



Multiple
Sclerosis
Society of
Canada

Société
canadienne
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SCREENING PROCESS

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

INTRODUCTION

The following process document was developed to help staff & volunteers understand the principles of the Multiple Sclerosis Society of Canada's (MS Society) Screening Measures Policy Direction, 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.

This document will also assist in illustrating the risk principles on which this policy is based. However, it cannot cover all aspects of risk management and specific questions and circumstances should be directed to your leader or an approved screening administrator. The Human Resources (HR) team are also resources for you with respect to ensuring compliance to the screening policy.

STATEMENT OF COMMITMENT

The MS Society 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 screening that meets 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, including background checks, will be consistent with the privacy and confidentiality policy of the MS Society. This will ensure a fair and equitable process for all.

A screening policy advises the community at large that the MS Society'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 screening, where appropriate, is one way of ensuring we meet the necessary standard of the *Duty of Care*.

3. VICARIOUS LIABILITY

We are also responsible for not only our actions, but the actions of our staff & volunteers. If a court finds that the MS Society 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 directives are in place and background checks are conducted on staff & volunteers as detailed in the *positions of trust matrices*.

In addition to the matrices, **all staff are subject to a criminal background check as a condition of employment.**

ROLE OF EFFECTIVE SCREENING

Effective screening of staff & volunteers is widely accepted as an essential part of both human resources and the volunteer experience 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 screening standards equal to those being applied to staff.

Nonprofit organizations, and in particular those serving vulnerable persons need to pay close 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 MS 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

In order to identify the appropriate screening required for specific staff or volunteer roles, the MS Society has developed a Screening Measures Matrix for Positions of Trust. Within the Matrix, roles are assessed for the need of a credit bureau inquiry, credentials check and/or a vulnerable sector check. Because of the differences between staff and volunteer roles, two separate matrices were developed: Screening Measures Matrix for Staff in Positions of Trust and a Screening Measures Matrix for Volunteers in Positions of Trust.

The MS Society 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 screening as a condition of their employment or placement.
- B. Any current employee or volunteer transferring into a *position of trust* must complete the appropriate screening as a condition of their employment or placement.
- C. Any employee or volunteer whose current position develops into a *position of trust* must complete the appropriate screening as a condition of their employment or placement.

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

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

Again, all MS Society staff are required to have a criminal background check as a condition of employment.

SCREENING PROVIDER

We partner with a third-party provider to conduct screening for staff & volunteers.

Our current partner is a Canadian-owned and operated company specializing in pre-employment background checks. They are one of Canada's leading providers of pre-employment screening services for thousands of clients coast to coast to coast in both official languages.

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

Our partner offers the following:

1. *Name Based Criminal Record Verification (applies to all staff and select volunteer positions of trust).*
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).* This service consists of an inquiry by our partner 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:

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- 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. 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 in Positions of Trust at the MS Society of Canada and the Screening Measures Matrix for Volunteers in Positions of Trust at the MS Society of Canada*” for more information.

SCREENING ADMINISTRATORS

Screening Administrators are MS Society staff members who are authorized 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 staff & volunteers 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 MS Society's screening policy direction
- Attends screening administrators training as required
- Continues to assess strategies which reduce risk for high-risk activities, where possible

SCREENING AND THE RECRUITMENT PROCESS

Staff Positions

All postings for staff positions must include the following wording:

All staff positions within the MS Society of Canada require the successful completion of a criminal background check.

Where additional screening is required (as per the *Screening Measures Matrix for Staff in Positions of Trust*), the following wording must be referenced in the posting and in the job description .

This is a position of trust. The successful candidate will be required to complete a criminal background check as well as completion of a [insert appropriate screening requirements] in compliance with our Screening Policy Direction.

Following the review of applications, qualified candidates will be selected. Of those selected to advance in the recruitment process, the hiring lead will:

- Inform potential candidates during the recruitment process that a criminal background check (plus any other required screening) is a condition of employment.
- Identify the preferred candidate and conduct professional reference checks.
- A conditional offer can be presented to the candidate. However, the conditional offer must be contingent upon successful completion of the professional reference checks, a criminal record check and any additional screening requirements as per the *Screening Measures Matrix for Staff in Positions of Trust*.
- Coordinate the screening process.

Volunteer Positions

All postings for volunteers in positions of trust must include the following wording:

This is a position of trust. The successful candidate will be required to complete the screening process including completion of a [insert appropriate screening requirements] in compliance with our Screening Policy Direction.

Following the review of applications, qualified and suitable candidates will be selected. Of those selected to advance in the recruitment process, the hiring lead will:

- Inform potential candidates during the recruitment process that screening is a condition of placement
- Identify the preferred candidate and conduct appropriate reference checks (example: previous leadership, colleagues, professors, other organizations ... etc.)
- If satisfied with the results of the reference checks, the position can be presented to the volunteer but it will remain conditional until the successful completion of the required screening.
- Coordinate a request to our screening partner to initiate the screening process.

Our screening partner 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. If you are looking to hire an

individual under the age of 18, 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. **Note that the individual cannot begin employment or placement until this report is received.**

The invoice for this service can be submitted to myhr@mssociety.ca for reimbursement.

SCREENING & DECLARED OFFENCES

The screening questionnaire 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 2020. They declare this offence on the consent form and, as suspected, the report comes back unclear. You review the role responsibilities and note that the individual will not require a driver's licence 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 2018. 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 required to complete a fingerprint comparison. This requirement will need to be satisfied **prior** to employment and/or placement with the MS Society.

In order to complete this requirement, the individual will need to proceed to a local police station that administers screening 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 team and the hiring manager.

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

REPORTING PROCESS

All screening reports are considered highly confidential and will be returned to the HR department. Once the report is returned, the HR team 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 screening reports will be adjudicated by HR. Where appropriate, this will then be discussed with the leader and/or individual in a *position of trust* depending on the nature of the circumstances.

TRACKING

The HR team will be responsible for tracking results and completion dates.

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 HR.

CRITERIA FOR PRECLUSION OF HIRE- Criminal Check

The following criminal convictions, unless pardoned, **do not** qualify for hire/placement (staff or volunteers) 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 the 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 the past 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 pose a risk. 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 screening, 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

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

- The file will be reviewed by the HR team 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

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

- The file will be reviewed by the HR team 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

CRITERIA FOR PRECLUSION OF HIRE- Credit Check

There are 3 components to a credit report:

1. Banking Items
2. Trades
3. Bankruptcy, Collections & Legal Items

1. Banking Items

- Displays any improper banking activity. If there is an issue one of the following will be reported:
 - uncollected overdraft or charges
 - unacceptable ABM activity
 - stolen, forged, worthless, NSF cheques

2. Trades

- Information includes *Types of Accounts* and *Account Statuses*.

Types of accounts

1. **Revolving:** a credit card or line of credit, Balance and payments change with consumer use.
2. **Installment:** A loan. The balance is the amount still owing. An installment account always has a fixed payment frequency & amount.
3. **Open:** an account with a time limit. A cell phone contract, for example. Once the pre-determined time limit has expired, the account is closed.

Account Statuses

0: Too new rate/no payment have been made

01: Regular payments are being made

02: 30-59 days late

03: 60-89 days late

04: 90-119 days late

05: 120 or more days late but not yet rated "09"

07: Credit counselling; making regular payments under a consolidation order or similar agreement

08: Repossession

09: Bad debt write off. May or may not be passed onto a collection agency

3. Bankruptcy, Collections & Legal Items

Bankruptcy: A consumer is released of repaying what they owe. The process of filing for bankruptcy takes approximately 10 months. During this process, the status of the bankruptcy is "pending" and the consumer has not yet been released of the obligation to repay what they owe. Only when the status of the bankruptcy is "discharged", is the consumer released of the obligation to repay the debt.

Proposal: This is an alternate to bankruptcy. A consumer consolidates their debt and, through a trustee, pays back a portion of what is owed. Proposals have specific terms that require regular payments for a predetermined period. After all payments are made, a consumer is released from repaying the remainder of what is owed. A proposal can have the status "pending", "failed" or "satisfied".

Collections: Debt collection. A debt collection appears on a credit report when a third party company takes over an account to collect the outstanding balance. BackCheck identifies both paid and unpaid collection items as negative.

Legal Items: Court records involving a monetary amount. Items reported could range from small claims court to unpaid taxes to child support. Current balances are often not available.

CRITERIA FOR CONSIDERATION FOR PRECLUSION OF HIRE

Individuals with the following credit report infractions may not qualify for hire/placement into a paid or unpaid role that has direct access to funds, has signing authority for cheques or electronic transfers,

or creates financial statements (includes treasurer and chair of the board of directors of the MS Society).

Banking Items	Anyone who has committed 3 or more banking infractions within the past five years.
Trades	Anyone who has 1 or more active account statuses of 05 or above.
Bankruptcy	Anyone who has a bankruptcy status of “pending”. Anyone who has a bankruptcy status of “discharged” within the past 5 years.
Proposal	Anyone who has a proposal status of “pending” or “failed”. Anyone who has a proposal status of “satisfied” within the past 5 years.
Collections	Anyone undergoing active debt collection. Anyone who has satisfied a debt collection within the past 2 years.
Legal Items	Anyone who has an active legal item on their file.

Credit report comes back clear:

- *New employees/volunteers:* confirm the offer in writing and proceed in the hiring process
- *Existing employees/volunteers:* confirm the completion of the process

Credit report includes infraction that does not contravene preclusion of hire criteria:

- The file will be reviewed by the HR team and legal counsel as required

Credit report includes infraction that contravenes preclusion of hire criteria:

- The file will be reviewed by the HR team and legal counsel as required
- *New employees/volunteers:* if upon review it is determined that the infractions are serious enough to preclude hire or placement, we will rescind our conditional offer of employment, discuss the rationale and the MS Society’s preclusion of hire criteria. Follow-up with a letter to confirm the retraction of the offer. Ensure that a copy of the finalized letter is sent to HR.
- *Existing employees/volunteers:* each file will be reviewed on a case-by-case basis to determine next steps. If upon review it is determined that the infractions are serious enough to end employment or placement, a conversation will be had with the individual in cooperation with HR.