

POLICY ON EMPLOYING PEOPLE WITH CRIMINAL RECORDS 2016 - 2019

Policy Statement:

Age UK Portsmouth (the Charity) is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, sex, gender reassignment, religion or belief, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

As an organisation using the Criminal Records Bureau (CRB) Disclosure service to assess applicants' suitability for positions of trust, Age UK Portsmouth complies fully with the CRB Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or other information revealed.

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 the demonstration of skills, qualifications and experience.

As the majority of staff at the Charity are required to hold Disclosure certification, all application forms and job profiles will contain a statement that a Disclosure will be requested in the event of an individual being offered a position. We encourage all applicants called for interview to provide details of their criminal record at the initial stage of the recruitment process on the Charity's application form. Wherever an applicant declares a previous conviction it will fall within the remit of this policy and procedure.

Process:

1. Individuals who are applying for posts that are exempted under the Rehabilitation of Offenders Act (Exceptions) Order 1975 will be notified through the interview process that the post requires the disclosure of all criminal record information, including details and dates of "spent" convictions, reprimands and final warnings.

Applicants for trading staff vacancies must declare information about any criminal convictions for which they are not regarded as rehabilitated under the Rehabilitation of Offenders Act 1974. Under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, there are a number of posts which are exempted and these applicants must declare information about any previous criminal conviction.

Any applicants who declare that they have been convicted of a criminal offence are required to inform the Chief Executive Officer. The information must be sent under separate, confidential cover, and will only be seen by those who need to see it as part of the recruitment process. Details of convictions under the Rehabilitation of Offenders Act **must** be submitted to the Chief Executive Officer in a sealed envelope at least 3 working days prior to the interview.

Criminal records are taken into account for recruitment purposes **only** when the conviction is relevant to the work to be undertaken by the person if appointed to the post.

Having an "unspent" conviction will not necessarily bar an applicant from employment; this will depend on the circumstances and background to the offence with regard to the post applied for.

We ensure that all who are involved in the recruitment process 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.

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 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.

2. In exceptional circumstances, if the nature of the offence(s) is considered by the Chief Executive Officer and the Board of Trustees Director to be (a) highly relevant to the post **and** (b) serious enough to bar the person from employment within that post, the Chief Executive Officer will write to the applicant to inform them of this. Examples of this would be:
 - (a) someone on the Sex Offenders' Register applying for a non-exempted post;
 - (b) someone convicted for serious financial fraud applying for a finance-based post.
3. If the Chief Executive Officer considers the information relevant to the post applied for, but does not consider that it should bar the application, it will be passed to the Chair of the Interview Panel.
4. The information will be kept totally confidential by all parties until after the interview.
5. The interview panel will interview the individual and appointment decisions will be based on an assessment of the applicant's relevant skills, experience, qualifications and abilities in the normal way. The application will be judged on merit assessed against the requirements identified in the person specification, regardless of the information received.
6. Where the panel wishes to offer the post to that person, the Chief Executive Officer will decide what further action, if any, should be taken in the light of the information received.
7. Where the Chief Executive Officer believes the convictions are relevant, the CEO will discuss the matter with the interview panel in complete confidentiality. The panel will then decide what further action needs to be taken, if any.
8. A risk assessment will be conducted relevant to that post by the recruiting manager. Such an assessment will consider:
 - The seriousness of the offence and its relevance to the safety of other employees, students or other relevant persons, and/or property
 - 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
 - Whether the offence was one-off or part of a history of offending
 - Whether the nature of the job could present opportunities for the post holder to re-offend
 - Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely
 - The country in which the offence was committed
 - Whether the offence has since been decriminalised by Parliament
9. Further exploration may be necessary. This may take the form of a meeting with the candidate to discuss the relevant convictions. It may also include, with the explicit consent of the individual, references regarding the offence to be taken up; for example, from a probation officer or specialist employment organisation.
10. Should information provided by the CRB, specialist organisation or person contradict that provided by the individual, this will be taken into consideration by the Chief Executive Officer and the Chair of the interview panel.
11. Following receipt of all relevant information, the Chair of the interview panel will make a recommendation regarding the appointment to the Chief Executive Officer. The CEO will make the final decision concerning the appointment.

12. Should an individual wish to dispute that decision, they will have a right to make an appeal in writing to the Chief Executive Officer.

What would constitute “relevant”?

In considering the relevance of criminal convictions the Charity will take account of the nature of the post, for example:

- Does the post involve one-to-one contact with children or other vulnerable groups such as older persons (e.g. acting as an advisor, accessing personal information)?
- What level of supervision does/will the post holder receive?
- Does the post involve direct responsibility for finance or items of value?
- Does the post involve direct contact with the public?

On Appointment:

All appointed candidates will be required to obtain an appropriate disclosure certificate from the Criminal Records Bureau and the Charity will action this on the appointed candidate’s behalf. The level of certificate required will be specified in the interview documentation. We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.

Where details of a conviction come to light during employment (and have not been revealed by the individual at the time of appointment) a full appraisal will take place by the Department Manger and the Chief Executive Officer. The employee will be asked to explain why the information was not proffered at the time of appointment.

The Charity will consider whether the conviction is relevant, whether there is a significant risk, and whether this may be reduced through safeguards or redeployment. Where there are issues of significant risk that cannot be reduced, dismissal will be considered.

If it is found that an employee deliberately withheld information which was required under the Rehabilitation of Offenders Act (Exceptions) Order 1975, and/or misled the employer to gain employment, this is likely to lead to dismissal.

Data Security:

1. No information regarding disclosed criminal convictions or Disclosure will be released to any individual or organisation, unless they are authorised to receive it under Section 124 of the Police Act Part V 1977.

2. Charity Counter signatories authorised by the CRB will ensure that Disclosures and the information they contain will only be released to those managers and staff who need access in the course of their duties (e.g. Chair of Interview Panels or other Charity Counter signatories).

3. All Disclosure information will be stored in secure, locked filing cabinets. Disclosures will be held for a period of six months after the date of the recruitment decision, or after the resolution of a dispute regarding the recruitment decision or disclosure information. In exceptional circumstances information may need to be retained for longer, but this will not be done without consulting the CRB. After this time a named individual appointed by a Counter signatory will shred the Disclosure information. No photocopy or other image of the Disclosure will be retained.

4. A record of the date of disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the CRB and the recruitment decision taken will be retained in accordance with CRB advice.

Code of Practice and Complaints Procedure:

The Charity undertakes to comply with the CRB Code of Practice. A copy of the Code is available from the CRB website www.crb.gov.uk.

Should you believe this Code has not been complied with, you should complain to the CRB directly at:
Criminal Records Bureau
Customer Services

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