



Recruitment of Ex-Offenders & DBS Checking Policy

This is a non-contractual policy

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Approved by CEO & Board of Trustees

Introduction

The Rehabilitation of Offenders Act 1974 was introduced to ensure that ex-offenders who have not re-offended for a specified period of time since their date of conviction, are not discriminated against when applying for a job. Due to the nature of our service provision, we are exempt in the case of many of our roles from the provisions of the Rehabilitation of Offenders Act 1974 that allows convictions to be 'spent'. Therefore, this allows us to ask questions in many cases about an employee's / volunteer's or potential employee's / volunteer's entire criminal record, where this is applicable to a role.

The Disclosure and Barring Service enables organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially that involving children or vulnerable adults, and provides access to criminal record information through its disclosure service for England and Wales.

This policy sets out the basis on which we will seek information from prospective employees / volunteers and the DBS about spent and unspent (current) convictions and how this information will be used. The policy will be made available upon request to all applicants at the outset of the recruitment process.

The policy sets out our commitment that all applicants will be treated fairly. Having a criminal record will not necessarily bar a person from working for us. This will depend on the nature of the position and the circumstances and background of the offences.

Policy Aim

The aim of this policy is to set out our intention to fully comply with the provisions of the Rehabilitation of Offenders Act, the Disclosure & Barring Service Code of Practice and best practice in our recruitment of employees with a criminal record.

We believe that people with criminal records should not be excluded from employment or voluntary positions per se. However, we have a responsibility to minimise the risks to our service users as we work with vulnerable people.

We require all employees and volunteers, where it is applicable to their role, to disclose relevant previous criminal convictions and be checked by the DBS.

Policy Scope

For roles which are not service user facing, during the recruitment process we will normally only ask about unspent convictions as defined by the Rehabilitation of Offenders Act. For jobs which are exempt from the provisions of the Rehabilitation of Offenders Act, an applicant will need to disclose both unspent and spent convictions.

The nature of our service provision is such that the majority of our employees and volunteers will be in service user facing roles. These roles will include:

- Recovery workers
- Youth and family workers
- Counsellors
- Link workers.

In these cases, the provisions of the Rehabilitation of Offenders Act do not apply and we will seek full disclosure about spent and unspent convictions and a DBS check.

Those of our roles which are not service user facing will usually be subject to the normal provisions of the Rehabilitation of Offenders Act and we will not generally seek a DBS check. These roles will include:

- HR
- Administration only

Our Policy

We are legally entitled to ask certain / many applicants of the details of any spent and unspent conviction for some roles. We will ensure that relevant wording is included in the advert and job description advising that the successful applicant will need to satisfy DBS requirements and undertake a DBS check.

Applicants and employees with either a spent or unspent conviction will not be unfairly discriminated against. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications, experience and ability to align with our ethos.

We ask all applicants, where a post is one designated to require a DBS check, to provide details of their criminal record and we ensure that all those involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.

We make every subject of a DBS check aware of the existence of the DBS Code of Practice and make a copy available on request. An applicant will not commence employment / volunteering until the DBS Disclosure has been received and no concerns have been identified.

Procedure for Handling Disclosure of Criminal Records

In many cases and where relevant, we use the Disclosure and Barring Service (DBS) to check the history of applicants for both employed and voluntary roles and assess their suitability for posts. We will comply fully with the DBS Code of Practice.

Information obtained from the DBS will only be used to assess an individual's suitability for employment or volunteering where relevant and will not be used to discriminate in any way. We are committed to the fair treatment of employees / volunteers and potential employees / volunteers regardless of race, gender, religion, sexual orientation, age, disability or offending background.

Where appropriate, adverts and job descriptions will clearly state that a DBS check is a requirement of the job. This will provide a basis for the applicant to decide whether or not to apply for the post.

Information that applicants provide to us regarding their criminal records is handled sensitively and appropriately and by HR only. This information is checked to assess if anything disclosed would prevent an interview being offered. This may include but not be limited to recent and/or serious offences such as:

- offences against children or vulnerable adults.
- violent offences
- substance misuse offences
- financial or similar offences.

When the DBS check is returned, it will be checked against what has been disclosed to ensure that there is no conflict. If there is a material difference between what was disclosed by the individual and what is contained in the DBS check then the conditional offer of employment may be withdrawn or further discussion needed.

You will not be considered for employment with us if you have:

- a conviction for substance misuse that was spent less than:
 - 2 years from the date of your application, if you have applied for a managerial or client facing role
 - 6 months from the date of your application if you have applied for a non-client facing role.
- ever been committed of an offence against a child or a vulnerable adult
- a conviction for a violent offence that was spent less than 5 years before the time of your application.

All other offences will be considered in line with the government's published rehabilitation periods, as shown at the end of this policy.

Declaring Previous Convictions & Substance Misuse - Risk Assessment Process

Where an individual has disclosed a conviction or previous substance misuse, or a conviction is revealed through a DBS check, a discussion (risk assessment) will take place with the applicant and the relevant manager, in conjunction with HR, regarding the offence and its relevance to the position to assess the suitability of the applicant for the job.

Providing the responses are satisfactory and it is deemed the candidate does not present a risk to our service, themselves or service users the offer of employment or voluntary position can proceed as normal if they are selected as the preferred candidate at interview.

During discussions, the following examples may be taken into account:

- the seriousness of the offence and its relevance to the safety of other employees, our reputation, service users, suppliers, the public etc.
- the length of time since the offence occurred
- any relevant information offered by the applicant about the circumstances which led to the offence being committed
- the nature of the role and any opportunities that may present the applicant to re-offend
- the country in which the offence was committed - for example, some activities are offences in Scotland and not in England and Wales, and vice versa
- whether the offence has since been decriminalised by Parliament.

Having carefully considered these matters, a decision will be taken by the manager in conjunction with HR as to whether the individual should be appointed. If the decision is not to proceed with the appointment then the applicant will be written to, formally withdrawing the offer of employment / volunteering. We will undertake a discussion regarding the content of the disclosure with the applicant before withdrawing any offer of employment / volunteering.

Failure to reveal information relating to unspent convictions (and spent convictions in the case of excluded jobs and professions under the Rehabilitation of Offenders Act) could lead to withdrawal of an offer of employment / voluntary work or disciplinary action which could lead to termination of employment / voluntary work.

It is the responsibility of the applicant to clarify whether a conviction is spent or unspent. The length of time required for an ex-offender to become rehabilitated depends on the sentence received and the age when convicted. To note, custodial sentences of more than 4 years can never become spent.

Existing Employees with a Criminal Record

If you are convicted of a criminal offence whilst in our employment you must report this to your manager and the CEO immediately. The facts of the case will be considered to determine if there are sufficient grounds to warrant formal action being taken, in line with the Disciplinary Policy.

The CEO will objectively consider the skills, experience and the circumstances of your conviction in conjunction with your role.

If you are concerned about a conviction, you should speak with your manager. For specific roles, regular DBS disclosure renewals will be required and it is expected that individuals would have disclosed any new convictions.

Rehabilitation Periods

The Rehabilitation of Offenders Act 1974 (ROA) enables certain convictions to become spent (or legally ignored) after a rehabilitation period. After this period, a person with a spent conviction is not required to declare it when applying for most jobs, unless the role is exempt from the Act.

The tables shown here detail the rehabilitation periods of the more common sentences. For custodial and community sentences the rehabilitation period includes an additional buffer period that runs from the end of the sentence. This buffer period is determined by the total length of the sentence imposed.

Rehabilitation periods for custodial sentences and community sentences (which have buffer periods)

| Sentence/disposal | Rehabilitation period for adults (aged 18 or over at the time of conviction) from end of sentence including licence period | Rehabilitation period for young people (aged under 18 at the time of conviction) from end of sentence including licence period |
|---|---|---|
| Community order or youth rehabilitation order | Total length of order plus 1 year | Total length of order plus 6 months |
| Prison sentence or detention in a young offender institution for 6 months or less | Total length of sentence (including licence period) plus 2 years | Total length of sentence (including licence period) plus 18 months |
| Prison sentence or detention in a young offender institution for over 6 months and up to and including 30 months (2½ years) | Total length of sentence (including licence period) plus 4 years | Total length of sentence (including licence period) plus 2 years |
| Prison sentence or detention in a young offender institution for over 30 months (2½ years) and up to 48 months (4 years) | Total length of sentence (including licence period) plus 7 years | Total length of sentence (including licence period) plus 3½ years |
| Prison sentence or detention in a young offender institution for over 48 months (4 years) or a public protection sentence | Never spent | Never spent |

Rehabilitation periods for sentences which start from the date of conviction (and which do not have buffer periods)

| Sentence/disposal | Rehabilitation period for adults (aged 18 or over at the time of conviction or at the time the disposal is administered) | Rehabilitation period for young people (aged under 18 at the time of conviction or at the time the disposal is administered) |
|---|---|---|
| Simple caution/youth caution | Spent immediately | Spent immediately |
| Conditional caution/youth conditional caution | 3 months or when caution ceases to have effect if earlier | 3 months or when caution ceases to have effect if earlier |
| Absolute discharge | Spent immediately | Spent immediately |
| Reparation order | Spent immediately | Spent immediately |
| Bind over | At the end of the order | At the end of the order |
| Conditional discharge order | At the end of the order | At the end of the order |
| Fine | 1 year | 6 months |
| Compensation order | When paid in full | When paid in full |
| Hospital order (with or without restriction) | At the end of the order | At the end of the order |
| Referral order | At the end of the order | At the end of the order |
| Relevant order | When the order ceases to have effect | When the order ceases to have effect |
| Endorsements | 5 years | 2½ years |