

Policy and Procedure on Employment of Ex-Offenders

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Scope

This policy and procedure sets out;

- the National Autistic Society's commitment to equality of opportunity for all job applicants and aims to select people for employment based on their skills, abilities, experience, knowledge, behaviours, values and, where needed, qualifications and training.
- the organisations approach to employing people who have a criminal record.
- how our charity will consider job applicants who have a criminal record on their individual merits. However, our approach depends on the job, and whether it is covered by, or exempt from, the Rehabilitation of Offenders Act 1974.
- that it applies to employees and applicants for employment, relief workers and applicants for relief work and volunteers.

Core Principles

Any decisions made under this policy must be weighed against the charity's core belief and values and in accordance with our statutory and regulatory requirements.

Employing ex-offenders

This policy and procedure are produced in accordance with the Code of Practice on Disclosure, issued under section 122 of the Police Act 1997. This Code requires the National Autistic Society to have a written policy on the recruitment of ex-offenders. It also requires the National Autistic Society, not to discriminate unfairly against a subject of a Disclosure, on the basis of conviction or other information received.

This policy and procedure applies to all National Autistic Society schools, services and offices in England, Wales, Northern Ireland & Scotland. Whilst checking procedures differ in Northern Ireland and Scotland, the principles outlined in this document still apply.

As an organisation, using the Disclosure & Barring Service (DBS) to assess applicants' suitability for positions of trust, the National Autistic Society complies fully with the 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.

The National Autistic Society has a written policy on the recruitment of ex-

offenders, which is available to all Disclosure applicants at the outset of the recruitment process.

The National Autistic Society promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates (including those with criminal records). We select all candidates for interview and for roles using selection criteria that is appropriate and justified for the role.

A Disclosure is only requested when one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required, all application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered the position. Where a Disclosure is to form part of the recruitment process, we encourage all applicants called for interview 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 and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process. Unless the nature of the position allows the National Autistic Society to ask questions about an entire criminal record, we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974. We ensure that all those in the National Autistic Society involved in the recruitment process, have been informed of their obligations in respect of disclosures.

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.

We make every subject of a DBS aware of the existence of the DBS Code of Practice and make a copy available on request.

We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.

Having a criminal record will not necessarily bar applicants from working with us. This will depend on the nature of the position and the circumstances and background of offences. An independent panel consisting of the respective Director, Safeguarding Lead and Head of HR will independently and objectively consider the offences disclosed before deciding whether an offer of employment should progress.

Jobs covered by the Rehabilitation of Offenders Act

Many jobs with our organisation are covered by the Rehabilitation of Offenders Act 1974, which means that job applicants for these jobs cannot be treated unfavourably because they have a spent conviction. We will not automatically refuse to employ someone just because they have a previous criminal conviction.

At some stage during the recruitment process, our organisation will ask job applicants to disclose unspent convictions. We will not ask job applicants questions about spent convictions, or expect anyone to disclose spent convictions unless the role is exempt from the provisions of the Rehabilitation of Offenders Act 1974.

If a job applicant has a conviction that is unspent and if the nature of the offence is relevant to the job they are applying for, we will review the individual circumstances and may, at our discretion, not select the individual for employment.

Jobs that are exempt from the Rehabilitation of Offenders Act

Many jobs with our organisation are exempt from the Rehabilitation of Offenders Act 1974, which means that job applicants for these jobs can be refused employment in the position where they have a spent conviction.

If the job an individual is applying for is one of the listed excluded jobs, we will require them to disclose all convictions, whether they are spent or unspent (other than protected cautions and protected convictions, which do not need to be disclosed depending on the job concerned). Even in these circumstances, we will not necessarily refuse to employ the job applicant unless the nature of the conviction has some relevance to the job. It is unlawful for us to allow anyone on the barred list to work with children and/or vulnerable adults.

If the job is exempt we will, if we select a job applicant as the person we would like to offer employment, seek documentary evidence to establish whether they have any criminal convictions. We will seek their agreement to make a joint application to the Disclosure and Barring Service (DBS) for a standard, enhanced or enhanced with DBS barred lists check (as appropriate).

If a job applicant is a member of the DBS update service, we will, with their permission, carry out a status check on any current certificate.

Exceptions to the policy in England and Wales

Under the Criminal Justice and Court Service Act 2000 (in England and Wales), it is an offence for any organisation to knowingly offer employment, that involves regular contact with children (under the age of 18) to anyone who has been

convicted of certain specified offences, or who is included on lists of people considered unsuitable for such work held by the Department for Education and Employment. It is also an offence for these people to apply for a post with children in the first place.

The National Autistic Society must also immediately cease the employment of someone in a childcare position if we discover or we are notified that the individual is barred from such work. A criminal record on its own, however, does not necessarily preclude an individual from being employed in a childcare position.

Existing Employees with a Criminal Record

Where an employee or Relief Worker is discovered to have failed to disclose an 'unspent' conviction or a spent conviction if the role is eligible for a standard or enhanced criminal record check, this is potentially gross misconduct, in that the individual will have given false information when applying for a job with the National Autistic Society. In such circumstances, please consult the Human Resources Hub Team.

Data protection

Our organisation processes information about individuals' criminal records in accordance with its data protection policy. We hold data collected during recruitment securely. We will allow only authorised individuals to access and/or disclose personal data for the purposes of completing the recruitment process. Inappropriate access or disclosure of employee data constitutes a data breach and anyone who becomes aware of such a breach should report it immediately in line with our organisation's data protection policy. A data breach is also likely to constitute misconduct, which we will deal with under our Conduct procedure.

We will destroy securely any information about criminal records gathered in the course of the recruitment vetting process unless we have a statutory or regulatory requirement to keep it securely. No personal data related to criminal records will be transferred to any staff record.

Breach of Policy

The charity will consider breach of policy as alleged misconduct or gross misconduct. The *Conduct Policy and Procedure* sets out how a breach in NAS policy is addressed.

Related Policies

Safer Recruitment Policy and Procedure

If printed this is an uncontrolled document – refer to the NAS intranet for latest version

Disclosure and Barring Service Policy
Conduct Management Policy and Procedure
Data Protection Policy

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