

<b>Issue: 07/14</b>	<b>HRP 306 Employment of Ex-Offenders Policy</b>	<b>Review date: August 2021</b>
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### **Policy statement**

This policy sets out the Charity's position on employing people who have criminal convictions. The Charity is an equal opportunity employer and is fully committed to a policy of treating all job applicants fairly and equally and it aims to select people for employment on the basis of their skills, experience, abilities and qualifications. The Charity will therefore consider ex-offenders for employment on their individual merits. Having a criminal record will not necessarily bar a person from working for the Charity. This will depend on the nature of the job role and the circumstances and background of the criminal offences.

The Charity's approach towards employing ex-offenders differs depending on whether the job role is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974.

### **Spent convictions**

The Charity will not refuse to employ a job applicant just because they have a spent conviction or caution and it acknowledges that, unless the job role is exempt from the Rehabilitation of Offenders Act 1974, job applicants are under no obligation to disclose spent convictions or cautions.

### **Unspent convictions**

The Charity will not automatically refuse to employ a job applicant just because they have an existing or unspent conviction or caution. During the recruitment process, applicants may be asked to disclose any unspent convictions or cautions. If an applicant has a conviction that is not spent and if the nature of the offence is relevant to the job for which they have applied, the Charity will review the particular circumstances of the case and it may, at its absolute discretion, decline to select the person for employment or withdraw any offer of employment already made. Failure to disclose information about unspent convictions or cautions when asked to do so during the recruitment process could lead to withdrawal of an offer of employment, or alternatively to dismissal if the applicant has already commenced employment.

Successful job applicants to whom an offer of employment has been made may also be asked to obtain a Criminal Conviction Certificate (also known as a Basic Disclosure) from the Disclosure and Barring Service. This level of criminal record check only reveals unspent conditions and cautions. The offer of employment may be made conditional on this document being obtained to the Charity's satisfaction.

### **Job roles exempt from the ROA**

If the job role into which the Charity is seeking to recruit is one of the excluded jobs listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 /Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013, the Charity will require the job applicant to disclose all convictions and cautions, whether spent or unspent. If an applicant has a conviction or caution, the Charity may, at its absolute discretion, decline to select the person for the particular employment.

Where the job role is exempt, failure to disclose information about convictions or cautions when asked to do so during the recruitment process could lead to withdrawal of an offer of employment, or alternatively to dismissal if the applicant has already commenced employment.

If the job role is exempt, once the Charity has selected the applicant. The Charity will require the applicant to make an application to the Disclosure and Barring Service for an Enhanced Criminal Record Certificate (also known as Enhanced Disclosure). Any offer of employment will be made conditional on this documentation being obtained to the Charity's satisfaction.

Where a disclosure is to be requested for a particular job role, the Charity will make it clear to all job applicants early in the recruitment process, for example in the job advertisement or on the job application form, that a disclosure will be required in the event of the person being offered the position.

The Charity will discuss any matter revealed in a disclosure with the job applicant before withdrawing a conditional offer of employment.

### **Existing employees who are found to have a criminal record**

The Charity's policy is to seek Disclosure information in relation to existing employees by renewing their DBS certificate every three years. DBS certificates of employees registered with the update service will be checked on an annual basis. On receipt of the disclosure certificate, Human Resources must have sight of the original document without delay. In cases where someone has been employed, and it is then discovered they have failed to disclose any convictions or cautions, they will not necessarily be dismissed. Only after a full investigation of the situation, will dismissal be considered.

If an employee deliberately withholds conviction information to gain employment, appropriate disciplinary procedures will be considered. Where there is a significant risk, the Charity might consider the introduction of safeguards, or moving the employee to a more suitable job.

### **Data protection requirements**

The Charity is committed to ensuring that all information about a person's criminal convictions or cautions, including any information released in disclosures, is used and processed fairly and stored confidentially and in accordance with the provisions of the General Data Protection Regulations (GDPR) In particular, personal data about a person's criminal convictions, cautions or offences will only be held for as long the retention period set out in the Charity's data protection policy and in the privacy notice, it will only be seen by those who need to see it as part of the recruitment and employment process and it will not be shared with or disclosed to any other employer, prospective employer or other unauthorised third party.

### **Approval and Authorisation:**

<b>Name</b>	<b>Job Title</b>	<b>Date</b>
Author: Geraldine Martin	Director of Human Resources	06/09
Approved: Risk Panel		

### **Change History**

<b>Version</b>	<b>Date</b>	<b>Reason</b>	<b>Initials</b>
Version 6.0	July 2013	Policy number amended/Title and overall review	GM
Version 7.0	July 2014	Review	GM
Version 8	Aug 2015	Review	GM

Version 9	July 2016	Review	GM
Version 10	July 2017	Review	GM
Version 11	July 2018	Review	GM
Version 12	April 2019	Amended in line with GDPR	GM
Version 12	August 2020	Reviewed	GM

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