
Recruiting Applicants with a Criminal Record

Parent policy: Safer Recruitment

Purpose: This procedure gives clear guidance to be followed to support fair and equal recruitment that takes account of the Safer Recruitment and Safeguarding Policies.

Procedures:

Accountabilities: People Team

Target audience: All staff, volunteers and governors

Content linkage: Safeguarding Policy
Safer Recruitment Policy

Monitoring and Review cycle: Monitoring is through notification to the Designated Safeguarding Lead.
The procedure is reviewed as and when legislation changes, or at least annually.

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Introduction

The safe recruitment of staff is the first step to safeguarding and promoting the welfare of children and vulnerable adults. We are committed to safeguarding and promoting the welfare of children and vulnerable adults that access our services.

We must maintain the highest possible level of public confidence and protection for our learners and citizens, and a thorough system of checks and safeguards is therefore necessary.

Having a criminal record will not necessarily prevent someone from being employed by us; this will depend on the nature of the role and the circumstances and background of the offences.

We endeavour to treat all applicants for positions fairly and do not discriminate unfairly against any subject of a criminal record check on the basis of a conviction, caution or other information revealed

We will have an open and measured discussion with applicants on the subject of any offences or other matter that might be revealed on a DBS check where it is not explicit in this Procedure that such information would be a barrier to employment.

This Procedure applies to all staff, volunteers and applicants.

This Procedure does not form part of your contract with us. We reserve the right to amend or remove this Procedure.

Promoting equality of opportunity

We actively promote equality of opportunity for all with the right mix of talent, skills and potential, and we welcome applications from a wide range of candidates, including those with criminal records. All candidates are selected for interview based on their skills, qualifications and experience.

Disclosure and Barring Service (DBS) Code of Practice

We comply fully with the Disclosure and Barring Service Code of Practice and undertake to treat all applicants for positions fairly. The records of the DBS are used to assess suitability for roles with us.

Disclosing information regarding a criminal record

The Rehabilitation of Offenders Act 1974 gives people with spent convictions and cautions the right not to disclose them when applying for most jobs; however, there are some roles that are exempt from this which include those working or volunteering with children and or vulnerable adults.

Based on this, we require full disclosure of convictions for all job applications. As part of the application process, we will ask you:

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- To confirm that you are not included on the child and/or adults barred list. It is an offence to apply for roles involved in regulated activity if you are. We commit an offence if we allow someone on the barred list to carry out any form of regulated activity.
 - For consent to carry out a DBS check relevant to the role you are applying for.
 - To declare any unspent convictions and adult cautions under The Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1986 (as amended 2013 and 2020).

If you are shortlisted for a role that involves regulated activity, we will ask you to complete a self-declaration form. We will ask you:

- If you have a criminal record and to provide further information on the offences including, 'spent' and 'unspent' convictions and cautions under The Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1986 (as amended 2013 and 2020).
- If you are included on the child and or adults barred list.
- If you are prohibited from teaching.
- If you are prohibited from taking part in the management of an independent school.
- If you are known to the police and children's local authority social care.
- If you are disqualified from providing childcare.

At Interview

If you make a disclosure in relation to a criminal record, we will discuss this with you at interview. Disclosing a criminal record will not necessarily prevent you from being employed by us; this will depend on the nature of the role and the circumstances and background of the offences.

At interview, or in a separate discussion, we encourage you to discuss the details of any offences or other matters that might be relevant to the role you are applying for. Failure to reveal convictions will be regarded as a breach of contract if discovered after appointment and may lead to termination of employment.

You should refer to the Safer Recruitment Policy for further information.

Eligibility for employment

Where convictions are revealed, you may still be considered as eligible for employment. However, depending on the nature of the conviction, it can be expected that employment would not normally be considered until at least two years after sentence, conditional discharge, bound-over, or supervision (whichever is longest). Please note - Minor 'fixed penalty' motoring offences will be discounted.

Within the parameters set out above, consideration towards suitability for employment will be based upon:

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- The nature of the offences. For example, it is highly unlikely that if you have previous convictions for violence, sexual offences, racially motivated offences, domestic violence offences, drug offences, offences against children, burglary, and breach of trust offences, that you would be considered suitable for employment.
 - Any mitigating circumstances in relation to the offence.
 - Whether the offence was part of an ongoing pattern of offending.
 - Whether your circumstances have changed, making reoffending unlikely.
 - Your current attitude towards the offences
 - Direct relevance, if any, to the duties of the role applied for, especially as regards the safety of other employees, learners, citizens and property.

These matters will be considered in the light of fuller discussion with you, but our decision will be final with no right of appeal. All such considerations will be dealt with in a highly confidential manner, and only necessary staff will be involved.

Job Offer

All relevant applicants who are offered a job with us will be subject to a certification from the Disclosure and Barring Service before the appointment is confirmed. In order to provide protection:

- We will require relevant DBS certification for roles, whether temporary or permanent. Should the DBS check disclose any information which could suggest that you are unsuitable to work with children or vulnerable adults, we reserve the right to deem you unsuitable for employment with us
- We will pay the cost of the initial DBS certificate
- We will make you aware of the existence of the Disclosure and Barring Code of Practice if you are subject to a DBS check and make a copy available on request.
- We will undertake to discuss any matter revealed in a Disclosure with you before withdrawing a conditional offer of employment.

Change of circumstances if you are employed

We expect you to notify us if your personal circumstances change during the course of your employment, and the change may affect your DBS status. You should notify your line manager and the People Team. This includes any circumstances that are in progress such as a police investigation or child protection order. If you disclose something which could suggest that you are unsuitable to work with children or vulnerable adults, we reserve the right to review your employment with us, in accordance with the Disciplinary Procedure.

Data protection

If you disclose information regarding criminal offences, this will be regarded as confidential and limited to those directly involved in the selection process.

Criminal Conviction Certificates and Enhanced Criminal Records Certificates (DBS) will be restricted to the same group. Usually, this will be members of the relevant appointing panel, Safeguarding Team and the People Team.

We will not retain a copy of your DBS certificate, unless we need to discuss the content of the certificate with you, after which, the copy of the certificate will be destroyed.

We are required to retain a copy of your DBS certificate if you are sponsored as a Skilled Worker by us, this will be stored electronically for the duration of your sponsorship in accordance with our Data Protection Policy.

We reserve the right to require repeat certification in accordance with the relevant legislation and our internal procedures. You should refer to the Safer Recruitment Policy for further information.

Related documents

Guidance on the Rehabilitation of Offenders Act 1974 and The Exceptions Order 1975
[https://assets.publishing.service.gov.uk/media/653f7e52d10f3500139a6b20/30102023_Guidance on the Rehabilitation of Offenders Act 1974 and The Exceptions Order 1975.pdf](https://assets.publishing.service.gov.uk/media/653f7e52d10f3500139a6b20/30102023_Guidance_on_the_Rehabilitation_of_Offenders_Act_1974_and_The_Exceptions_Order_1975.pdf)

Disclosure and Barring Code of Practice
<https://www.gov.uk/government/publications/dbs-code-of-practice>

Disclosing your criminal record guidance
<https://www.gov.uk/government/publications/disclosing-your-criminal-record-guidance-for-those-with-offences/disclosing-your-criminal-record>

Check if you need to disclose your criminal record
<https://www.gov.uk/tell-employer-or-college-about-criminal-record>

Annexes

None