

**Memorandum of Understanding between The Toronto Police Service
(hereinafter called the “Service”)**

and

(hereinafter called the “Agency”)

A. AUTHORITY FOR DISCLOSURE OF INFORMATION

Disclosure of information under this Memorandum of Understanding (the “Memorandum”) is authorized pursuant to section 32(b) of the *Municipal Freedom of Information and Protection of Privacy Act*, Revised Statutes of Ontario, 1990 chapter M. 56, as amended, as well as the Toronto Police Service policies and procedures.

B. DEFINITIONS

For the purpose of this Memorandum the following definitions apply:

- a) “Agency” – charitable or other organizations, including those funded or licensed by the Ministry of Community and Social Services, which provide services to children and vulnerable adults.
- b) “Children” – means persons who are less than 18 years of age.
- c) “Vulnerable Persons” – means persons who, because of their age, a disability or other circumstances, whether temporary or permanent,
 - i) are in a position of dependence on others; or
 - ii) are otherwise at a greater risk than the general population of being harmed by a person in a position of authority or trust relative to them.

C. PURPOSE

The purpose of this Memorandum is to set out terms and conditions for the disclosure of information by the Service to the individual. Any disclosure of information pursuant to this Memorandum shall only be for the purpose of assisting the Agency to determine the suitability of potential candidates for employment and/or volunteer duties, (including Agency Board Members and Contact members) having direct contact with children or vulnerable persons.

D. DISCLOSURE OF REFERENCE CHECK INFORMATION

Where the Agency requires reference checks from individuals applying for volunteer or employment opportunities (the “applicants”), the Service will only conduct reference

checks for an Agency with whom the Service has entered into a memorandum of understanding.

The Service will only disclose information obtained through a police reference check to applicants who execute a Consent to Disclosure form requesting and authorising disclosure of information to themselves.

The Service will not communicate the results of a reference check to the Agency.

E. HUMAN RIGHTS TRAINING

The Agency hereby certifies that at least one Agency member whose responsibilities include the review and assessment of the suitability of applicants for positions within the Agency has received training on the *Human Rights Code* and the Agency's obligations thereunder with respect to offering employment or volunteer opportunities, and has read the current Ontario Human Rights Commission policy (or policies) that are applicable to this issue.

The Agency states that its management (and human resources personnel, if any) have an understanding of the provisions in and implications of the *Human Rights Code* as it applies to hiring and/or approval of applicants and/or volunteers and a clear view of what constitutes a *bona fide* occupational or volunteer requirement to seek and receive information relating to *Mental Health Act* apprehensions.

The Agency undertakes to remain in continuous compliance with the obligations set out above throughout the term of this memorandum of understanding. If the Agency is not in compliance with these obligations, the Agency must notify the Service in writing in accordance with Section K and the Memorandum of Understanding shall be terminated.

In addition, the Agency states that it understands that the role of the Service is simply to provide information to an individual applicant. It is the sole responsibility of the Agency to assess the suitability of an individual for a volunteer or employment position.

F. ROLES AND RESPONSIBILITIES

The Agency agrees to the following.

- a) The Agency will submit a Consent to Disclosure form that has been signed by the applicant and witnessed by the Agency in writing. The Agency will provide the applicant with a copy of the signed Consent to Disclosure form.
- b) Before the applicant is asked to sign the Consent to Disclosure form, the Agency will provide each applicant with the opportunity to read the Service's "Information about the Vulnerable Sector Screening Program – Police

Reference Check Program for Individuals Seeking Volunteer or Employment Opportunities”. A copy is attached as Appendix A to this Memorandum of Understanding. Applicants should also be advised that information about the Police Reference Check Program is available on the Toronto Police Service website.

- c) The Agency will advise each applicant that the existence of information provided by the Service does not necessarily mean a disqualification from the position.
- d) The Agency understands the Service is only disclosing information based upon personal descriptors provided and cannot guarantee the screening process will identify all information concerning the individual.
- e) The Agency understands the Service is in no way making a recommendation on the suitability of the applicant for the position being sought.
- f) The Agency will be required to certify that there is a bone fide occupational and volunteer requirement for agencies to receive information relating to *Mental Health Act* apprehensions.
- g) If the Agency determines that information relating to apprehensions under the *Mental Health Act* is required for the volunteer or employment opportunity an applicant is being considered for, the Agency will require an authorized person within the Agency to indicate this on the Consent to Disclosure form and the applicant will be advised. The Agency understands that the Service will only include information, if any is found, relating to apprehensions under the *Mental Health Act* in the reference check provided to the applicant if this is done.
- h) The Agency will communicate directly with the applicant to obtain disclosure of the results of any police reference check provided to the applicant.
- i) The Agency will only ask applicants to submit applications for a police reference check if the Agency has already screened or evaluated the applicant for the position and has extended a conditional offer to the applicant for the position.
- j) If the Agency has multiple branch sites, the Agency agrees that it will process all requests for reference checks by applicants seeking volunteer or employment opportunities with their Agency centrally through their Head Office with an established contact person.
- k) The Agency will provide the Service with the name(s) of contact members (maximum of three) within the Agency to ensure consistent and accurate exchange of information and documentation. All Contact Members must

complete a Service Consent to Disclosure Form and the Service will conduct a Police Reference Check. The Service must be notified immediately when Agency contact members are changed. Notification must be made by written correspondence, accompanied by a completed Service Consent to Disclosure form executed by the new Contact Member proposed by the Agency.

- l) The Agency agrees that the Service will charge a fee of \$45.00 plus any applicable taxes to conduct a Police Reference Check on candidates for employment. The Service will charge a fee of \$15.00 plus any applicable taxes to conduct a Police Reference Check on volunteers, students, foster/adoptive parents, family members etc. There will be no charge for Agency Contact Members or Board members. These charges are subject to change at the discretion of the Police Services Board, and notification of changes will be by letter outside of this M.O.U.
- m) The Agency will ensure that current or prospective Agency Board Members having direct contact with children or vulnerable adults and the Executive Director of the Agency (or the person in the equivalent position of authority) consent to a Police Reference Check, and the Agency will ensure that steps are taken to have these Police Reference Checks carried out.
- n) The Agency agrees that the Service Consent to Disclosure form must be used for the purpose in section "C" of the Memorandum and that any misrepresentation on/or the alteration of the Consent to Disclosure form on the part of the Agency will result in immediate termination of service and notification to the appropriate governing body of the Agency.
- o) The Agency understands that information relating to an offence for which a pardon has been granted may be available to persons or agencies responsible for the well-being of children or vulnerable persons where the application relates to a position of authority or trust relative to those children or vulnerable persons, and where the applicant consents to release. However:
 - i) The applicant must provide fingerprints and consent to the dissemination of any pardon information located. If he/she fails to do so, the application will not be processed.
 - ii) Where requested by an eligible person/agency, and where consented to by the applicant, and after the applicant submitting to fingerprints and a consent form to the RCMP Identification Services in Ottawa, the Minister may provide pardon information to a police service for disclosure. The decision is that of the Ministry, and not the Police Service, it will subsequently be disclosed by the Police Service to the applicant.

Any person or agency who acquired pardon information shall not use it or communicate it unless and except in relation to the assessment of the applicant. (Reference: Section 6.3 of the *Criminal Records Act Ontario*).

Pardon information is generally not available in other situations.

(I) The Service upon receipt of a signed Consent to Disclosure form, will search the appropriate data banks both national and local, to which the Service has access, for information pertaining to the applicant and will, in addition:

- a) Provide any of the aforementioned information to the applicant based upon the name, date of birth and address provided;
- b) Make efforts to ensure the applicant is the subject of the information based upon the name, date of birth and address provided. It is recognized that positive identification for the purpose of determining criminal record information can only be confirmed through the submission of fingerprints; and
- c) Make efforts to ensure the applicant understands the information that is provided about him/her.

G. USE AND CONTROL OF INFORMATION BY AGENCY

In consideration of the disclosure of information by the service, if the Agency retains information, the Agency agrees to the following conditions for the use and control of such information:

- a) any dissemination or disclosure of the information shall only be for the purpose in section "C" of this Memorandum;
- b) the information provided will not be altered in any manner;
- c) the information shall be destroyed (shredded/mulched) after use or maintained in a such a manner to prevent unauthorized use; and
- d) Information relating to an offence for which a pardon has been granted shall not be used nor communicated by a person or agency receiving same, except in relation to the assessment of the application for the position (Reference: Section 6.3(7), *Criminal Records Act Canada*).

H. TERMINATION OF MEMORANDUM

The Service may terminate this Memorandum at any time in the event of a breach of security regarding the retention and storage of the information, improper dissemination of

the information or a failure to comply with any of the provisions of this Memorandum. The question of whether a breach has occurred is exclusively within the absolute discretion of the Chief of Police or designate whose determination is final.

I. AMENDMENT TO MEMORANDUM

This Agreement may be amended at any time by the direction of the Chief of Police, which may be done by letter from the Chief of Police or his designate.

J. TERM OF MEMORANDUM

This Memorandum shall come into Service on the date of its final execution and shall remain in effect until terminated for any reason by either party in writing on one (1) week's notice to the other party.

K. NOTICE

Any correspondence, request, notice or report to be given or made pursuant to this Memorandum shall be made in writing and addressed to each party as follows:

- a) in the case of the Service: Chief of Police
Toronto Police Service
Police Reference Check Program
40 College Street
Toronto, Ontario
M5G 2J3

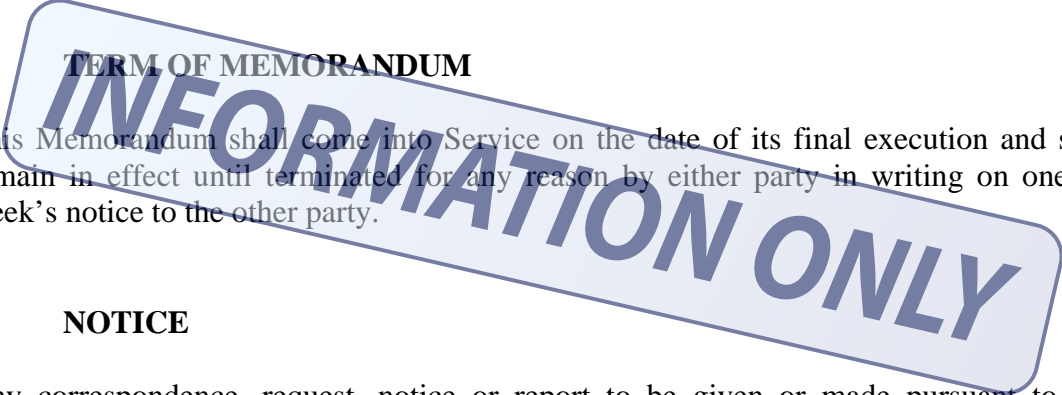
- b) in the case of the Agency:

Attention:

or to such other addresses as the parties may from time to time designate in writing.

L. WAIVER

No action or failure to act by the Service shall constitute a waiver of any rights afforded to the Service under this Memorandum nor shall action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.



M. INDEMNITY

- a) The Agency shall indemnify the Service from all claims, damages and demands and expenses arising directly or indirectly out of the provision or use of information pursuant to this Memorandum provided the claim, loss, damage, demand or expense was not the fault or negligent act or omission of the Service.

- b) The provisions of this section shall survive the termination of the Memorandum for any reason whatsoever.

THE TORONTO POLICE SERVICE

AGENCY

Signature

Signature

Witness

Witness

Date

Date

