

## Recruitment of Ex-Offenders Policy and Procedure

### 1. Purpose

The aim of this policy is to state the Ambitious about Autism (AaA) and Ambitious about Autism Schools Trust (AaAST) approach towards employing people who have criminal convictions. We are committed to equality of opportunity for all job applicants and aim to select people for employment based on their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

### 2. Statutory Guidance

[Disclosure & Barring Service](#)

[Keeping Children Safe in Education](#)

[GDPR and Data Protection Act 2018](#)

[Data protection: The Data Protection Act - GOV.UK \(www.gov.uk\)](#)

[Rehabilitation of Offenders Act 1974](#)

[Police, Crimes, Sentencing and Courts Act 2022](#)

### 3. Policy Statement

The safeguarding of children and vulnerable adults is of paramount importance to us and the scrutiny of any unspent cautions or convictions and those which would not be protected under the Ministry of Justice filtering rules is an essential and non-negotiable part of the pre-employment check process.

### 4. Key Principles

We will consider ex-offenders for employment on their individual merits. The organisation's approach towards employing ex-offenders differs depending on whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974 and its 2022 and 2023 Amendments.

AaA and AaAST are exempt employers as defined in the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and as such, we have a lawful basis for requesting an enhanced DBS disclosure certificate for almost all employees. In addition, AaA and AaAST are regulated activity providers and for most posts, we have a statutory duty to check that the individual is not barred from regulated work with children and/or adults.

As of October 28, 2023, under the Rehabilitation of Offenders Act Amendments, changes under the Police, Crime, Sentencing and Courts Act 2022 have reduced the time period in which individuals must declare convictions to employers. For example, custodial sentences of four years or more for less serious crimes now become 'spent' after a seven-year rehabilitation period, provided no further offences are committed. This aims to help ex-offenders reintegrate into society and reduce reoffending. However, stricter disclosure

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rules continue to apply for jobs involving vulnerable groups, such as children or the elderly, so Enhanced Disclosure and Barring Service (DBS) checks will still reveal spent convictions for these roles.

## 5. Roles and Responsibilities

The Recruitment Team will work in partnership with all Hiring Managers, supporting their recruitment activity and provide advice and guidance throughout the process.

During the recruitment process, the recruitment team will ask shortlisted job applicants to disclose any unspent cautions or convictions but will not ask job applicants questions about criminal history that would be filtered or protected, nor expect them to disclose any protected convictions. The successful applicant will be asked to apply for an enhanced DBS certificate and other relevant safeguarding checks.

If an applicant has a caution or conviction that is unspent and if the nature of this is relevant to their suitability for the job for which they have applied, the organisation will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment.

The majority of the roles we are seeking to recruit are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (roles in regulated positions and in Further Education provision). In these cases, the organisation will require shortlisted applicants to disclose all unspent convictions or bind overs in addition to any criminal history that would not be filtered. Even in these circumstances, however, the organisation will not refuse to employ a particular individual unless the nature of the conviction has some relevance to the job for which the individual has applied.

As a result of further amendments to the Rehabilitation of Offenders Act in 2013, 2020 and 2023, cautions and convictions that meet specified criteria should not be disclosed by applicants and must not be taken into account by potential employers. We encourage all applicants to use the flowchart provided by Nacro and to seek legal or impartial advice before completing their self-disclosure. We will not take into account any criminal history that would be protected or filtered, even if it is subsequently disclosed on the DBS certificate.

AaA and AaAST will, once it has selected the person to whom it wishes to offer employment, make a joint application to the Disclosure and Barring Service (DBS) for an enhanced certificate (with the relevant DBS barred list(s) to check if the post is in regulated activity). For some roles (Exec Leadership Team and Safeguarding Leads and Deputies), the post holder will be required to sign up to the DBS Update Service at the required level, and we will carry out status checks on these, with their permission, and reimburse the cost of the update service.

The organisation is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of the General Data Protection Regulations and the Data Protection Act 2018. Data held on file about an individual's criminal convictions will be held only as long as it is required for employment and / or safeguarding purposes and will not be disclosed to any unauthorised person.

Appendix 1 reflects the procedure to be followed.

## 6. Other Key Policies and Guidance

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[020 Recruitment and Selection Policy](#)

[037 EDI Policy](#)

[094 Data Protection Policy](#)

### **Additional guidance documents**

Detailed information, fact sheets and FAQs:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

Filtering guidance from 28/11/20:

<https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>

Ministry of Justice – guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 (and self disclosure)

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

National Association for the Care and Resettlement of Offenders (Nacro)

Criminal record support service – advice for applicants and employers

<https://www.nacro.org.uk/criminal-record-support-service/>

Filtering flowchart [Filterin-flowchart-twitter.png \(5000×2813\) \(netdna-ssl.com\)](#)

## **7. Monitoring Arrangements**

- The Policy is written and updated by the Head of Recruitment.
- It is reviewed by the Director of People and Culture and approved by the Deputy Chief Executive Officer.
- The Policy is available for all staff on the intranet and is highlighted and referenced in recruitment training for Hiring Managers and the Recruitment Team.
- There is annual auditing of the Single Central Record and the accompanying recruitment files.
- Ongoing regular monitoring and reviewing of the recruitment process by the Recruitment Team.

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## Appendix 1: Procedure

- As a Regulated Activity provider (RAP) almost all paid employees at AaA and AaAST are in regulated activity and therefore subject to an enhanced DBS certificate with check(s) of the relevant DBS barred list(s).
- In relation to volunteers and contractors, we only request a DBS certificate after a thorough risk assessment has indicated that a check is relevant to the position concerned.
- For those positions where an enhanced DBS check is required, all application forms, recruitment advertising and recruitment briefs will contain a statement that an enhanced DBS certificate (with barred list check(s) where relevant) will be requested in the event of the individual being offered the position and an explanation of when in the recruitment process criminal information will be requested and considered.
- All shortlisted applicants are required to complete a criminal record self-disclosure through our online application system, not less than 1 day prior to their interview date, and store it on their personal file. If positive, this information will be sent to the Heads of School/College (dependent on the role) and for Central Teams it will be sent to the Director of People and Culture. Failure to complete the self-disclosure will result in any offer of interview being withdrawn.
- We guarantee that the self-disclosure information will only be seen by those who need to see it as part of the recruitment process.
- The criminal history self-disclosure will include information for shortlisted applicants on the importance of seeking legal advice and contact details of organisations that can provide impartial advice.
- We ensure that all those 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 on the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974 (exceptions order 1975) (as amended 2013 & 2020, 2022 and 2023) and know how to access advice and support e.g. from our People team, and relevant registered bodies.
- At interview, or in a separate discussion, the recruitment selection panel will ensure that an open and measured discussion takes place on the subject of any offences or related concerns that might be relevant to the position. Failure to reveal information that would not be filtered could lead to withdrawal of an offer of employment.
- All potential employees are guided to the Disclosure and Barring Service Code of Practice and a copy is made available on request.
- Those who have a positive DBS should be invited to meet with the Head of the relevant setting and the Safeguarding lead to discuss the offense (if not filtered). This meeting should be documented on the appropriate risk assessment document and sent to the Organisational Safeguard Lead (Director of Education) for review and the final decision to appoint/terminate.
- We undertake to discuss any relevant matter revealed on a DBS certificate with the person seeking the position before withdrawing a conditional offer of employment. This discussion and any subsequent risk assessment may be undertaken by the Designated Safeguarding

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Lead or by another appointed person. If the DBS check reveals any matching information against the DBS barred list(s) or any criminal conviction which precludes them from working with children and / or adults the applicant is deemed non appointable. In this circumstance, we would notify the Local Authority Designated Officer in line with the local multi-agency procedures.

### **Jobs covered by the Rehabilitation of Offenders Act 1974**

The organisation will not automatically refuse to employ a particular individual just because he/she has a previous criminal conviction.

During the recruitment process, the recruitment team will ask shortlisted job applicants to disclose any unspent cautions or convictions but will not ask job applicants questions about criminal history that would be filtered or protected, nor expect them to disclose any protected convictions. The successful applicant will be asked to apply for an enhanced DBS certificate and other relevant safeguarding checks.

If an applicant has a caution or conviction that is unspent and if the nature of this is relevant to their suitability for the job for which they have applied, the organisation will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment.

### **Jobs that are exempt from the Rehabilitation of Offenders Act 1974**

The majority of the roles we are seeking to recruit are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (roles in regulated positions and in Further Education provision). In these cases, the organisation will require shortlisted applicants to disclose all unspent convictions or bind overs in addition to any criminal history that would not be filtered. Even in these circumstances, however, the organisation will not refuse to employ a particular individual unless the nature of the conviction has some relevance to the job for which the individual has applied.

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