

RECRUITMENT OF EX-OFFENDERS POLICY

To ensure Release fully compliant with the provisions of the Rehabilitation of Offenders Act and best practice in its recruitment of staff with a criminal record.

Applies to: All applicants to Release, and all staff

Introduction:

- (a) 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.
- (b) The policy sets out the basis on which Release will seek information from prospective employees about spent and unspent (current) convictions and how this information will be used. The policy will be made available upon request to all disclosure applicants at the outset of the recruitment process.
- (c) The policy sets out the commitment from Release that all applicants will be treated fairly.

Principles

- (a) Applicants, and members of staff with either a spent, or unspent conviction will not be unfairly discriminated against.
- (b) Release uses the Disclosure and Barring Service (DBS) Disclosure Service to check the history of applicants and assess their suitability for posts.
- (c) Release complies fully with the DBS Code of Practice
- (d) Information obtained from the DBS will only be used to assess an individual's suitability for employment, where relevant, and will not be used to discriminate in any way.
- (e) Release is committed to the fair treatment of its employees and potential employees regardless of race, gender, religion, sexual orientation, age, disability or offending background.
- (f) 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.
- (g) Disclosure of the information received from the DBS will only be made available to staff who have a specific need to access it in the course of their duties.
- (h) This policy should be read in conjunction with the Release's Criminal Records
 - a. Bureau Policy.

- (i) Release will use all reasonable endeavours to ensure that DBS disclosures are only requested in accordance with the eligibility criteria of relevant positions or employment.

Main Steps

- (a) Obtaining information from applicants
- (b) During our recruitment process the Release will normally only ask about unspent convictions as defined by the Rehabilitation of Offenders Act.
- (c) 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. (For further information please refer to the Exemptions Order of the ROA). Release is legally entitled to ask applicants of the details of any spent and unspent conviction.
- (d) The recruiting manager must ensure the DBS requirement is clearly stated on the job description.
- (e) The Finance & Operations Manager will ensure that relevant wording is included in the online advert and job description advising that the successful applicant will need to satisfy DBS requirements and undertake a DBS check.

Declaring Previous Convictions

- (a) Where an individual has disclosed a conviction, or a conviction is revealed through a DBS check, a discussion will take place with the applicant regarding the offence and its relevance to the position to assess the suitability of the applicant for the job.
- (b) When considering the matter, the following examples may be taken into account:
 - The seriousness of the offence and its relevance to the safety of other employees, clients, 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 job 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.
- (c) Having carefully considered these matters, a decision should be taken 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. Release will undertake a discussion regarding the content of the disclosure with the applicant before withdrawing any offer of employment.

- (d) 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 or disciplinary action which could lead to termination of employment.
- (e) It is the responsibility of the applicant and employee 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 two and half years can never become spent.
- (f) Release should seek a Disclosure where the position to be filled involves a greater degree of risk or where there is a legal requirement to do so (e.g. direct contact with children/vulnerable adults). Disclosures should not be used as a blanket requirement in all circumstances and should meet the criteria set out in the DBS Policy.

Existing staff with a criminal record

- (a) If a member of staff is convicted of a criminal offence whilst in employment they must report this to their manager immediately. The facts of the case will be considered to determine if there are sufficient grounds to warrant any formal action to being taken, in line with the Release's Disciplinary Procedure.
- (b) Managers will be expected to carry out a risk assessment, comparing the skills, experience and the circumstances of the conviction against the risk criteria identified for the job. Managers should take an objective approach and advice should be sought from Finance & Operations Manager, if required.
- (c) If a member of staff is concerned about a conviction, they should speak directly with their line manager or Finance & Operations Manager. For specific roles, regular DBS disclosure renewals will be required and it is expected that individuals would have disclosed any new convictions.

Records

- (a) All relevant information will be held under secure cover on the individuals Personal Record file.

DISCLOSURE AND BARRING SERVICE (DBS) POLICY STATEMENT

1. As an organisation using the Disclosure and Barring Service (DBS) checking service to assess applicants' suitability for positions of trust, Release complies fully with the [Code of Practice](#) and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed.
2. Release is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
3. We have a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the outset of the recruitment process.
4. 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 and experience.
5. A DBS check is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all application forms, job adverts and recruitment briefs will contain a statement that a DBS check will be requested in the event of the individual being offered the position.
6. Where a DBS check is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process, except for certain spent convictions and cautions which are 'protected' so not subject to disclosure to employers and that cannot be taken into account. We request that any information not subject to this filtering is sent under separate, confidential cover, to a designated person within Release and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.
7. Unless the nature of the position allows Release to ask questions about your entire criminal record, except for certain spent convictions and cautions which are 'protected' so not subject to disclosure to employers and that cannot be taken into account, we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974.
8. We ensure that all those in who are involved in the recruitment process have at Release have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
9. At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be

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relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

10. We make every person subject of a DBS check aware of the existence of the [Code of Practice](#) and make a copy available on request.
11. We undertake to discuss any matter revealed in a DBS check with the person seeking the position before withdrawing a conditional offer of employment.