

GENERAL ADMINISTRATION MANUAL

VOLUME 3: HUMAN RESOURCE POLICIES

**TITLE: SECURITY CLEARANCES POLICY
(FORMERLY SECURITY CHECKS)**

**EFFECTIVE: December 5, 2001
(Amended: March 30, 2004; June 26, 2012)**

1.0 SCOPE

1.1 Authority

This policy is issued under the authority of Cabinet Minute #01-41, dated December 5, 2001 and, under the authority of Cabinet Minute #02-05, dated February 21, 2002, as amended by the Deputy Ministers' Review Committee on March 30, 2004 and June 26, 2012.

1.2 Application

1.2.1 This policy applies to all persons appointed pursuant to the *Public Service Act* and the *Education Act*. Employees occupying designated positions as of March 30, 2004 and who remain in those positions will not be required to undergo a further security clearance.

1.3 Definitions

1.3.1 "Security clearance" means a police records check and may include disclosure of pardoned sexual offences as outlined in section 1.4.3 in accordance with the *Criminal Records Act*.

1.3.2 "Designated position" means a position that is designated by a department as conforming to the principles outlined in section 1.4.3.

1.3.3 "Children" means persons who are less than 18 years of age.

- 1.3.4 “Vulnerable persons” as defined in section 6.3(1) *Criminal Records Act* means: persons who, because of their age, a disability or other circumstances, whether temporary or permanent, are:
- a) in a position of dependence on others; or
 - b) otherwise at a greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.
- 1.3.5 “Further information” means any additional information that is required by the RCMP which will enable them to complete a security clearance.
- 1.3.6 “Responsible staffing officer” means the employee with the delegated authority to staff the position.
- 1.3.7 “Successful applicant” means an individual who is selected for appointment to a position.
- 1.3.8 “Public property” means, for the purposes of this policy, all property, including public monies, belonging to the employer.

1.4 Purpose and Principles

- 1.4.1 The purpose of requiring a security clearance for designated positions is to minimize the likelihood of risk, damage, and injury to the public interest in general and specifically to the clients we serve.
- 1.4.2 The *Access to Information and Protection of Privacy Act* requires an individual’s consent to undertake a security clearance. The employer is responsible for maintaining the confidentiality of the information obtained from a security clearance. In order to safeguard individual privacy, security clearances will only be required when an individual will be offered a designated position or when an employee has been in a designated position for a period of time as determined by departmental policy.
- 1.4.3 A Department may require a satisfactory security clearance which may include disclosure of pardoned sexual offences, as a condition of employment where the position:
- 1.4.3.1 is one of authority or trust relative to children or vulnerable persons;
 - 1.4.3.2 requires a degree of trust in the delivery of client services and where the duties require:
 - a) primary responsibility for the personal care and/or custody of clients;
 - b) unsupervised access to private residences.

The frequency and duration of opportunities for unsupervised access/contact with the client will be considered when designating a position based on these criteria.

- 1.4.3.3 is in the area of law enforcement and responsibilities include laying charges, investigating offenses, or providing security for prisoners;
- 1.4.3.4 is responsible for security of public property and/or whose duties may regularly involve:
 - a) the exercise of significant control over the financial welfare of clients
 - b) investing public funds
 - c) handling convertible currency (cash, cheques, etc) in excess of \$1,000
 - d) providing loans or funding to the public

The nature of financial controls already in place will be considered when designating a position based on these criteria.

- 1.4.3.5 requires international travel.
- 1.4.4 A satisfactory security clearance check may include disclosure of pardoned sexual offences only when a position is one of authority or trust relative to children or vulnerable persons pursuant to section 1.4.3.1 above.
- 1.4.5 No position shall be designated where there is no direct relevance (i.e. *a bona fide occupational requirement*) to the position of a satisfactory security clearance.
- 1.4.6 Unless stipulated otherwise by departmental policy, a security clearance may be valid for up to 24 months.
- 1.4.7 A security clearance is valid only for similar positions. Where the positions are not similar, a new security clearance may be required.
- 1.4.8 A successful applicant may start work prior to the completion of a security clearance where operationally feasible.

2.0 ROLES AND RESPONSIBILITIES

2.1 Department

- 2.1.1 The Department will be responsible for identifying and designating positions requiring security clearances.
- 2.1.2 The Department will ensure that the requirement for a security clearance is listed as a mandatory condition of employment on job descriptions and statements of qualification for designated positions.
- 2.1.3 In the event that a successful applicant begins work prior to the completion of the security clearance process, the Department will ensure that the individual not be given unsupervised responsibility for the duties requiring the security designation until the security clearance has been completed and the conditional job offer has been confirmed.
- 2.1.4 The Department will ensure that a log book of all security clearances on behalf of the department is maintained such that an annual report of security clearance activity can be provided to the PSC. The Department will be responsible for ensuring that this log and any other administrative records regarding security clearances are kept in a confidential manner that conforms to the Access to Information and Protection of Privacy Act.
- 2.1.5 Each Department will prepare, as appropriate, procedures for the administration of subsequent clearances pursuant to section 1.4.2. which set out roles and responsibilities in keeping with the principles embodied in the policy and administrative procedures.

2.2 Deputy Head

- 2.2.1 The Deputy Head will review the implications of an unfavourable security clearance with the Director of Staff Relations on a case-by-case basis. This review will include but not be limited to:
 - a. the nature of the offence(s) and relevance to the duties and responsibilities of the position,
 - b. the length of time that has elapsed since the offence(s),
 - c. the employment history of the applicant or employee since the offence(s) occurred,
 - d. and any other factor deemed relevant.
- 2.2.2 If the results of the security clearance may not meet the condition of employment, the applicant or employee will be contacted by the Deputy Head and given the opportunity to see and discuss the findings in relation to the position.

- 2.2.3 The Deputy Head may delegate some or all of section 2.2.1 or section 2.2.2. responsibilities to the Department's Director of Human Resources (or comparable position).
- 2.2.4 The Deputy Head will make the final staffing decision in any situation involving section 2.2.1 and/or section 2.2.2 activity. The Deputy Head's staffing decision responsibility may not be delegated.

2.3 Responsible Staffing Officer

- 2.3.1 The responsible staffing officer will reaffirm the requirement for a security clearance during the interview. The responsible staffing officer will stipulate that a job offer for a designated position is conditional upon a satisfactory security clearance, which depending on the nature of the position, may include disclosure of pardoned sexual offenses.
- 2.3.2 The responsible staffing officer will provide the successful applicant with a consent-to-release form.
- 2.3.3 The responsible staffing officer will contact the successful applicant in the event that fingerprints are required to complete the security clearance.
- 2.3.4 The responsible staffing officer will make or confirm the job offer when the security clearance is deemed to have satisfactory results.

2.4 Successful Applicant

- 2.4.1 The successful applicant is responsible for ensuring that their role in the fingerprinting process is carried out as expeditiously as possible.
- 2.4.2 The successful applicant may indicate the existence of a security clearance completed within the previous twenty four months for the purposes of obtaining:
 - a. a designated position within the Government of Yukon; or
 - b. certification as a Yukon teacher.

2.5 Director, Staff Relations

- 2.5.1 The Director will provide advice and assistance to the Deputy Head where a criminal record exists. The purpose of the advice is to allow the Deputy Head to decide if the criminal record will prevent the candidate from being offered an appointment.

2.5.2 The Director will ensure that all information with respect to the criminal record is maintained in a totally confidential manner within the Staff Relations branch for a period of 24 months following which it will be sent to the Records Centre in accordance with the government's policy on records management.