

<p>Name of Policy: DBS and Recruitment of Ex-Offenders Policy</p> <p>Category of Policy: Safeguarding</p> <p>Status: Final</p> <p>Approved by: Board of Trustees</p> <p>Date: 23 January 2021</p> <p>Review date: January 2022</p>	 <p>The logo for Evolve Community Counselling Charity features the word 'evolve' in a green, lowercase, sans-serif font. To the right of the text is a stylized green leafy branch. Below the word 'evolve' is another stylized green leafy branch. To the right of the lower branch, the text 'Community Counselling Charity' is written in a smaller, grey, sans-serif font.</p>
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Introduction

This policy sets out the approach that Evolve will take when considering the employment of ex-offenders.

The Charity is committed to the fair treatment of its staff, potential staff or users of its service, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

Job applications are welcomed from a wide range of candidates, including those with criminal records. Candidates are selected for interview based on their skills, qualifications, experience and the requirements of the post.

Process

The Charity will identify any jobs which would require Disclosure and Barring Service (DBS) checks before an applicant is able to take up the role and on application will explain if a DBS check will be required, providing it is proportionate and relevant to the position concerned. The DBS certificate for Evolve counselling members, approved supervisors, paid officers, employees and trustees must include 'Enhanced with Lists' checks for both adults and children.

An applicant will not be required to disclose any past convictions, unless the job falls outside the scope of the Rehabilitation of Offenders Act 1974. If the job does fall outside the scope of this Act, then the applicant will be informed and will be asked to disclose all past convictions, regardless of the length of time that has passed since the conviction.

The full list of excluded jobs relating to England and Wales is set out in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and those relating to Scotland are set out in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) Order 2003.

Jobs Covered by the Rehabilitation of Offenders Act 1974

The Charity will not automatically refuse to employ an individual on account of a previous criminal conviction.

During the application process or at interview, applicants may be asked to disclose any unspent convictions, but interviewers will not ask about spent convictions or expect interviewees to disclose any spent convictions.

Applicants and / or interviewees should be aware that if they have a conviction that is not spent and the nature of the offence is relevant to the job for which they have applied, the Charity will review the individual circumstances of the case and may not select the individual for employment.

Jobs that are Exempt from the Rehabilitation of Offenders Act 1974

If the job for which the Charity is recruiting is one of the excluded jobs listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, the Charity will require the candidate to declare all convictions, both spent or unspent. When interviewing for the role the interviewer will explain to the applicant that a DBS check will be required. Interviewees should expect to be asked about any information they have declared, and it is important that they are honest with the interviewer in this regard. However, the Charity will not refuse to employ an individual unless the nature of the conviction is relevant to the job for which the individual has applied.

When the Charity has made an offer of employment to an individual, it will seek documentary evidence about that person's criminal convictions and seek the candidate's agreement to make a joint application to the Disclosure and Barring Service (DBS). If the individual is a member of the DBS update service, the Charity will, carry out a status check on any current certificate.

Process for reviewing convictions relevant to the role

Where a counselling member applicant has made a declaration of a criminal conviction this will be considered by a panel consisting of the clinical safeguarding lead and/or the organisational safeguarding lead and/or the deputy safeguarding lead.

The panel will interview the applicant, adopting a risk assessment approach and taking into account the following:

- Seriousness of the offence

- Relevance of the offence to the safety of clients, colleagues- in particular offences involving violence, abuse, sexual misconduct supplying drugs, drink driving offences where someone was hurt or killed. This is not an exhaustive list.
- Serious offences involving dishonesty
- Any serious offence for which a prison sentence was received
- When the offence was committed and the age of the offender when the offence was committed and the age of the victim if appropriate
- Where the offence is an isolated incident or part of a pattern of offending
- The applicant's ability to reflect on their offences

Each applicant will be considered on an individual basis against professional /statutory guidelines.

A record of the interview will be kept which will also detail the decision and reasons for the decision.

Criminal record checks

Criminal record checks are usually done through the Disclosure and Barring Service (DBS). The 4 types of DBS check are:

- basic
- standard
- enhanced
- enhanced with barred list

The Charity will tell applicants which type of DBS check is needed so that they are aware of what information will appear on the DBS certificate.

All Evolve counselling members, approved supervisors, employees, paid officers and trustees must subscribe annually to the DBS Update Service (for either paid or voluntary work, as appropriate) and give the Evolve Administrator the permission and required information (DBS certificate number, DBS certificate surname and date of birth or a copy of the DBS certificate) to check the DBS Update Service at annual Evolve membership renewal.

Training

The Charity ensures that all those involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.

The Charity 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.

GDPR

The Charity shall ensure that all information provided about an individual's criminal convictions is used, stored and handled appropriately and in accordance with the provisions of GDPR.

Annex A

The following tables gives guidance about when cautions and convictions become spent. If you're not sure what information you need to give people, you can seek legal advice.

If under 18 years when sentenced

Sentence	When it becomes spent
Detention and Training Order (DTO) - 6 months or less	18 months after the sentence ends
Detention and Training Order (DTO) - over 6 months	2 years after the sentence ends
Detention - less than 6 months	18 months after the sentence ends
Detention - 6 months to 30 months	2 years after the sentence ends
Detention – over 30 months to 4 years	3.5 years after the sentence ends
Detention – over 4 years	Never

If over 18 years when sentenced

Sentence	When it becomes spent
Prison Sentence -6 months or less	2 years after the sentence ends
Prison Sentence -over 6 months to 30 months	4 years after the sentence ends
Prison Sentence - over 30 months to 4 years	7 years after the sentence ends
Prison Sentence – over 4 years	Never
Suspended Prison Sentence – less than 6 months	2 years after the sentence ends
Suspended Prison Sentence – 6 months to 2 years	4 years after the sentence ends

Motoring convictions are given for driving offences, such as speeding or drink driving.

Penalty points are usually given with a court endorsement. Endorsements can stay on driving records after they become spent, so employers might be able to find out about past driving offences after the rehabilitation period has ended.

Driving Licences can be viewed to find out what information the DVLA holds on a driving record.

Fixed penalty notices (FPNs) do not appear on a criminal record unless they result in a conviction in court.

Annex B

Individual declaration of Unspent and Relevant Spent Criminal Offences

Because of the nature of the work for which you are applying, this post is exempt from the provisions of Section 4 (2) of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Therefore, you must give details on this form of relevant convictions, cautions, reprimands and warnings that you have and any court cases that you have pending.

The Council will use information provided by the Disclosure and Barring Service when assessing your suitability for such jobs. In the event of employment, any failure to disclose such convictions could result in dismissal or disciplinary action by the Charity. Any information you give us about convictions will be kept confidential and will only be considered in relation to the job for which you are applying.

DECLARATION OF CRIMINAL OFFENCES

Using the guidelines below please list all your unspent, and relevant spent convictions, cautions, reprimands and final warnings, including any convictions in a Court of Law outside Great Britain. Do not forget to include any pending convictions and indicate that they are pending. You must provide details of the following:

- Cautions relating to an offence from a list (see below) agreed by Parliament
- Cautions given less than 6 years ago (where you were over 18 years old at the time of the caution)
- Cautions given less than 2 years ago (where you were under 18 years old at the time of the caution)
- Convictions relating to an offence from a prescribed list (see below)
- Convictions that resulted in a custodial sentence (regardless of whether served)
- Convictions given less than 11 years ago (where you were over 18 years old at the time of the conviction) • Convictions given less than 5.5 years ago (where you were under 18 years old at the time of the conviction)

Irrespective of the above list, if you have more than one conviction then ALL convictions must be declared. The list referred to above includes a range of offences which are serious, and which relate to sexual offending, violent offending and/or safeguarding. It would never be appropriate to withhold details of offences on this list.

A list of offences which should always be declared has been derived from the legislation and can be accessed using the following link:
<https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>

Declaration of Unspent and Relevant Spent Criminal Offences

If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

If you have no unspent and no relevant spent convictions, cautions, reprimands or warnings, please write 'NONE' and sign the form.

1. Your Personal Details	
TITLE Please tick ✱ Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	
Forenames	
PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names and dates these names were held. Please continue on a separate sheet if necessary.	
TITLE Please tick ✱ Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	
Forenames	

Nature of Offence/s	Name of Court and Date of Conviction	Sentence/s

4. Declaration			
<p>I certify that, to the best of my knowledge the information on this form is accurate and true. I understand that if the information I have supplied is false, misleading or incomplete in anyway. I may be disqualified from future engagement with the Charity and any engagement may be terminated with immediate effect.</p>			
SIGNATURE		DATE	

5. DBS Certificate			
<p>I volunteer that a copy of my disclosure certificate can be retained on my file.</p>			
SIGNATURE		DATE	