

## DBS CHECKS AND CONVICTION HISTORY– good practice

Over 9 million people in the UK have a criminal record (convictions); 1 in 3 men and 1 in 9 women will have a criminal record by age 56. Having a criminal record does not mean necessarily that a person is unsuitable to be employed or volunteer for a particular role.

There are many misconceptions about employing those with convictions e.g. risk, reliability, illegality etc. and the third sector is an important partner in providing opportunities for ex-offenders such as help to re-enter employment through volunteering.

Using a criminal record as a reason to reject or favour another candidate without due consideration is wrong, apart from the strong business case of missing out on potential talent. Disclosure and Barring Service (DBS) checks, where there is eligibility, should be used as one tool within the overall recruitment process.

Anyone using DBS checks must have a fair and clear policy towards ex-offenders and not discriminate automatically on the basis of a criminal record. Organisations should look at criminal record information sensibly and responsibly, taking into account legal obligations and good practice, fairness and equality as well as safety.

### Step by step

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| 1 | <p><b>Inform applicants at the outset if criminal record information will be requested from them.</b> This can be as an appropriate DBS check where the role is eligible when you have decided on your suitable candidate. It may be requested on an application form or at interview as a self-declaration. Where the job position or volunteer role is eligible for a DBS check, include this sentence on your applicant information “ <i>This role is subject to a satisfactory DBS check which will be requested on acceptance of a conditional offer</i>”. However, you <b>must</b> ensure that you are asking for information that you are entitled to know in accordance with the Rehabilitation of Offenders Act 1974.</p> |
| 2 | <p><b>Ask applicants about criminal records in such a way as to encourage honesty</b> This will provide a basis for the applicant to decide whether or not to apply for the post. You should emphasise that this information will be used to assess their suitability only if relevant and that they will be considered on merit and ability and not discriminated against unfairly.</p>   |
| 3 | <p><b>Establish whether the conviction is relevant to the post</b> either if self-disclosed or if it appears on a DBS certificate. Deciding on the relevance of convictions to specific posts is not an exact science. An assessment of an applicant’s skills, experience and conviction circumstances should be weighed against the risk assessment criteria for the position. Your organisation is best placed to consider whether a person’s convictions make him or her unsuitable for a particular job or volunteer role. It is important that you should consider all factors in order to reach a balanced judgement.</p>  |

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| <b>4</b> | <b>Identify what risks might be involved and what precautions to put in place in order to provide satisfactory safeguards.</b> |
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**You can only conduct a safe and fair risk assessment if you have all the relevant information that you need. You are trying to establish:**

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| <b>!</b> | <p>What is the likelihood that an offence or harmful act will occur?</p> <p>What is the impact of harm of that offence/act?</p> <p>What exactly might happen, to whom or what, under what circumstances and why?</p> |
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**For shortlisted applicants the risk assessment can comprise:**

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| <b>1</b> | A decision 'on the papers' can often be done for old, minor or clearly irrelevant information, where the decision could be to appoint with no further assessment. |
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and/or

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| <b>2</b> | A face-to-face discussion, which is held independently of the actual interview, to discuss the relevance of their criminal record and the risk factors it may imply for the role on offer. |
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| <b>✓</b> | Beforehand, gather as much (relevant) information as you can; encourage references and independent statements and if you've used a declaration form, this is where you can find out more about the circumstances. |
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| <b>✓</b> | Think beforehand about the questions you'll ask: develop a set of questions but treat each applicant individually; be sensitive and empathetic to minimise anxiety or embarrassment and be clear of purpose to instil confidence and openness. |
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| <b>✓</b> | Best <i>not</i> to conduct any discussion alone and remember it is not your responsibility to decide whether court/police decision was right/wrong. |
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**Templates are provided to help you write your policies and manage when a criminal record is disclosed.**



NACRO and <http://www.unlock.org.uk/>



<https://www.gov.uk/exoffenders-and-employment>



**Companion information sheets**

TSS Risk Assessment - disclosure of a criminal record  
 TSS Recruitment of ex-offenders model policy  
 TSS Regulated activity - working with Children  
 TSS Regulated activity - working with Adults



Relevant training - contact us

## LOOKING AT CONVICTIONS – ASSESSING RISK

| FACTORS  | Comments  |
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| The person's age at the time of the offence  | Was the offence committed as an adult, or as a child or adolescent? Listen to the individual's explanation. Was it a difficult time in their life - result of lack of experience and understanding of personal responsibility? Immaturity and greater risk taking in youth?   |
| How long ago the offence took place  | Offences that took place years ago may have less relevance now with the exception of serious violent or sexual offences.  |
| Whether it was an isolated offence or part of a pattern of offending and whether the applicant's circumstances have changed since the offence was committed, making reoffending less likely  | Repeated offences may indicate that the individual has not been able to change his/her offending behaviour and may be more likely to re-offend.   |
| <p>The nature of the offence and relevance to the position</p> <ul style="list-style-type: none"> <li>Does the post involve one-to-one contact with children or other vulnerable groups as service users and/or other employees/volunteers?</li> <li>What level of supervision will the post holder receive / can be put in place?</li> <li>Does the post involve any direct responsibility for finance or items of value?</li> <li>Does the post involve direct contact with the public?</li> </ul> | <p>Base your assessment on actual risks that are relevant to the role "<i>It's the future convictions that matter, not the past ones</i>".</p> <p>Some offences will be so serious that they result in that person being barred from working with vulnerable groups anyway. If the role is not eligible for a DBS barred list check you will still see any criminal conviction information on the DBS certificate (for an enhanced DBS check without the barred list check) that would have been used for any barring decision.</p> <p>Paedophile/child pornography offences would almost certainly disqualify any person required to work with children; some violent offences would be relevant to positions involving unsupervised contact with the public.</p> <p>Fraud should be considered in relation to posts involving the handling of significant amounts of money; and theft in relation to posts involving the handling of stock.</p> |

| <b>FACTORS</b>   | <b>Comments</b>  |
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| What else is known about the person's conduct before and since the offence     | Look at all the circumstances, including their employment pattern and the individual's own explanation.  |
| What is known about the person's current feelings about and around the offence | Listen to the individual's explanation around the offence, for example the influence of domestic or financial difficulties. Have they expressed remorse etc?   |
| Relevant information offered by the applicant themselves                       | <p>Did the applicant disclose any criminal record information as part of the application process/at interview, and in line with the ROA 1974?</p> <p>Failure to disclose a relevant offence, without a satisfactory reason, can lead to disciplinary action and subsequent dismissal.</p>  |
| Are there any concerns about their motivation to work with vulnerable groups?  | <p>The NSPCC use Value Based Interviewing to help judge whether a candidate shares and will contribute to the ethos of their organisation, using such questions as "Can you give an example of something that you have done that demonstrates your commitment to protecting a child or an adult in your care?"</p> <p>You should identify those values and behaviours that you would want reflected within your organisation and would want the candidate to demonstrate e.g. value: protect; behaviour: commitment. Is there anything about their response that concerns you e.g. not understanding what actions might protect an individual, not willing to act to protect the individual, not sure whether they should be protecting the individual.....?</p> <p>Does their reaction suggest that they can work within appropriate professional boundaries regarding your vulnerable groups (not overly detached, but not too close either)?</p> <p>Do they demonstrate a level of self-awareness which will allow them to reflect on and develop their practice accordingly, accept challenge, and engage in continual learning for ongoing improvement?</p> |

