page 7.

For more information on the criminal records review process, see:

<http://www.pssg.gov.bc.ca/criminal-records-review/index.htm>

For the *Consent to a CRIMINAL RECORD CHECK* form, see:

<http://www.pssg.gov.bc.ca/criminal-records-review/shareddocs/consent-form.pdf>

To request a personal driver's abstract (National Safety Code) from ICBC (form MV2520) see:

<http://www.icbc.com/driver-licensing/driving-record>

If you have any questions, please contact your analyst.

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Additional Questions for Direct Funding Agents

Q1. What responsibilities does the Agent for a Direct Funding Agreement have under the CLBC policy?

A1. The Agent is responsible for:

- ensuring the criminal record check process is completed for any person , who is required to by the policy, **before** they start working with an individual and at least every five years thereafter
- documenting, reviewing and acting on criminal record check results for any person working with an individual
- ensuring that the personal driver's abstract is submitted and reviewed where transportation is part of the person's duties

CLBC has prepared a *Criminal Record Check and Driver's Abstract Checklist* to assist with completing this process. A copy of the checklist is available from your analyst.

Q2. Do Agents for Direct Funding Agreements need to ensure criminal record checks are completed for respite providers?

A2. Yes, the CRRA and CLBC policy do not exempt anyone who works with vulnerable adults from the criminal record check process. Criminal record checks are required regardless of the amount of funding that CLBC provides through the Direct Funding Agreement and regardless of the type of service that the funding is used for.

If you have any questions, please contact your analyst.

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Additional Questions for Home Sharing Providers

Q1. How is the criminal record check process completed for Home Sharing Providers and other adults who live in the home?

A1. The analyst will contact Home Sharing Providers to ensure they complete this process. The analyst is responsible for maintaining records and receiving and reviewing criminal record checks for the Home Sharing Provider and for any person aged 18 and over living on the same premises as an individual in a CLBC funded Shared Living arrangement.

Q2. What responsibilities does the Home Sharing Provider have under the CLBC policy?

A2. The Home Sharing Provider is responsible for:

- ensuring the criminal record check process is completed for any person, who is required to by the policy, **before** they start working with an individual and at least every five years thereafter
- documenting and reviewing criminal record check results for any person working with an individual
- ensuring that the person's driver's abstract is submitted and reviewed where transportation is part of the person's duties

CLBC has prepared a *Criminal Record Check and Driver's Abstract Checklist* to assist with completing this process. A copy of the checklist is available from your analyst.

Q3. Do Home Sharing Providers need to ensure that criminal record checks are completed for other individuals who are accessing CLBC funded services within their home?

A3. No. The CRRA and this policy do not require a criminal record check to be completed for other individuals who are accessing CLBC funded services within the same home.

Q4. Who is responsible for paying the \$20 fee?

A4. The Home Sharing Provider is expected to pay this fee and should collect it from persons who are completing the process at their request.

If you have any questions, please contact your analyst.