

RECRUITMENT OF EX-OFFENDERS POLICY

Document information

Title	Recruitment of Ex-offenders Policy
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Definitions

Charity	Blue Smile Registered address: 47-51 Norfolk Street, Cambridge CB1 2LD Registered charity number: 1139279 Registered company number: 7411348
Staff	means salaried employees, contractors and volunteers including trustees
DBS	means the Disclosure and Barring Service
Code of practice	means DBS Code of Practice https://www.gov.uk/government/publications/dbs-code-of-practice

Introduction

This policy outlines Blue Smile's approach to the recruitment of staff, volunteers and contractors who may have a criminal record and the information and process that we share with applicants.

Principles

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order (using criminal record checks processed through the Disclosure and Barring Service (DBS)), Blue Smile complies fully with the DBS code of practice and undertakes to treat all applicants for positions fairly.

- Blue Smile is committed to the fair treatment of its staff, potential staff and all those working with Blue Smile including self-employed contractors and volunteers, and users of its services, regardless of race, ethnicity, sex, gender identity, religion or belief, sexual orientation, marital/civil partnership, responsibilities for dependents, age, physical/mental disability or offending background
- Blue Smile actively promotes 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
- Blue Smile selects all candidates for interview based on their skills, qualifications, and experience
- Blue Smile can only ask an individual to provide details of convictions and cautions that Blue Smile are legally entitled to know about, where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended)
- Blue Smile can only ask an individual about convictions and cautions that are not protected
- At interview, or in a separate discussion, Blue Smile ensures 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
- An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position
- Blue Smile undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment
- Blue Smile undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed
- Blue Smile makes every subject of a criminal record check submitted to DBS aware of the existence of the DBS code of practice and makes a copy available on request
- Blue Smile ensures that all those in the charity who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences
- Blue Smile also ensures 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

This written policy on the recruitment of ex-offenders, is made available to all DBS applicants at the start of the recruitment process.

Information for applicants

Introduction

Blue Smile is committed to the fair treatment of its staff, potential staff, volunteers or users of its services, regardless of race, ethnicity, sex, gender identity, religion or belief, sexual orientation, marital/civil partnership, responsibilities for dependants, age, physical/mental disability or offending background.

We actively promote equality of opportunity for all with the right mix of experience, skills, and potential and welcomes applications from a wide range of candidates, including those with criminal records. We will select all candidates for interview based on their skills, qualifications, and experience. The Rehabilitation of Offenders Act 1974 (updated 28 October 2023) enables some criminal convictions to become 'spent', or ignored, after a 'rehabilitation period'. A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention their conviction when applying for a job or obtaining insurance, or when involved in criminal or civil proceedings.

Many positions with Blue Smile qualify for DBS (Disclosure and Barring) checks which provide access to sensitive criminal record information about candidates. As an organisation using the Disclosure and Barring Service (DBS) to assess applicants' suitability for positions of trust, Blue Smile must comply fully with the relevant legislation and DBS Code of Practice and undertakes to treat all applicants for positions fairly and not to discriminate unfairly against any subject of a Disclosure based on conviction or other information revealed.

Having a criminal record will not necessarily bar an individual from working with Blue Smile. This will depend on the nature of the position and the circumstances and background of the offences. The Rehabilitation of Offenders Act 1974 (England and Wales), Rehabilitation of Offenders Order 1978 (Northern Ireland) and Offenders Act Exceptions Order (Scotland 1974 - Amendment 2003) were introduced to ensure that ex-offenders who had not re-offended for a period of time since their conviction are not discriminated against when applying for jobs. Unless a position is exempted from the Acts, employers are not allowed to discriminate on the grounds of spent convictions.

Disclosure and Barring Service checks

A DBS is only requested after an eligibility check has indicated that one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required recruitment documents contain a statement that a Disclosure will be requested in the event of the individual being offered the position.

If the post does not involve working directly with children on a regular basis (ie: a regulated activity), Blue Smile will only require applicants to disclose 'unspent' criminal convictions as part of their application. Blue Smile will advise applicants at the time when they first submit their application (on the role description and application form), the extent and depth of the vetting they will be subjected to, before the role can be offered to them. This will enable any person who objects to the vetting process, for whatever reason, to withdraw their application early in the recruitment process.

Successful applicants will be required to consent to subsequent criminal record checks during employment as deemed appropriate by Blue Smile.

Checking processes

All employees, contractors, freelancers and volunteers, will undergo some form of pre-employment security check. The level of check will vary dependent upon the role and the access to children or young people.

Posts that do not involve direct access to children or young people are covered by the Rehabilitation of Ex-Offenders Act.

In order to protect vulnerable groups such as children and young people, when staff are recruited into positions involving regular work with these groups, they are exempt from the Rehabilitation of Offenders Act for those positions only and so Blue Smile is entitled to ask the individual to disclose both spent and unspent convictions.

Procedure for a disclosure

Where a Disclosure is to form part of the recruitment process, all applicants called for interview are encouraged to provide details of their criminal record at an early stage in the application process.

This information is provided confidentially on a criminal record declaration form and given in a sealed envelope to the Operations Manager or a member of the Blue Smile team on the interview panel. This information is only to be seen by those who need to see it as part of the recruitment process.

Blue Smile team members who are involved in the recruitment process will have been suitably trained to identify and assess the relevance and circumstances of offences and they should have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders.

The relevance of convictions will be judged against the following criteria:

- The seriousness of the offences and its relevance to other employees
- The length of time since the offence occurred
- Whether the offence was a one-off or part of a history of offending
- Circumstances which led to the committing of the offence
- Whether the applicant's personal circumstances have changed
- The country in which the offence occurred

At interview, or in a separate discussion, an open and measured discussion will take 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 a conditional offer of employment or volunteering, but Blue Smile will endeavour to have a thorough discussion before any offer is withdrawn.

Any matter revealed in a Disclosure will be discussed with the person seeking the position before finalising any offer of employment. Only convictions which are relevant to the role which an individual applies for will be taken into consideration. Past convictions which were spent a long period of time ago and which would not impact on an individual's ability to perform a role competently and safely, will not bar an individual from taking up a position within Blue Smile.

Having a criminal record will not necessarily bar an individual from working with Blue Smile. This will depend on the nature of the position and the circumstances and background of the offences.

Resources

A guide to the Rehabilitation of Offenders Act 1974 including a summary of changes that came into force 28 October 2023:

https://nacros3.eu-west-2.amazonaws.com/wp-content/uploads/2023/10/24203228/Rehabilitation-of-Offenders-Act-1974-Guide-2023_web.pdf

If you have any questions, please contact Vicki Osborne, Operations Manager (vicki.osborne@bluesmile.org.uk; 01223 314725).