



## Policy #13

Revision date: July 2019  
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### Whitestone After-School Program

## Criminal Reference Check Policy

### Purpose

The purpose of this policy and the procedures outlined is to provide clear and transparent rules and processes for regularly collecting and using information in police record checks, offence declarations and attestations for Program Providers, students and volunteers and other persons who provide child care and other services to children.

This policy is intended to help protect the health, safety and well-being of children, families and those involved with the After School Program by setting out measures to verify that individuals involved in providing child care in positions of trust are not prohibited doing so under the *Child Care and Early Years Act, 2014* (CCEYA) and do not have a criminal history that may put children in care at risk.

This policy sets out additional measures to protect children while a vulnerable sector check is being obtained, which help to reduce risk where there is a gap between the time an individual starts interacting with children and the time they provide their vulnerable sector check (VSC).

This policy is intended to fulfill the obligations set out under Ontario Regulation 137/15 for staff screening and police record checks for a child care centre.

Note: definitions for terms used throughout this policy are provided in a Glossary at the end of the document.

## Policy

### Vulnerable Sector Checks (VSCs)

- **Whitestone After-School Program** will obtain a VSC from the following individuals in accordance with the timelines indicated below.

Individual	Timeline
Program Providers, volunteers and students on placement who interact with children	<ul style="list-style-type: none"><li>• Before interacting with children;</li><li>• On or before the 5th anniversary after the date the most recent VSC;</li><li>• After any break in the relationship with the licensee that has lasted 6 or more months, <u>before the relationship resumes</u>; and</li><li>• After any break in the relationship with the licensee that has lasted less than 6 months, only if a VSC would have been required during the break, <u>before the relationship resumes</u>.</li></ul>

- All VSCs will be reviewed by Municipality of Whitestone to ensure that they are:
  - conducted by a police force from the city or town in which the person lives, where applicable;
  - prepared no earlier than six months before the day it was obtained by the child care centre, for employees (see exception below for students and volunteers);
  - the original documents (i.e. not a photocopy, see exception below for students and volunteers);
  - not altered;
  - clear and legible;
  - provided in English (otherwise a certified translated copy into English must be provided);
  - complete (i.e. no information missing or cut off);
  - inclusive of all information required about Criminal Code (Canada) convictions as set out in section 9 of the CCEYA.
- The following exceptions will apply to volunteers and students on placement only:
  - VSCs for volunteers and students on placement that are performed more than six months before the day they are provided to the Municipality of Whitestone will be accepted as long as the VSC is less than five (5) years old from the date it was performed. In these cases, the volunteer/student will also be required to provide the Municipality of Whitestone with an offence declaration addressing the period since the day the VSC was performed.
  - The Municipality of Whitestone will accept a photocopy of a VSC from a volunteer or student as long as it is less than 5 years old from the date was performed.

- A criminal record check (CRC) will only be accepted in the place of a VSC where:
  - any statute of Ontario or Canada prohibits the disclosure of information contained in a VSC in respect of a person (e.g. information about persons under 18 years of age, pardoned offences, etc.);
  - a police service will only issue a CRC, not a VSC, for an individual; and/or
  - a licensee is a corporation and the director or officer does not interact with children at the child care centre.
  - A Criminal Record and Judicial Matters Check will be accepted in place of a CRC but will not be accepted in place of a VSC.
- Any person who turns 18 while in a position where they interact with children at the child care centre will be asked by the Municipality of Whitestone to provide a statement disclosing every previous finding of guilt under the Youth Criminal Justice Act (YCJA) if they received an adult sentence. Where the individual confirms that there are no such findings, the Municipality of Whitestone will document the request and the individual's confirmation in their file.
  - Any person who turns 19 while in a position where they interact with children at the child care centre will be asked by the Municipality of Whitestone to apply for a VSC within one month after their 19<sup>th</sup> birthday. That person must provide the child care centre with evidence that they have submitted a VSC application.
  - All VSCs provided to the child care program must be intended for the position that the individual will hold (i.e. employee and volunteer positions). Where the VSC has not been provided for the correct position, it will not be accepted.
  - There will be no exceptions made for individuals to obtain a criminal reference check (e.g. for medical reasons).

## Offence Declarations (ODs)

- The Municipality of Whitestone is responsible for obtaining an OD from the following individuals in accordance with the timelines indicated below.

Individual	Timeline
Program Providers Volunteers Students (including international students)	<ul style="list-style-type: none"> <li>Annually, no later than 15 days after the anniversary of the most recent VSC or OD;</li> <li>Where a VSC has been provided by a student or volunteer that is more than 6 months old and less than 5 years old before the individual starts interacting with children; and</li> <li>After any break in the relationship with the licensee that has lasted less than 6 months, only if an OD would have been required during the break, <u>before the relationship resumes.</u></li> </ul>
Other persons who provide child care or other services to children at the After School Program	<ul style="list-style-type: none"> <li>if an attestation is not otherwise provided, prior to interacting with children; and</li> <li>annually, no later than 15 days after the anniversary date of the most recent OD or attestation (if the person continues to provide such child care/other services).</li> </ul>

- ODs will be obtained from the individuals mentioned above every calendar year except if the individual has to provide a VSC that year.
- Any individual from whom the After-School Program is required to obtain a VSC must provide ODs to the Municipality of Whitestone at the child care centre as soon as reasonably possible any time they are convicted of any offence under the Criminal Code (Canada).
- The template labelled **Appendix A** shall be used for the Offence Declaration.
- The Municipality of Whitestone CAO/Clerk or designate who received an OD from an individual will review it and keep it on file at the Municipal Office in a secure location for three years after it was created.

## Attestations

- The Municipality of Whitestone CAO/Clerk or designate is responsible for obtaining an attestation from the following individuals in accordance with the timelines indicated below.

Individual	Timeline
Other persons who provide child care or other services to children at the child care centre	<ul style="list-style-type: none"> <li>If an offence declaration is not otherwise provided, prior to interacting with children; and</li> <li>Annually, no later than 15 days after the anniversary date of the most recent OD or attestation (if the person continues to provide such child care/other services).</li> </ul>

- All attestations will be from the person's employer or the person/entity who retained the person's services (e.g. a child's parent).
- The template labelled **Appendix B** shall be used for the Attestation.
- The Municipality of Whitestone CAO/Clerk or designate who received an attestation from an individual will review it and keep it on file at the Municipal Office in a secure location for three years after it was created
- Where an individual need to keep their original attestation, the Municipality of Whitestone CAO/Clerk or designate will review the attestation and create a true copy to keep on file at the child care centre.

## Using Information Revealed in a VSC, OD and/or Attestation and Confidentiality

- No individual will be accepted as a Program Provider, as a volunteer or student, or be allowed to otherwise interact with children at Municipality of Whitestone After School Program if their VSC, OD and/or attestation reveals any of the following findings:
  - Any conviction for an offence under the CCEYA;
  - Any conviction under the following sections of the *Criminal Code* (Canada):
    - Section 151 (sexual interference);
    - Section 163.1 (child pornography);
    - Section 215 (duty of persons to provide necessities);
    - Section 229 (murder); and/or
    - Section 233 (infanticide);
- In addition, a person with other convictions under the Criminal Code (Canada) for offences that pose a high risk to the health, safety and well-being of children, families and other representatives of the child care centre will not be hired or kept as an employee, accepted or kept as a volunteer or student, or be allowed to otherwise interact with children at the child care centre. These include, but are not limited to:
  - Physical or sexual abuse or assault;
  - Manslaughter;
  - Indictable criminal offences for child abuse;

- Convictions for any violent offence, whether or not it involved weapons;
  - Offences which indicate a pattern of behavior which could create risk in terms of the role the individual is expected to play; and
  - Current prohibitions or probation orders forbidding the individual to have contact with children under 16 years of age.
- Any person with a work permit or work visa that indicates that the individual is not permitted to work with children will not be hired or kept as an employee, accepted or kept as a volunteer or student, or be allowed to otherwise interact with children at the child care centre.
  - Information about an individual’s criminal record and history will be treated confidentially and every effort will be made to protect the privacy of staff, students, volunteers and any other person mentioned in this policy except when information must be disclosed for the purpose of implementing the procedures in this policy and for legal reasons (e.g. to the Ministry of Education, College of Early Childhood Educators, law enforcement authorities or a Children’s Aid Society).
  - All CRCs, VSCs, ODs, attestations and statements of findings of guilt under the YCJA will be kept at the Municipal Office in a secure location.

**Additional Measures to Protect Children**

- Where appropriate, a person who has not provided a VSC will not be allowed to start their contract or volunteer position, or otherwise start interacting with children.

**Police Record Check Procedures**

Action	Process and Responsibilities
A) Obtaining a PRC (i.e. VSC or CRC as applicable)	<ol style="list-style-type: none"> <li>1. The person from whom a PRC is required must:               <ol style="list-style-type: none"> <li>i. apply for a PRC from the local police department where the individual resides, submit the required fee for a PRC; and</li> <li>ii. provide the evidence of application (where there is a delay in processing the application) to CAO/Clerk or designate; or</li> <li>iii. provide the original PRC to designate for review prior to starting the position or otherwise interacting with children, or within [time period] if the person has been allowed to start their position or interact with children.</li> </ol> </li> <li>2. Upon receipt of a PRC, the CAO/Clerk or designate must:               <ol style="list-style-type: none"> <li>i. confidentially review the PRC to ensure that it meets the requirements outlined in this policy;</li> <li>ii. where the individual needs to keep their original PRC, create a true copy of the document to keep on file at the child care centre for three years after the true copy was created; and</li> </ol> </li> </ol>

Action	Process and Responsibilities
	<ul style="list-style-type: none"> <li>iii. place the PRC (original or true copy, where applicable) in a secure location at the Municipality of Whitestone Office with limited access.</li> </ul> <p>3. 6 months before a new VSC is required, the CAO/Clerk or designate must:</p> <ul style="list-style-type: none"> <li>i. notify the individual(s) who need to provide a new VSC in writing and require them to apply for a new VSC; and</li> <li>ii. obtain a new VSC from the individual(s) no later than 15 days after the 5-year anniversary date of the most recent VSC.</li> </ul> <p><b>How to create a true copy of a PRC:</b></p> <ul style="list-style-type: none"> <li>1. Make a complete and legible photocopy of the original PRC;</li> <li>2. Make a true copy statement on the photocopy by: <ul style="list-style-type: none"> <li>i. Writing “Original received and reviewed by:” and printing the full name of the individual who received and reviewed the original PRC;</li> <li>ii. Writing “Date received and reviewed:” and printing the full date the PRC was received and reviewed; and</li> <li>iii. Signing the true copy statement (the signature must be that of the individual who received and reviewed the PRC).</li> </ul> </li> </ul>
B) Submitting an Offence Declaration	<p>The CAO/Clerk or designate must:</p> <ul style="list-style-type: none"> <li>i. Make the OD template available at all times at the Municipality of Whitestone Office to individuals who are required to complete an OD; and</li> <li>ii. When the anniversary date for a previous OD is approaching provide a reminder to the individual in writing and the OD template.</li> </ul> <p>The individual who is required to provide an OD must:</p> <ul style="list-style-type: none"> <li>i. Complete Appendix A;</li> <li>ii. Provide the completed OD to designate no later than 15 days after the anniversary date of the most recent OD.</li> </ul> <p>Upon receipt of an OD, designate must:</p> <ul style="list-style-type: none"> <li>i. Confidentially review the OD to ensure that it meets the requirements outlined in this policy; and</li> <li>ii. Place the OD in a secure location at the Municipality of Whitestone Municipal Office with access limited.</li> </ul>

Action	Process and Responsibilities
C) Obtaining an Attestation	<p>The CAO/Clerk or designate must inform any 'other person' that an attestation is required prior to interacting with children.</p> <p>Upon receipt of an attestation, the CAO/Clerk or designate must:</p> <ul style="list-style-type: none"> <li>i. Confidentially review the attestation to ensure that it meets the requirements outlined in this policy; and</li> <li>ii. Place the attestation in a confidential file in a securely locked cabinet with access limited to the licensee or designate only.</li> </ul>

Where the immediate health and safety of the children are a concern (e.g. a PRC, OD or attestation reveals that an individual has been convicted of child pornography), the licensee or designate will:

- follow the serious occurrence policies and procedures;
- notify the local Children’s Aid Society immediately in accordance with “duty to report” obligations under the Child and Family Services Act or subsequent legislation; and
- notify other authorities (e.g., College of Early Childhood Educators, Consolidated Municipal Service Manager/District Social Services Administration Board, local police service, local public health, etc.), as applicable.

## Glossary

*Attestation:* A written declaration provided for an 'other person' who provides child care or other services to children in a child care centre, completed by the person’s employer or the person or entity who retained the person’s services (e.g. a parent/guardian of a child). See the Attestations section of this policy for information on what needs to be included in an attestation.

*Break in a Relationship with the Licensee:* The ending of a relationship between the licensee and an individual from whom a VSC is required (i.e. employee, student or volunteer) that is later restarted. Examples of breaks in relationship include, but are not limited to:

- The end of an employee’s contract and the start of a new contract after a period of time has passed.
- A student’s placement ends and the student is hired as an employee the following week.
- A volunteer completes their volunteer hours and starts volunteering again after a period of time has passed.

Breaks in relationship do not include vacations, parental leaves or sick leaves where the person intends to return to their position after a period of time.



*Certified Translated Copy:* A copy of a police record check that is signed and dated by a translator certified with a body belonging to the Canadian Translators, Terminologists and Interpreters Council (CTTIC), that certifies that the translated copy is a true copy of the original document.

*Police Record Check:* A document concerning an individual that was prepared by a police service or service from national data on the Canadian Police Information Centre system and contains information concerning the individual's personal criminal history. There are three types of police record checks: (1) Criminal Record Checks (2) Criminal Records and Judicial Matters Checks (3) Vulnerable Sector Checks.

(1) *Criminal Record Check (CRC):* A basic type of police record check that is not intended for people who are seeking positions working with vulnerable persons.

(2) *Criminal Records and Judicial Matters Check:* A type of police record check that may include criminal convictions, findings of guilt under the Youth Criminal Justice Act (Canada), outstanding charges, warrants and judicial orders, absolute discharges, conditional discharges and other records as authorized by the Criminal Records Act (Canada). This check is not intended for people who are seeking positions with vulnerable persons and cannot take the place of a vulnerable sector check.

(3) *Vulnerable Sector Check (VSC):* An enhanced type of criminal record check for persons who may hold positions of trust or authority over vulnerable persons, that is performed at the request of an organization responsible for the well-being of a child or vulnerable person to protect children and vulnerable persons, as governed by [section 6.3\(3\) of the Criminal Records Act \(Canada\)](#). A VSC verifies whether an individual has a criminal record and any record suspensions for sexual offences and local police records for information relevant to the VSC.

*Employee:* An individual paid directly by the licensee (not a third party) to provide a service in the child care program (e.g. program staff).

*Interacting:* To be or become involved in communication, social activity or work with somebody else or one another (Source: Encarta Dictionary). Examples of interactions with children include conversing, playing, directing, intervening, supervising or assisting in fulfilling their needs (e.g. food/drink consumption, toilet use).

*Licensee:* The individual or corporation named on the licence issued by the Ministry of Education responsible for the operation and management of the child care centre.

*Offence Declaration (OD):* A written declaration signed by an individual that lists all of their convictions for offences under the *Criminal Code* (Canada), if any, during the period stated in the declaration.

*Other person providing child care or other services to children at the child care centre ('other person')*: Any person who provides child care or other services to a child who receives child care at the child care centre, other than an employee, student or volunteer (e.g. resource teachers, nurses, occupational therapists, speech pathologists, entertainers, sport/activity instructors, etc.). This would not include Ministry of Education program advisors, fire/health inspectors, CAS investigators, quality assurance analysts or other inspectors.

*Student*: An individual who is on an educational placement with the child care centre and interacts with children in care.

*True Copy*: A photocopy or digital copy of an original document that is signed and dated by the individual who reviewed it, confirming that the original was reviewed and that the photocopy matches the original document. **True copies may be kept in hardcopy or electronically.**

*Volunteer*: An individual who participates in the child care program and interacts with children in care but is not paid by the licensee (e.g. parents assisting on an occasional or recurring basis with child care programming, such as excursions, field trips, etc.).

*Vulnerable Person*: A person who, because of his or her age, disability or other circumstances, whether temporary or permanent is:

- a) in a position of dependency on others; or
- b) is otherwise at a greater risk than the general population of being harmed by a person in a position of trust or authority towards them.

## **Regulatory Requirements: Ontario Regulation 137/15**

### **Policies and procedures re reference checks**

65. Every licensee shall ensure that there are written policies and procedures that address,

- (a) the process for obtaining a vulnerable sector check or attestation;
- (b) the process for submitting an offence declaration;
- (c) how the confidentiality of information contained in a vulnerable sector check, offence declaration or attestation will be protected;
- (d) the way in which any information revealed in a vulnerable sector check, offence declaration or attestation may be considered and used; and
- (e) the additional measures that will be put in place when a situation described in subsection 61 (1) occurs to protect the children who interact with the person until the vulnerable sector check is obtained, such as requiring the supervision of all interactions between the person and the children.

**APPENDIX A:** Offence Declaration

**APPENDIX B:** Attestation.