

# RECORD CHECK POLICY

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JohnHoward  
SOCIETY OF ONTARIO

## TABLE OF CONTENTS

OBJECTIVE & POLICY STATEMENT.....	3
TYPES OF RECORD CHECKS JHSO MAY REQUEST.....	4
1. VULNERABLE SECTOR CHECK.....	4
2. CRIMINAL RECORD CHECK.....	4
3. A REQUEST FOR SELF-DISCLOSURE.....	5
4. DRIVER ABSTRACT .....	5
DETERMINING WHEN A RECORD CHECK IS NECESSARY .....	6
RESULTS OF THE RECORD CHECK.....	7
PROCEDURE FOR OBTAINING AND REVIEWING A RECORD CHECK .....	7
DETERMINING RELEVANCE:WHAT TO DO WHEN CONVICTION INFORMATION IS OBTAINED .....	8
CRIMINAL AND NON-CRIMINAL OFFENCES AND CHARITABLE STATUS OR JHSO OBLIGATIONS UNDER OTHER LEGISLATION.....	9
FEEES ASSOCIATED WITH RECORD CHECKS WILL BE PAID FOR BY THE JHSO ....	9
AFTER THE RECORD CHECK HAS BEEN COMPLETED .....	10
WORKPLACE VIOLENCE AS PER SECTION 26 OF JHSO PERSONNEL POLICY ..	10
APPENDIX A: Release & Consent.....	11
APPENDIX B: Examples of JHSO Positions that Require Record Checks .....	12
NOTES.....	17

## OBJECTIVE & POLICY STATEMENT

John Howard Society of Ontario (“JHSO”) is committed to effective, just and humane responses to crime and its causes. We believe our hiring policies should reflect the values inherent in our mission statement. There are some positions within JHSO and its network that by law or as a result of other contractual commitments require a “Record Check” to be performed.

For the purpose of this policy a “**Record Check**” means: (i) a vulnerable sector check, (ii) a criminal record check, (iii) a request for self-disclosure, or (iv) a driver abstract. However, JHSO understands that record checks can be of limited value in applicant screening. Indeed, securing employment or volunteer positions can be crucial to successful reintegration. As a result, JHSO will generally only request a check when required by law or for certain positions. JHSO is committed to broad protection of applicants’ human rights and privacy and does not discriminate against employees and applicants contrary to the Ontario *Human Rights Code*. JHSO does not automatically screen individuals out of the process based on any particular information disclosed on a Record Check. For some positions, JHSO considers prior experience with the criminal justice system to be an asset. In cases where information disclosed on the Record Check has little or no relation to job requirements, it should generally have little or no impact on the applicant’s suitability for the position.

Where JHSO programs are funded by certain government bodies, JHSO may have statutory and/or contractual obligations to perform Record Checks on applicants. In certain other circumstances, JHSO may decide to request self-disclosure or require another type of Record Check, such as where there is a *bona fide* connection of a specific type of criminal or non-criminal offence to a job requirement.

JHSO will not generally share the contents of a Record Check with an applicant’s direct supervisor (see exception below), manager, or any other employees or JHSO personnel. The Record Check information will generally only be used as part of the hiring process and for purposes consistent with this policy. The results of the Record Check will only be disclosed to those in the organization who need to know for purposes consistent with this policy, which could include the employee’s or volunteer’s direct supervisor in some circumstances.

JHSO has developed this policy to reflect its philosophy and values, and to give applicants and JHSO partners a clear understanding of when Record Checks should be performed and by whom, and what they should be used for. Criminal record checks will only be performed on applicants aged 18 and older.

## TYPES OF RECORD CHECKS JHSO MAY REQUEST

There are four types of Record Checks that JHSO may need to perform in order to assess an application.

While some of the types of Record Checks may also include youth records, JHSO is mindful of the federal legislation that limits which organizations/individuals are legally allowed to receive those youth records. Applicants are advised to detach or otherwise not submit the youth records portion of their Records Check result.

### 1. VULNERABLE SECTOR CHECK

This process is the most in depth Record Check and is used when applicants are seeking employment and/or volunteering directly with vulnerable populations. Information disclosed on this level of Record Check may include, but is not limited to, whether an individual has unpardoned criminal convictions, non-conviction information, summary convictions for five years, absolute and conditional discharges, findings of guilt under the *Youth Criminal Justice Act* within the applicable disclosure period, as well as any record suspensions (formerly pardons) for sexual offences and outstanding charges relevant to the position being sought. More details on what this Record Check reveals can be found in the *Police Record Checks Reform Act, 2015*. The information that can be legally disclosed on the Vulnerable Sector Check is provided to the applicant by the agency responsible for conducting the Record Check.

### 2. CRIMINAL RECORD CHECK

Information disclosed on this level of Record Check, as defined by the *Police Record Checks Reform Act, 2015*, may include unpardoned criminal convictions, summary convictions for five years, and findings of guilt under the *Youth Criminal Justice Act* within the applicable disclosure period. More details on what this police record check reveals can be found in the *Police Record Checks Reform Act, 2015*. The information that can be legally disclosed on the Criminal Record Check is provided to the applicant by the agency responsible for conducting the Record Check.

### 3. A REQUEST FOR SELF-DISCLOSURE

A request for Self-Disclosure can involve asking applicants whether they have been convicted of an adult criminal federal offence for which a record suspension or pardon has not been granted that is relevant to their employment or volunteer position. It may ask about other offences including any under the *Income Tax Act* or any committed outside of Canada. It may also ask if the applicant participated in certain activities which by law, could jeopardize JHSO's charitable status. If these questions are answered affirmatively, additional information may be sought or a further Record Check required to determine whether the applicant is suitable for the position.

### 4. DRIVER ABSTRACT

Driver abstracts contain driver and licence details, and lists any conviction information, any applicable demerit points, and suspensions related to driving.

## DETERMINING WHEN A RECORD CHECK IS NECESSARY

Record Checks are necessary where there is a statutory or contractual obligation to conduct such a Record Check, or for certain positions. Please see below: “Determining Relevance: What to do When Conviction Information is Obtained”.

JHSO has developed a list of questions in flow chart form (see APPENDIX B) based on three broad categories of concerns: (1) fraud/dishonesty relating to the high level management and direction of the organization’s funds and particularly sensitive data, (2) violent or sexual offences for positions that work directly with youth and/or vulnerable populations and (3) safety concerns related to positions requiring vehicular transportation of individuals. These questions in the charts provide a guide to the organization and decision makers about the circumstances under which it is appropriate to request a Record Check for certain job positions.

The positions where JHSO may request a Record Check to be undertaken include, without limitation, those where:

- ❖ Legislation or funding agreements require the organization or program to conduct a Record Check for the position;
- ❖ Having a criminal record would directly interfere with core job requirements;
- ❖ The position involves control over a large amount of organizational or client assets, and supervision, safeguards or auditing procedures are not feasible because of the nature of the work; or
- ❖ The position involves unsupervised and ongoing contact with individuals in the vulnerable sector.

When JHSO requests that an applicant undergo a Record Check it will only consider information that is relevant to employment or volunteering with JHSO, including the position being applied for.

As an Appendix to this policy, JHSO has attached a list of current positions that may require a Record Check including an explanation as to why the Record Check is required and what type of Record Check is necessary.

## RESULTS OF THE RECORD CHECK

The results of a Record Check are an applicant's personal information. Results will be reviewed by human resources personnel and the Executive Director only and will not be shared with the applicant's potential direct manager or supervisor unless required for employment (or volunteer) purposes consistent with this policy.

## PROCEDURE FOR OBTAINING AND REVIEWING A RECORD CHECK

JHSO requires the applicant's consent before it can obtain and/or review any type of Record Check. The applicant's consent must be informed and voluntary. See Appendix A for a copy of JHSO's Release and Consent form. If an applicant is asked to undergo a Record Check, it will generally be the last step in the application process. An offer of employment or a volunteer position will be conditional on passing this requirement. Applicants are advised to review their Record Check results prior to sharing them with JHSO. If the applicant chooses to move forward with the application, human resources personnel will review the results.

Applicants should not commence work until any required Record Checks are complete and JHSO has advised the applicants that they have passed such checks.

## DETERMINING RELEVANCE: WHAT TO DO WHEN CONVICTION INFORMATION IS OBTAINED

JHSO will not generally consider non-conviction records or other non-conviction information. Further, JHSO does not have a zero tolerance policy. Genuine efforts will be made to determine whether conviction information is relevant to employment or volunteering with JHSO, including the position being applied for. (Please review Appendix B to this Policy - Examples of JHSO Positions that Require Record Checks and the accompanying matrices for guidance on what type of a conviction is relevant.)

If there are convictions on any type of Record Check, the following questions will be asked to determine whether the convictions are relevant to the position applied for:

- I. Does the behaviour that resulted in the conviction, if repeated, pose any threat to the employer's ability to carry on its business safely and efficiently?
- II. What were the circumstances that led to the conviction and the particulars of the offence involved - e.g., how old was the individual when the events in question occurred, and were there any extenuating circumstances?
- III. How much time has elapsed between the conviction and the employment/volunteer decision? What has the individual done during that period of time?
- IV. Are there measures that can be put in place to address any remaining concerns, thereby accommodating the applicant within the organization?

Having considered all of the above (and any other relevant considerations), JHSO will determine whether rejecting an application for employment or a volunteer position, as the case may be, is warranted by the nature and circumstances of the conviction.



## CRIMINAL AND NON-CRIMINAL OFFENCES AND CHARITABLE STATUS OR JHSO OBLIGATIONS UNDER OTHER LEGISLATION

Non-criminal offences under other legislation, including fundraising legislation, consumer protection legislation or securities legislation, may be considered by JHSO when relevant to employment or volunteering with JHSO, including the position being applied for. JHSO will comply with relevant laws and or guidelines that oblige JHSO to consider criminal and non-criminal offences.

For example, with respect to its charitable status, JHSO is mindful of laws in the *Income Tax Act* regarding the hiring of some individuals into certain positions. The *Income Tax Act* deems some individuals ineligible to be hired into certain positions (ex. High Level Management, Director, Trustee, Officer). See Guidance from Canada Revenue Agency at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/cg-024-eng.html> for full information. JHSO is mindful of the fact that the hiring of certain ineligible individuals can, but not necessarily, result in revocation of its charitable status. However, JHSO is also aware that although the *Income Tax Act* defines ineligible individuals, it does not prohibit the hiring of these individuals, and in some circumstances it may be justifiable to hire an ineligible individual.

## FEES ASSOCIATED WITH RECORD CHECKS WILL BE PAID FOR BY THE JHSO

If JHSO requests a Record Check, the organization will pay the fees associated with doing so.

## AFTER THE RECORD CHECK HAS BEEN COMPLETED

A copy of the Record Check will be kept in an applicant's confidential file in a secure, locked area that is not generally accessible to others in the work place. For unsuccessful applicants, a copy of the Record Check will be destroyed by way of shredding and disposing one (1) year after notifying the individual they were unsuccessful. For successful applicants, the records will be destroyed by way of shredding and disposing of the copy seven (7) years after the individual leaves JHSO.

## WORKPLACE VIOLENCE AS PER SECTION 26 OF JHSO PERSONNEL POLICY

JHSO has an obligation under the *Occupational Health and Safety Act* to ensure that it has in place a policy to prevent workplace violence. That obligation includes the requirement to advise an employee (or other JHSO personnel) if he/she is at risk of workplace violence from a person with a history of violent behaviour. The *Occupational Health and Safety Act* does not require organizations to record check their employees and volunteers. However, where a Record Check required for another purpose reveals that a successful applicant has a history of violent behaviour, an assessment must be made under the JHSO's workplace violence policy with respect to whether information must be provided to a worker in accordance with that policy.

## APPENDIX A: Release & Consent

I \_\_\_\_\_ hereby consent to JHSO reviewing the results of a criminal record check, vulnerable sector check, request for self-disclosure, or driver abstract (circle all that apply) (the “Record Check”) as the last step in my application process for the position of \_\_\_\_\_.

I understand that providing this information is voluntary and in no way am I being compelled to provide this information. I have reviewed the results of the Record Check and am willingly providing it to JHSO in order to satisfy the conditions of my conditional offer of employment or of a volunteer position, as the case may be. I understand and agree that if the results of the Record Check are found to be unsatisfactory then my conditional offer of employment or of a volunteer position will be void and that this decision is at the sole discretion of JHSO.

I know that I have the option to forgo my application if I do not wish to disclose the results of the Record Check to JHSO.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
WITNESS

## APPENDIX B: Examples of JHSO Positions that Require Record Checks

### EXECUTIVE DIRECTOR & FINANCIAL COORDINATOR

These positions are responsible for handling significant organizational funds, assets, and in some instances have unrestricted access to and control over sensitive operational data. JHSO, as a charitable organization, requires certain assurances in order to protect its charitable status from being revoked. Under the *Income Tax Act*, an organization's charitable status may be revoked by the Minister if an individual is directly or indirectly in control of the organization and:

- ❖ has been convicted of a relevant offence in the previous five years, unless:
  - a pardon has been granted and the pardon has not been revoked or ceased to have effect, or
  - a record suspension has been ordered under the *Criminal Records Act* and the record suspension has not been revoked or ceased to have effect;
- ❖ has been convicted of a relevant offence in the five-year period preceding that time;
- ❖ has engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements of registration as a charity under the *Income Tax Act*;
- ❖ was a promoter in respect of a tax shelter that involved a registered charity or, the resignation of which was revoked in the five-year period preceding that time for reasons that included or were related to participation in the tax shelter.

### TYPE OF RECORD CHECK REQUIRED & RELEVANT CRIMINAL CONVICTIONS CONSIDERED:

JHSO feels the prudent way to protect its charitable status is to utilize Self-Disclosure tools or screeners for any relevant criminal convictions or non-criminal offences and as such, the positions of Executive Director and Financial Coordinator will require Self-Disclosure tool(s) be completed by the applicant identifying any relevant criminal convictions or offences.

JHSO considers criminal convictions relating to such crimes as fraud, theft, tax evasion, money laundering, forgery and proceeds of crime to be relevant offences. Non-criminal offences under fundraising legislation, consumer protection legislation or securities legislation may also be relevant.

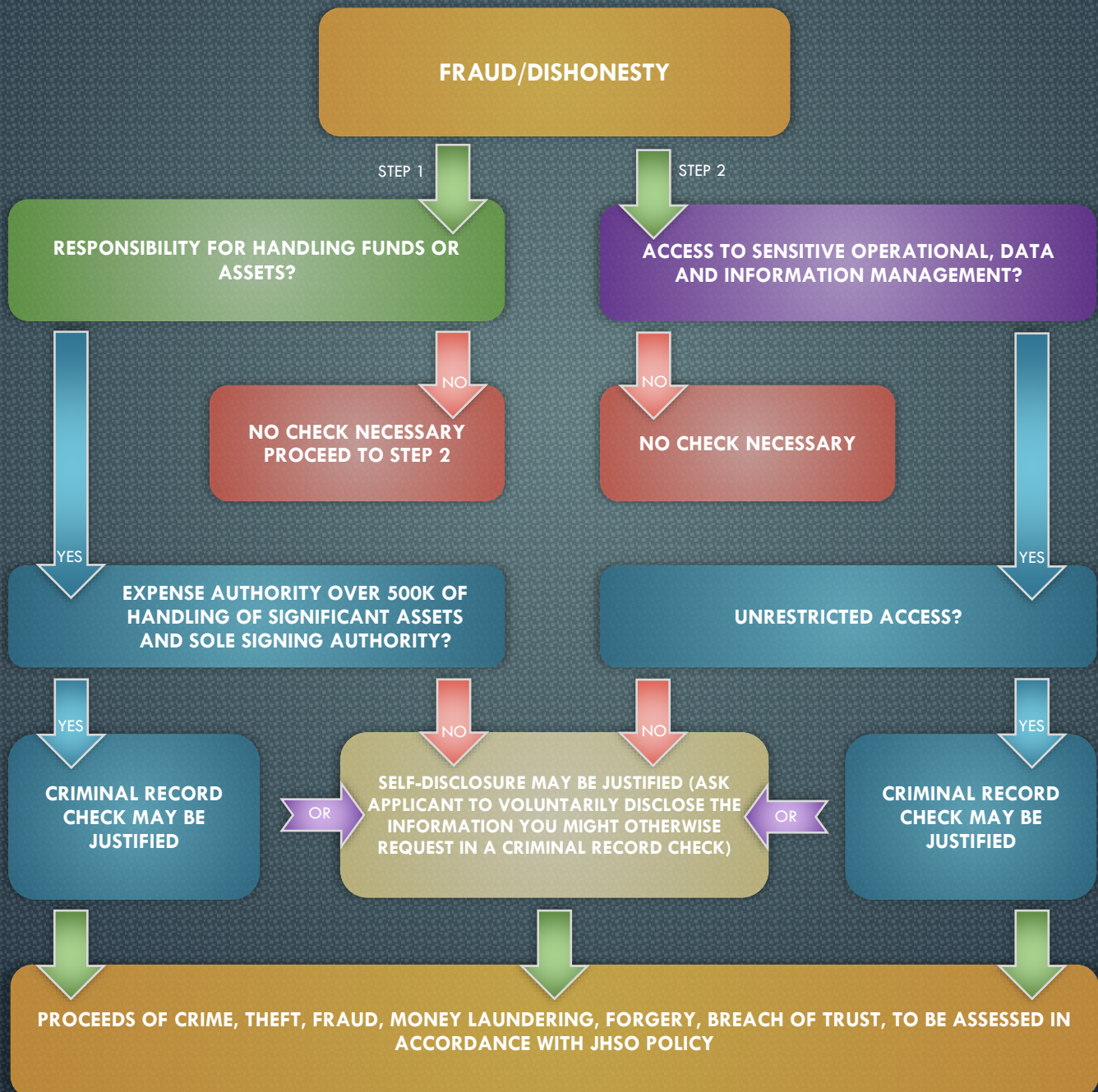
Having a conviction or record of non-criminal offences will not generally be an automatic bar for a successful application. The JHSO representative reviewing the record will adhere to the guidelines under 'Determining Relevance: What to do When Conviction Information is Obtained' before making a final decision. A successful applicant will also be asked annually to confirm that there is no new information whatsoever regarding relevant criminal convictions or non-criminal offences concerning that individual that JHSO should know about.

### JHSO LOCAL OFFICE POSITIONS INVOLVING ONGOING, UNSUPERVISED CONTACT WITH A VULNERABLE POPULATION

JHSO is not a direct service organization and therefore does not typically have positions that involve ongoing, unsupervised contact with vulnerable individuals. Many local JHSO offices' programs and services, however, involve ongoing and unsupervised contact with vulnerable populations. While each local office in JHSO's network will make its own decisions around requiring Record Checks, it is likely that statutory or contractual obligations will require a Vulnerable Sector Check for individuals applying for roles that involve ongoing and unsupervised contact with a vulnerable population. Where a Record Check is necessary, we intend this policy document to provide guidance (but not restrictions or limitations) on how to assess the results of such a Record Check.

## FRAUD/DISHONESTY

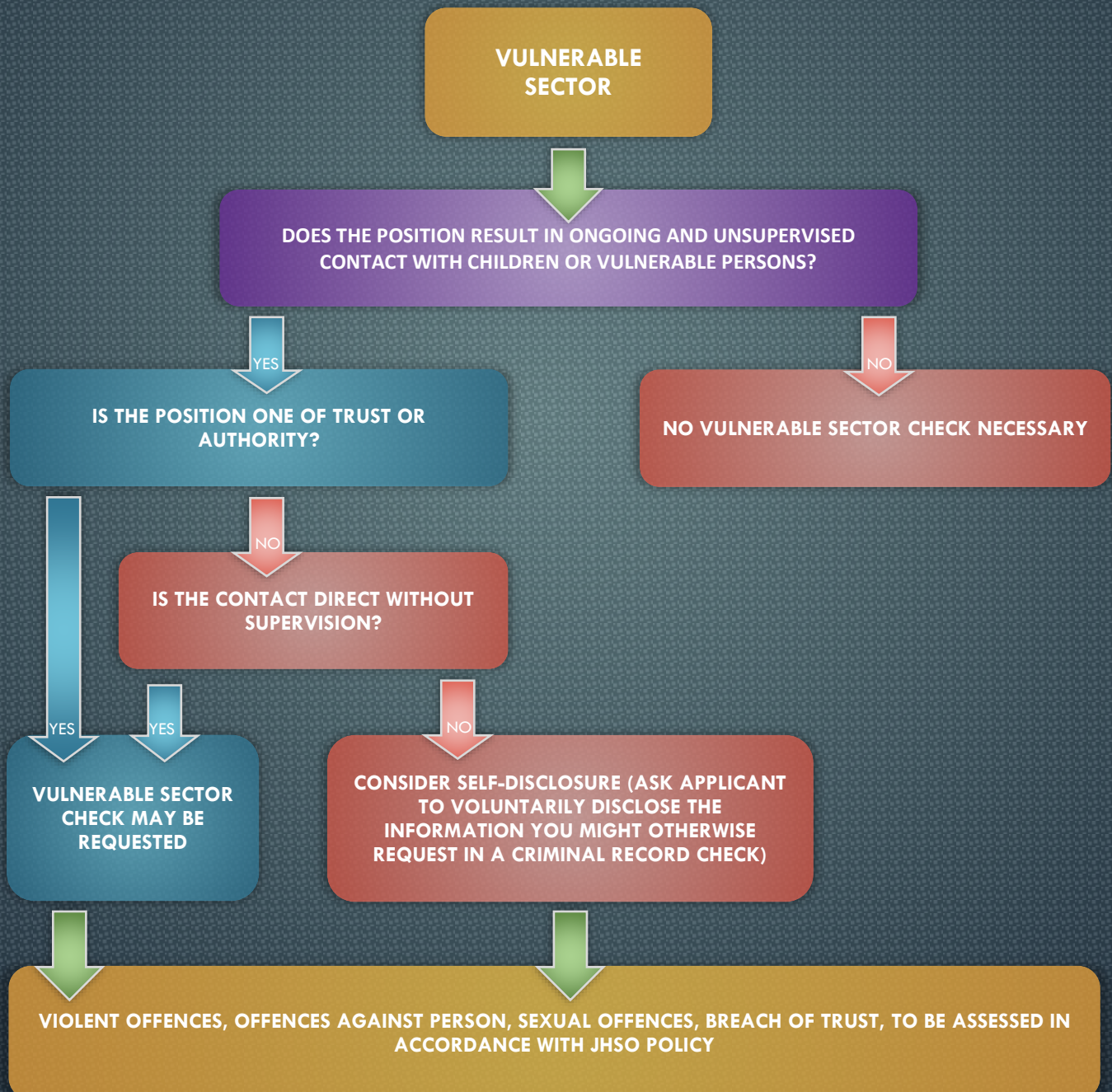
John Howard Society Ontario (JHSO) is committed to effective, just and humane responses to crime and its causes. JHSO understands that records checks can be of limited value in applicant screening. Indeed, securing employment and volunteer positions can be crucial to successful reintegration. As a result, JHSO will generally only request a check when required by law or for particular positions. JHSO, as a charitable organization, requires certain assurances in order to protect its charitable status from being revoked pursuant to the *Income Tax Act*. This screening tool is responsive to those legal provisions; it is intended to provide guidance, not preclude or limit consideration of other relevant factors, as assessed by JHSO.





## VULNERABLE SECTOR

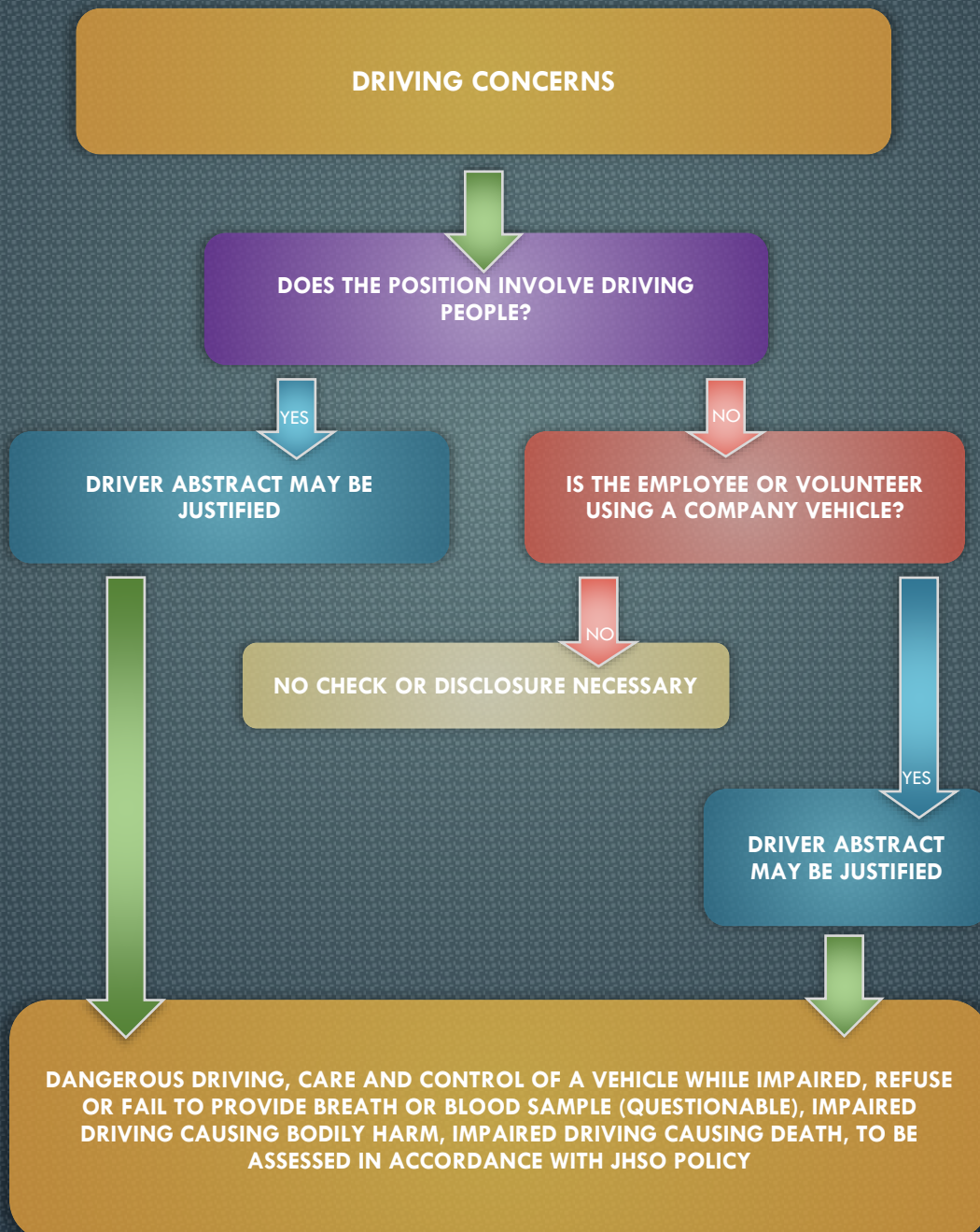
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## DRIVING:

John Howard Society Ontario (JHSO) is committed to effective, just and humane responses to crime and its causes. JHSO understands that records checks are of extremely limited value in applicant screening. Indeed, securing employment and volunteer positions can be crucial to successful reintegration. As a result, JHSO will only request a check when required by law or for certain positions. This screening tool is intended to assist in identifying those positions involving driving; it is intended to provide guidance, not preclude or limit consideration of other relevant factors, as assessed by JHSO.







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