

Registration Policy: Applicant/Registrant Criminal History

October 2023

1.0 Introduction

RECO evaluates potential risk or harm to the public when assessing an applicant's suitability for registration or a registrant's continued suitability for registration. This includes a review of the criminal history of applicants and registrants.

1.1 Purpose of this Policy

This policy guides RECO in its review and assessment of criminal history when determining suitability for registration.

This policy underpins registration practices that are transparent, objective, impartial, and fair. This policy is further supported by internal procedure documents that guide regulatory staff in the exercise of their duties.

1.2 Principles

Registrants are required to comply with the legislation and other applicable laws. RECO must be satisfied that the past and present conduct of the person affords reasonable grounds for belief that the person will carry on business in accordance with law and with integrity and honesty, and that registration or continued registration of the person would not be contrary to the public interest.

RECO makes its decisions on a case-by-case basis consistent with the legislation, this policy, and internal processes and procedures.

RECO must not exclude any person from being or becoming registered, or discriminate against any applicant or registrant, solely because that person has a criminal history.

1.3 Decision-making authority

The Registrar delegates authority to regulatory staff to carry out the majority of duties under this policy and retains oversight responsibility for the proper exercise of those duties. Internal procedure documents set out the specific levels of authority granted to regulatory staff and any limitations on those authorities that might apply.

The Registrar makes final decisions regarding matters to be referred to the discipline committee and proposals to be issued to refuse, revoke, suspend, or apply conditions to a registration.



2.0 Criminal Record & Judicial Matters Check (CRJMC)

The following applicants/registrants are required to obtain an original CRJMC, also known as a Level 2 Check from their local police service and submit it to RECO in support of their application:

- New salesperson applicants;
- Applicants for broker registration who have pending charges and/or a criminal history;
- Registrants applying to renew their registration who have pending charges and/or a criminal history;
- Applicants who are former registrants, if the applicant's registration has been terminated in excess of sixty (60) days;
- Newly appointed officers, directors and persons who hold 10% or more shares of a real estate brokerage;
- Newly appointed brokers of record (for all ownership types, including partnership and sole proprietorship) and branch managers; and
- Any registrant, when deemed necessary by RECO, upon request.

A CRJMC provides RECO with the following information:

- records of previous convictions from the Canadian Police Information Centre (CPIC), provincial and municipal databases;
- convictions for which a pardon has been granted, where disclosure is authorized under the *Criminal Records Act* (Canada);
- findings of guilt under the *Youth Criminal Justice Act* (Canada);
- findings of guilt that have resulted in absolute or conditional discharges, disclosed within one (1) and three (3) years, respectively;
- any outstanding charges and related information; and
- any court orders, excluding mental health related orders and family court restraining orders.



3.0 Review of criminal history

As part of its review, RECO may request supporting information to assist in its review of a criminal history and the events that led to the charges or convictions. Supporting information may include court documents, court transcripts, statement from the person setting out the circumstances that led to the charge or conviction, or any other documentation RECO determines relevant to its review.

Applicants and registrants are required to comply with requests from RECO for information that RECO determines is necessary to make its decision regarding suitability for registration. Cooperation during RECO's review of the matter is also assessed when determining suitability for registration.

3.1 Factors considered

General factors RECO considers when reviewing criminal history include:

- a) the date the person was charged or accused and the date of any conviction or finding of responsibility or fault;
- b) the extent and nature of the person's criminal conduct;
- c) the reasons and circumstances surrounding the conduct;
- d) subsequent behaviour, efforts to rehabilitate, and current circumstances;
- e) the role of the applicant or registrant within the brokerage (e.g., broker of record, branch manager, or another oversight/supervisory role);
- f) relevance to the duties performed and services provided by a registrant;
- g) whether the employing brokerage is able to take steps to mitigate any risk;
- h) whether the conduct is part of a pattern of non-compliant or unlawful behaviour that would make the person ungovernable;
- i) cooperation with RECO's review of the matter; and
- j) any other factors that RECO considers relevant to making its decision.

3.2 Relevance of the criminal conduct to registration

While RECO reviews all criminal conduct, it places particular scrutiny on conduct that could pose a risk to the public, clients, or the employing brokerage if the registration is granted or continued.



The conduct below is of particular concern as it is considered directly relevant to registration to trade in real estate.

3.2.1 Crimes involving fraud, breach of fiduciary duty, or deceptive trade practices

Registrants owe a fiduciary duty to their clients and must promote and protect the client's best interests. Registrants must act with courtesy, honesty, good faith, and integrity in relation to every person the registrant deals with. Registrants must also make best efforts to ensure that any representations are accurate and are not misleading; and must not engage in or be a party to misrepresentation or any unethical practice. It is critical that the public can trust the registrant they are engaging with.

3.2.2 Crimes against property such as theft, trespass, or burglary

Registrants are in a relationship of trust with their clients and must protect their client's best interests and their property. Registrants routinely grant and are granted access to private residences and businesses. Registrants frequently have access to the unattended property of their clients and the clients of other registrants. It is critical that a registrant's clients and the clients of other registrants can safely entrust their property and its contents to a registrant.

3.2.3 Crimes involving prohibited sexual conduct

Registrants are in a relationship of trust with their clients. Registrants have access to private residences and deal directly with the general public. Registrants are often with clients and members of the public in a private setting, either in a client's property or in the property of a client of another registrant. It is critical that the public is safe in these situations.

3.2.4 Crimes against a person such as homicide, unlawful restraint, or assault

Registrants have access to private residences and deal directly with the general public. Registrants are often with clients or members of the public in a private setting, either in a client's property or in the property of a client of another registrant. It is critical that the public is safe in these situations.



4.0 Outcomes

These are the possible outcomes of RECO's review.

4.1 Registration without reporting requirements or conditions

RECO might determine that the criminal history is not relevant to registration and poses no risk to the public or the employing brokerage. In this case RECO will register the person without reporting requirements or conditions.

4.2 Registration with reporting requirements

RECO might determine that reporting requirements are suitable. In this case, RECO will register the person with requirements to provide specific information as it becomes available, or at certain intervals, so RECO can monitor ongoing suitability for registration, including the person's compliance with the reporting requirements.

4.3 Registration with conditions

RECO might determine that conditions are suitable. In this case, RECO will register the person with conditions that are published on the public register for as long as the conditions apply to the registration.

4.4 Refusal to grant registration or renewal of registration

RECO might determine that the risk to the public is not acceptable. In this case, RECO will issue a proposal to refuse to grant registration or to grant renewal of registration. The applicant might be offered an opportunity to voluntarily withdraw the application.

4.5 Revocation of registration

RECO might determine that the risk to the public of continued registration is not acceptable. In this case, RECO will issue a proposal to revoke the registration.

4.6 Appeal

If a proposal to refuse or revoke registration is appealed by the person to the Licence Appeal Tribunal, the Tribunal must hold a hearing and may by order direct the proposal be carried out or substitute its opinion and may attach conditions to its order or to a registration.

The order of the Tribunal is published on the public register.

5.0 Decision

The applicant or registrant will be notified of the outcome as soon as possible after a decision has been made.