



CRB Disclosure Policy and Procedure

Introduction

This document is based on the information supplied in the Guidance Notes provided by the Criminal Records Bureau but has been adapted to support the specific needs of the Charity. The following applies to recruitment of staff and volunteers in England and Wales.

The Policy is in three parts:

Part 1: Education Otherwise Policy regarding the Recruitment of Ex Offenders.

Part 2: The Disclosure of Information Application Process

Part 3: The Secure Storage, Handling, Use, Retention & Disposal of Disclosures & Disclosure of Information Policy.

Disclosure of Information is largely governed by the following legislation:

- Rehabilitation of Offenders Act 1974;
- The Police Act 1997;
- Data Protection Act 1998;
- The Criminal Justice and Court Services Act 2000;
- The Safeguarding Vulnerable Groups Act 2006

For more information visit: www.crb.gov.uk

PART 1:

Policy for All Applicants regarding the Recruitment of Ex Offenders

The Criminal Records Bureau (CRB)

The Criminal Records Bureau (CRB), an executive agency of the Home Office, has been set up to help organisations make safer recruitment decisions. By providing access to criminal record information the CRB will help organisations identify candidates who may be unsuitable for certain work, especially that involving contact with children or other vulnerable members of society.

Certain voluntary roles within Education Otherwise require postholders to have been screened by means of a 'Disclosure' obtained from the CRB. A Disclosure is an impartial and confidential document that details an individual's criminal record and where appropriate, details of those who are banned from working with children.

Umbrella Body

Education Otherwise Association Limited uses Atlantic Data – an umbrella body registered with the CRB to carry out CRB checks. Information provided on any Disclosure is both sensitive and confidential. It is important that any postholder party to that information should handle it in an appropriate manner. The postholder processing our CRB checks has data protection training and an enhanced CRB disclosure.

All individuals or organisations using the Criminal Records Bureau (CRB) Disclosure service to help assess the suitability of applicants for positions of trust and who are recipients of Disclosure information must comply fully with the CRB Code of Practice. This requires them to treat all applicants for positions who have a criminal record fairly and not to discriminate against the subject of a Disclosure on the basis of conviction or other information revealed. It also obliges them to have a written policy on the recruitment of such individuals, which can be given to all applicants for positions where a Disclosure is requested.

Policy Statement

Education Otherwise complies fully with the CRB Code of Practice and undertakes to treat all applicants fairly and not to discriminate against any subject of a Disclosure on the basis of conviction or other information revealed. Education Otherwise is committed to the fair treatment of its volunteers and staff regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

The Policy and Procedures on the Recruitment of Ex-Offenders and the CRB Code of Practice are made available to all applicants at the outset of the recruitment process and can be viewed on the website and in the members forums: <http://forum.education-otherwise.org/viewforum.php?f=59>

A Disclosure is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the post concerned. For those positions where a Disclosure is required, all job adverts will contain a statement that a Disclosure will be requested in the event of the individual being offered the post.

Where a Disclosure is to form part of the recruitment process, we encourage all applicants to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to the Database Administrator and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

Failure to reveal information that is directly relevant could lead to withdrawal of an offer of a voluntary or paid position.

Having a criminal record will not necessarily prevent an individual from being a volunteer or member of staff at Education Otherwise. This will depend on the nature of the position, professional suitability and the circumstances, nature and background of the offences.

- Unless the nature of the post you have applied for allows Education Otherwise to ask questions about your entire criminal record we only ask about “unspent” convictions as defined in the Rehabilitation of Offenders Act 1974.
- Information contained within a Disclosure will be considered by a Disclosure Panel at which a decision will be made as to the suitability or unsuitability of the Applicant.
- We ensure that those in Education Otherwise who are directly 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.
- Where the offer of a position is not confirmed as a result of information contained within a Disclosure, the individual will be informed of the decision in writing by the Disclosure Panel.
- Having been offered a voluntary or paid role with Education Otherwise it is the responsibility of the individual to make the Disclosures Panel aware of any subsequent convictions who will then make a decision as to whether it is appropriate for the individual to remain in the post.

PART 2: The Disclosure of Information Recruitment Process

Objectives of the Recruitment Process

The purpose of this process is twofold:

- To ensure, as far as is reasonably possible, that all children and young people are fully protected from risk and exposure to inappropriate, unsolicited, or immoral behaviour on the part of any future or existing postholder;
- To ensure fairness and equity is applied during the Disclosure of Information process to potential and existing volunteers and staff.

Roles & Responsibility for the Policy

Trustees are responsible for the process of appointing staff or volunteers and for ensuring that postholders to whom they delegate the responsibility of recruiting follow the policy and procedures. In addition the line manager is responsible for identifying and instigating changes to the Job Description where a post is required to work with young people.

The Trustees are responsible for ensuring the administration of the process complies with the Policy and CRB codes of practice and Data Protection Act.

Guiding Principles

This document provides guidance to postholders who are responsible for appointing people who, by virtue of the responsibilities of the position, require verification that there is no justifiable or legal reason why they may not be considered to work for the Charity either as a volunteer or as staff.

Disclosure of Information is commonly referred to as 'CRB checks' (access to information provided by the Criminal Records Bureau). Application for the Disclosure of Information is made solely on the expressed written authority of the successful candidate, or person(s) engaged to undertake work for or on behalf of the Charity.

Disclosure Information indicates the suitability of a candidate, or person(s) engaged to work for, or on behalf of the Charity, to undertake a role that will involve contact with young people under the age of 18. (See '**Glossary**' for definitions).

Disclosure Information is a means of determining whether or not an individual has a 'record' that does not permit them to work with young people, or undertake responsibilities that may bring into question the persons honesty and/or integrity. Disclosure of Information is not a legal requirement; it is additional information used in order to satisfy pre-determined appointment criteria.

A Self Disclosure Form must be completed as soon as possible for all existing postholders whom Education Otherwise is required to check. A Self Disclosure Form must also be completed in advance of any CRB check for new volunteers who have been provisionally offered a post subject to CRB checking.

What types of Occupations are covered?

The type of report sought from the CRB is essentially based on levels of responsibility in relation to working with, caring for or authority over, young people under 18. It has been determined that, where a CRB check has been identified as a requirement (as indicated below), it should be a **Standard Disclosure**.

Standard Disclosures

This details spent and unspent convictions, as well as cautions, reprimands and warnings that are recorded centrally. It will also indicate if there are no such matters on record. Where a post involves working with children, lists of those considered unsuitable to work with children and held by the Department for Children, Schools & Families and the Department of Health will also be checked.

Review of Disclosure Information

Staff and volunteers should have a further check at 3 yearly intervals; this will be administered via the Database Administrator who will contact you when this repeat check is due.

Transferring or porting Disclosures & Secondments

Can a Disclosure be used more than once within Education Otherwise?

Disclosure Information already obtained for existing or previous posts within Education Otherwise can be used, however it is the nature of the duties concerned, and the type of

Disclosure sought, that will affect whether it is necessary to reapply for Disclosure Information or if previous Disclosures can be relied upon.

Can a Disclosure be used more than once from outside Education Otherwise?

In general it is far more reliable to request a further report than to debate the merits and validity of a previous one, particularly as the report is only as effective as the date it was issued given that the accuracy of the information deteriorates with time. The CRB no longer facilitates portability, saying organisations that choose to accept a previously issued Disclosure do so at their own risk and so Education Otherwise will apply for a new CRB disclosure for all new postholders even if they have one from another organisation.

Verifying applicant's identity

When identity is verified beyond doubt, names can be matched with criminal records and - in cases where the position involves working with children - with lists of those banned from working with children held by the Department of Health and the Department of Children, Schools and Families. To operate the service successfully, we must ensure that the identity and current address of each Disclosure applicant is verified beyond doubt – volunteers are given the option of using the Post Office Veri-fy service whereby they can take their identity documents into their nearest Post Office to be verified, or they may prefer to send them to the Database Administrator to be verified. If this latter option is chosen, we recommend using recorded delivery and will return all identity documents to the volunteer by this method.

Convictions whilst in the employ or voluntary role for Education Otherwise

It is the sole responsibility of an individual to notify the Charity of any Convictions that have occurred during their employment or voluntary role. Failure to do so may result in disciplinary action leading to dismissal. Convictions whilst in the employment of the Charity will be dealt with through Disciplinary Procedures depending on the severity of the conviction, relevance to the post and risk to others.

Procedure for dealing with Disclosure Information

Where a Disclosure indicates a criminal record for an applicant, the Disclosure Panel will consider the information supplied by the applicant on the self-disclosure form along with the CRB Disclosure and the job description. The Panel will then decide whether the applicant is Suitable or Unsuitable. The Panel will not be aware of the identity of the applicant whilst making this decision to ensure impartiality.

The aim is to ascertain the facts surrounding the criminal offences, and to clarify any effects the offences may have upon safeguarding children. The attitude of the applicant to the offence(s) from information given in the Self-Disclosure Form will be taken into account.

Offences will be assessed against pre-determined criteria (see below) and a decision made as to whether an application should be Confirmed or Withdrawn. The applicant will be informed of the outcome of the Disclosure Panel in writing only.

The Disclosure Panel

The Disclosure Panel consists of 3 members - the Data Protection Officer, the Designated Safeguarding Children Person and a named trustee. The Panel has the responsibility for assessing the suitability of applicants whose Disclosure contains information regarding criminal offences.

The Disclosure Panel provides a means of ensuring consistency of Disclosure assessments and creates a knowledge base/expertise in this area within the Charity.

Risk Management

Addressing issues related to criminal convictions needs an objective common sense approach which takes account of:

- the employer's duties in law
- the nature of the crime
- when it happened
- the circumstances involved
- the sentence
- patterns of offending
- efforts to avoid re-offending
- job requirements
- safeguards against offending at work
- possible reactions of staff, volunteers, members and service users etc, objectively assessed.

This factsheet will help in deciding whether the risk of employing a person can be taken and what precautions and safeguards would be needed to manage and minimise that risk. All employers need to be aware of the dangers of personal prejudices that might cloud judgement and good practice, and consider the benefits of further training.

Risk assessment

Assessing the risk of employing a person with a criminal record means comparing an applicant's skills, experience and conviction circumstances against risk criteria you have identified for the job. It is important to remember that no two offences are exactly alike. The nature of convictions is essential to any risk assessment.

Assessing the job for risk

In assessing for risk, a number of factors need to be taken into account.

Issues	Reasons
Exemption status under the	It is illegal to employ certain offenders in some

Rehabilitation of Offenders Act 1974, duties under the Police and Children's Acts regarding one-to-one contact with children	occupations.
To what extent are you bound by other legal constraints?	For example, those with motoring convictions employed as drivers.
Does the post involve any direct responsibility for finance or items of value? Does the post involve direct contact with members of the public? Will the nature of the job present any realistic opportunities for the post holder to re-offend in the place of work?	What could happen and how serious would that be? What factors would increase or decrease the perceived risk? For example, the nature of the offence and impact of rehabilitation since then. Consider whether the offence would create unacceptable risks for other staff, volunteers, members or service users etc.

Assessing the ex-offender and the offences

The essential thing for employers to remember is to keep an open mind. Some ex-offenders will have had access to rehabilitation programmes that might also offer advice and guidance to potential employers and assist with transfers into posts. In some cases, the relationship between the offence and the post will be clear enough to assess the risks. In other cases, the decision may not be so clear-cut.

There are a number of people convicted of violent and sexual offences who will be banned from working with children and young people. These people aside, it is best to avoid introducing blanket bans on employing people convicted of particular categories of offence because such bans fail to take into account the precise nature of individual offences or the applicant’s attitude to them. No two offences are exactly alike. For instance, an offence of burglary may at one end of the scale involve great loss to the victim and indifference on the part of the offender and at the other extreme involve someone who is genuinely sorry at having stolen something to eat or drink.

The circumstances which lay behind the committal of offences, the degree of intention on the part of the offender, the damage caused, the offender’s sense of remorse or otherwise, and the degree of risk the offence suggests that the applicant represents, will differ every time and may only be assessed when judging people in the round. The following factors may help in making a decision:

- The availability of assessments and reports from those agencies involved in the applicant's process of rehabilitation. For example, the Probation Service, specialists working in prison, etc.

- The seriousness of the offence and its relevance to the safety of other volunteers, staff, members and other service users. Generally speaking, the longer the sentence the more seriously the Courts viewed the offence at the time. Custodial sentences are usually for more serious crimes than non-custodial sentences.
- The length of time since the offence occurred. (How effective has rehabilitation been?)
- Is the type of offence or offences relevant to the job?
- Is the behaviour that constituted the offence/s a particular cause for concern?
- Is the caution or conviction a one-off or one of several? Is it old or recent? Was it committed when the person was a juvenile or an adult?
- Is the context behind that behaviour a cause for concern (eg, was the conviction for violence a result of someone in great fear hitting an assailant or a premeditated violent attack)?
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely ?
- What evidence is there of change (eg, job, family, mortgage)?
- What is the person's attitude to the offence or offences? Is it one of remorse? Do they take responsibility for it, recognise the harm they caused?
- The country in which the offence was committed. For example, some activities are offences in Scotland and not in England or Wales, and vice versa.
- Whether the offence has since been decriminalised by Parliament.

If the answers to these questions indicate that the offences are not relevant and/or the applicant has put their past behind them, then the presumption may possibly be that the applicant is not a risk.

Implementing safeguards

Other legislative requirements, such as human rights, discrimination, data protection or duty of care, will need to be taken into account. It will also be helpful to assess:

- The level and closeness of supervision that might be needed early on in the employment.
- The extent to which procedures, such as the involvement of others in the work process, would be a form of indirect supervision.
- Whether any training or briefing would be useful to enable the supervisor to manage the post-holder in the work context.
- What precautions already exist in the organisation or could be put in place? Consider direct or indirect supervision, progress reviews involving the ex-offender, etc..

Criteria for Assessment of Criminal Offences

The following categories indicates the 'suitability' of individuals to undertake specific duties related to previous convictions:

Category A:

Applicants with major criminal convictions including any of the following will normally be rejected irrespective of time lapse between conviction and application.

Evidence of any criminal offence involving violence, child abuse, sexual abuse, sexual offences pornographic offences, or dealing in drugs.

Category B:

Applicants with minor criminal offences (convictions and or cautions) within nine years of application including any of the following may be rejected without interview or may be interviewed before a final decision is made.

Drug related offences, offences showing evidence of lack of honesty, trust-worthiness and driving with excess alcohol.

The Panel will consider the seriousness of the offence, the number of offences, the period between the last offence and application, the pattern of convictions, changes in circumstances since conviction and whether the offence has been disclosed by the applicant or via CRB Disclosure.

See Appendix 3 in ACPO Data Retention Records Document for lists of offences in each category.

<http://www.acpo.police.uk/acro/retention.asp>

Payment to CRB for Disclosure Information

The Charity will reimburse all costs incurred by an individual on receipt of a paid receipt and completion of an expense form.

CRB Overseas Information Service

The CRB is only able to access information within the UK as part of its Disclosure service. Nevertheless, the CRB recognises that volunteers are recruited from overseas, and that a CRB Disclosure may not provide a complete picture of any conviction history.

PART 3: Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information Policy

Data Protection Action 1998

The CRB has a Privacy Statement stating that it is fully committed to complying with the Data Protection Act 1998. This and other CRB documents can be viewed on their website: <http://www.crb.gov.uk/> Education Otherwise is also fully committed to comply with the Data Protection Act 1998. Copies of our Privacy Policy, Confidentiality Policy and Data Disclosure Policy can be viewed on the website: www.education-otherwise.org or in the Members area of the forum.

General principles

Education Otherwise complies fully with the CRB Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.

Education Otherwise also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see it on request.

Storage & Access

Disclosure information is never kept on an applicant's personal file and is always kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties.

We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and we recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment (or other relevant) decision has been made we do not keep Disclosure Information for any longer than is necessary. This is generally for a period of up to 6 months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosures Information for longer than six months, we will consult the CRB about this and will give full consideration to data protection and human rights of the individual before doing so. Throughout this time the conditions regarding safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

We will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the decision taken.

Contacts

Further information regarding disclosure can be obtained from the following:

Disclosure Service, CRB PO Box 110, Liverpool, L3 6ZZ

Tel: 0870 90 90 844 Email: www.disclosure.gov.uk

Education Otherwise, Database Administrator, PO Box 325, Kings Lynn, Norfolk, PE34 3XW

Tel: 08445 867541 Email: disclosures@education-otherwise.org

Glossary

Children: The CJCSA defines a child as someone who is under 18

Criminal record: A record of convictions held on the Police National Computer for individuals convicted of crimes.

Disclosure application reference number: The specific reference number allocated to each Disclosure application by the CRB.

Excepted professions: Positions of trust set out in the Exceptions Order to the ROA where an employer is entitled to ask a candidate to reveal details of all convictions, whether spent or not.

Portability: The validity and usefulness of using the same Disclosure for subsequent job applications.

Positions of trust: Roles that involve working with children and other vulnerable groups that the CRB is dedicated to protecting.

Standard Disclosure: These are primarily for posts that involve working with children or vulnerable adults. Standard Disclosures may also be issued for people entering certain professions, such as members of the legal and accountancy professions. The Standard Disclosure contains details of all convictions held on the PNC including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings. If a position involves working with children, the Disclosure will indicate whether information is held on government department lists, held by the DH and DCSF of those who are banned from working with children. The Disclosure also includes information held by the DH of those considered unsuitable to work with vulnerable adults.

Volunteer: A volunteer is a person who performs any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.