



SCREENING MEASURES GUIDELINES

**for Staff & Volunteers in Positions of Trust
at the Multiple Sclerosis Society of Canada**



INTRODUCTION

The following guidelines were developed to help chapters, divisions and national staff & volunteers understand the principles of the National Screening Policy, as one measure of “*duty of care*” and, additionally, how to apply these practices in the recruitment, selection and ongoing reporting of both staff and volunteers.

These guidelines will also assist in illustrating the risk principles on which this screening policy is based. The guidelines however, cannot cover all aspects of risk management and specific questions and circumstances should be directed to your senior manager or an approved screening administrator. The Human Resources team are also resources for you with respect to ensuring compliance to the screening policy.

STATEMENT OF COMMITMENT

The Multiple Sclerosis Society of Canada has a legal and ethical duty to care for and protect those affected by our work. We are duty-bound and held legally responsible for ensuring that reasonable measures are taken to ensure this safety.

We are committed to ensuring that we provide background checks that meet provincially legislated human rights standards as well as provincial privacy laws and the federal Personal Information Protection and Electronic Documents Act (PIPEDA) across the country. In addition, all screening measures, including background checks, will be consistent with the privacy and confidentiality policy of the Multiple Sclerosis Society of Canada. This will ensure a fair and equitable process for all.

Adopting a screening policy advises the community at large that the MS Society of Canada’s responsibility to offer a safe environment is taken seriously.

SCREENING AND THE LAW

1. BILL C-45 (Section 217.1 in the Criminal Code)

Bill C-45, also known as the “Westray Bill”, reflects an amendment to the criminal code wherein individuals and organizations can be held criminally as well as civilly liable for the actions (or inactions) of those acting on their behalf. The amendment states that:

“Everyone who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.”

2. DUTY OF CARE

The *Duty of Care* is a legal principle that identifies the obligation of individuals and organizations to take reasonable measures to care for & protect the public to an appropriate level or standard. The standard is often the level of care that a reasonably prudent person would exercise in a similar situation. This principle applies to all staff & volunteers and conducting background checks, where appropriate, is one way of ensuring we meet the necessary standard of the *Duty of Care*.

3. VICARIOUS LIABILITY

As an organization, we are also responsible for not only our actions, but the actions of our staff & volunteers. If a court finds that the MS Society of Canada could have done more to ensure the safety of our primary clients, we could be held *vicariously liable*. One of the best protections against *vicarious liability* is ensuring appropriate screening measures are in place and background checks are conducted on staff & volunteers in *positions of trust* within the MS Society of Canada.

ROLE OF EFFECTIVE SCREENING

Effective screening of staff & volunteers is now widely accepted as an essential part of human resources management and volunteer management throughout the non-profit sector. We have learned that compensation is irrelevant to the potential for breach of trust, and volunteers are being held to the same screening standards as those being applied to staff.

Over the past decade, nonprofit organizations, and in particular those serving vulnerable persons have begun to pay closer attention to their candidate selection, the training and placement process as well as an ongoing reporting protocol. While not foolproof, more thorough screening has become a fundamental component of overall organizational risk management.

The screening process can:

- Reduce the risk of potential harm and/or abuse towards clients
- Address negative public relations resulting in loss of public trust
- Address allegations of discrimination or negligent hiring
- Identify a protocol for reducing organizational liability and negative public exposure
- Meet requirements as part of Bill C-45 legislation (Section 217.1 in the Criminal Code)
- Demonstrate due diligence on the part of the Society in taking a proactive approach through the recruitment & selection process
- Reduce the likelihood of fraud or theft

Screening begins with the development and/or updating of a job (staff) or position (volunteer) description and ends only when that position is no longer required. Screening is not about individuals. It is about creating and maintaining a safe environment as possible through careful matching of tasks and skills and accompanied by ongoing training and reporting.

SCREENING REQUIREMENTS

The MS Society of Canada requires the following for all staff & volunteers in *positions of trust*.

- A. Any new employee or volunteer entering into a *position of trust* must complete the appropriate background check as a condition of their employment or placement.
- B. Any current employee or volunteer transferring into a *position of trust* must complete the appropriate background check as a condition of their employment or placement.

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- C. Any employee or volunteer whose current position develops into a *position of trust* must complete the appropriate background check as a condition of their employment or placement.

For both B & C, the individual will be given 30 days to complete the appropriate background check. Failure to comply with the necessary background check could result in termination.

Background checks for staff & volunteers in *positions of trust* are required every five (5) years.

SCREENING PROVIDER

We have partnered with BackCheck to conduct background checks on staff & volunteers in *positions of trust*.

BackCheck is a Canadian owned and operated company specializing in pre-employment background checks. They are Canada's leading provider of pre-employment due diligence services for thousands of clients coast to coast in both official languages.

This agency was carefully selected and will deliver nation-wide, quality service with efficient turnaround time, a straightforward process, as well as provide trustworthy and confidential information.

Service delivery will be closely monitored in order to ensure success in service information, fairness and adherence to privacy and human rights legislation.

Backcheck offers the following:

1. *Name Based Criminal Record Verification (applies to all positions of trust in CS)*. This service will access the following information obtained from the Canadian Police Information Centre (CPIC):
 - Record of criminal conviction(s), as the record exists on the date of search;
 - Convictions where a pardon has not been granted;
 - Absolute and conditional discharges where not prohibited by legislation;
 - Judicial orders (i.e. Probation orders and prohibition orders under the Criminal Code of Canada)

2. *Credit Bureau Inquiry (applies to select positions only)*. This service consists of an inquiry by BackCheck to Transunion, one of Canada's major credit bureaus in order to obtain the individual's credit report. The credit report contains five key areas of information:
 - Identifying information- names and aliases, date of birth, social insurance number, address and employment history
 - Financial information- financial accounts (credit cards, loans, installment plans etc.) and the payment history for those accounts
 - Public Records- registered items, bankruptcies, and legal items
 - Collections- information regarding delinquent accounts which have been sent to collection
 - Banking items- information regarding any fraudulent activity as reported by the individual's financial institution

Please note: A credit bureau history inquiry is considered a soft credit inquiry, meaning it does not affect the individual's credit rating and/or credit score.

3. *Driver Abstract (applies to staff & volunteers who transport clients on behalf of the Society).*

To warrant this service, the job/position description for the staff/volunteer must indicate that they are responsible for transporting clients as part of their position. This service reveals complete driving records including all impaired charges, speeding and other driving offenses.

4. *Credential Verification*

Some positions require specific certifications or current memberships as a condition of employment and/or placement. This service allows us to confirm these requirements.

Please consult the “*Screening Measures Matrix for Staff & Volunteers in Positions of Trust at the MS Society of Canada*” for more information.

SCREENING ADMINISTRATORS

Screening Administrators are individuals who are authorized by the MS Society to carry out the following responsibilities:

- Ensures up-to-date job or position descriptions are maintained for *positions of trust* and include standardized wording regarding the screening requirement (wording can be found in the next section: *Screening and the Recruitment Process*)
- Informs & obtains consent for screening, where necessary, for all *positions of trust*
- Ensures staff & volunteers in *positions of trust* are screened upon entry and every 5 years thereafter
- Remains aware of any changes in scope to volunteer and staff positions relative to the *positions of trust* criteria and immediately modifies screening processes and documentation to address these changes
- Ensures that appropriate communication of the screening measures is available
- Reviews all *positions of trust* to ensure compliance with the Society's screening policy
- Attends screening administrators training as required
- Continues to assess strategies which reduce risk for high-risk activities, where possible

SCREENING AND THE RECRUITMENT PROCESS

When filling a *position of trust* (staff or volunteer), the following steps must be taken:

- Ensure the following wording regarding the screening requirement is referenced in the posting and the job or position description (if applicable).

This position is a position of trust. The incumbent will be required to complete the screening process including completion of appropriate background checks in compliance with the National Screening Measures Policy Direction (2015).

- Inform potential candidates during the recruitment process that a background check is a condition of employment or placement
- Identify the preferred candidate and conduct professional reference checks

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- If satisfied with the results of the professional reference checks, a conditional offer can be presented to the candidate. The conditional offer must be contingent upon successful background checks.
 - Forward the National Screening Policy to the candidate. Ask them to scan and submit, by email, 2 pieces of government-issued identification
 - Submit a request BackCheck to initiate the background check process

Please be advised that BackCheck is unable to process criminal record verifications for individuals under the age of 18 to align with CPIC policy. The laws pertaining to adolescents dictate that the police can only release a record directly to them and only with the consent of a parent or guardian. As a result of this requirement BackCheck cannot process the check on our behalf. If you have an individual under the age of 18 in a position of trust, the only option is to ask them to visit their local police station and request a report. The return time for this report will vary depending on your location (and could take several weeks). This report must be presented to you as proof of completion and a copy must also be sent to HR for tracking purposes. The cost of this report will be covered by the national office.

SCREENING & DECLARED OFFENCES

The BackCheck consent form includes a section for declared offences and allows the individual to disclose any past indiscretions which may result in an unclear result. It seems reasonable to assume that the unclear result comes from the declared offences however, it is important to understand that by declaring a lesser offence, a greater offence can be hidden.

For example, an individual informs you that they know their background check will be returned unclear as they were charged with drunk driving in 2007. They declare this offence on the consent form and, as suspected, the report comes back unclear. You review the job responsibilities and note that the individual will not be responsible for transporting clients and decide to move ahead with the hire and/or placement. What you don't know is that the individual was also charged with assault in 2010. By declaring the lesser offence, the individual was able to hide the greater offence.

The only way to ensure the individual has declared all offences is to complete a fingerprint comparison.

Any individual declaring an offence will be automatically required to complete a fingerprint comparison in lieu of our standard criminal background check through BackCheck. This requirement will need to be satisfied prior to employment and/or placement with the Society.

By eliminating the standard criminal background check administered by BackCheck, we are cutting costs and avoiding delays.

In order to complete this requirement, the individual will need to proceed to a local police station that administers background checks via fingerprinting. The final report will then be delivered to the individual and they will be responsible for presenting it to the hiring manager. The final report will be adjudicated by the HR department and the hiring manager.

Please note that the wait time for a fingerprint comparison will vary based on your location.

REPORTING PROCESS

All background check reports are considered highly confidential and will be returned to the HR department. Once the report is returned, the HR department will notify the appropriate screening administrator and track the date of completion. Screening administrators are not responsible for tracking results and/or completion dates. More information regarding the tracking process can be found in the next section.

All unclear background checks are returned to Human Resources wherein they will be adjudicated based on legal counsel review. Where appropriate, this will then be discussed with the immediate supervisor, the screening administrator and/or individual in a *position of trust* depending on the nature of the circumstances.

After the background check has been submitted and results have been received, the screening administrator must destroy (i.e. shred) any corresponding forms as well as any copies of personal identification. A record will be maintained for 7 years at BackCheck in keeping with federal legislation.

TRACKING

The HR department will be responsible for tracking results and completion dates for all background checks completed through BackCheck.

In January of each year, HR will issue a report of required renewals for the upcoming calendar year to the appropriate screening administrator. From here, the screening administrator will be responsible for contacting the individual and ensuring the renewal is processed within 30 days of the original screening date.

PAYMENT FOR SCREENING

All costs associated with screening for *positions of trust*, including costs associated for any local police checks for those under the age of 18, will be covered by the national office.

CRITERIA FOR PRECLUSION OF HIRE

The following criminal convictions, unless pardoned, **do not** qualify for hire/placement (staff or volunteer) at the MS Society.

Involving a violent act	Anyone who has been has been convicted of a violent crime against another person.
Involving Weapons Offences	Anyone who has been convicted of a crime involving weapons
Involving Controlled Drugs and Substances	Anyone who has been convicted of dealing (selling). Anyone who has been convicted with possession of controlled drugs and substances within past five years.
Involving Alcohol	Anyone who has been convicted of crimes involving alcohol within the past five years.
Involving Theft without violence	Anyone who has been convicted of a crime involving theft over \$5,000. Anyone who has been convicted of a crime involving theft under \$5,000 within five years.
Involving child abuse	Anyone who has been convicted of abusing a child physically, emotionally or sexually. Pardons do not affect this exclusion (Bill C-7).

Other types of criminal convictions will be assessed on an individual basis in order to determine whether they are sufficiently related to the position being performed and/or whether employment/placement of the individual could result in prejudice to the MS Society. Factors to consider include, but are not limited to, the position being applied for, the nature of the conviction, the length of time since conviction.

FINALIZING THE SCREENING PROCESS

Upon completion of the appropriate background check, the following steps should be applied:

Check Comes Back Clear (No Record of Convictions):

- *New employees/volunteers:* confirm the offer in writing and proceed in the hiring process
- *Existing employees/volunteers:* confirm the completion of the process
- Destroy request & consent forms as well as copies of ID (hard & soft copies)

Record (conviction does not contravene preclusion of hire criteria for the Society):

- The file will be reviewed by Human Resources and legal counsel as required
- *New employees/volunteers*: confirm the offer in writing and proceed in the hiring process
- *Existing employees/volunteers*: confirm the completion of the process
- Destroy request & consent forms as well as copies of ID (hard & soft copies)

Record (conviction contravenes preclusion of hire criteria for the Society):

- The file will be reviewed by Human Resources and legal counsel as required
- *New employees/volunteers*: rescind the conditional offer and discuss the rationale and the MS Society's preclusion of hire criteria. Follow-up with a letter, written by HR, to confirm the retraction of the offer. Ensure that a copy of the finalized letter is sent to HR (complete with the hiring manager's signature).
- *Existing employees/volunteers*: Discuss the matter with the individual in cooperation with HR
- Destroy request & consent forms as well as copies of ID (hard & soft copies)