

Disclosure and Barring Checks Policy and Recruitment of Ex-Offenders

1. Background

- 1.1. The Disclosure and Barring Service ('DBS') is an agency part of the UK Home Office which carries out specific checks on individuals. A DBS check is the term used for the analysis and recording of a person's past, looking specifically at any convictions, cautions, reprimands and warnings they may have received.
- 1.2. There are four main levels of criminal record check available in the UK which are appropriate for employment vetting:
 - 1.2.1. Basic Disclosure;
 - 1.2.2. Standard DBS Check;
 - 1.2.3. Enhanced DBS Check.
 - 1.2.4. Enhanced with Barred List(s) DBS Check.
- 1.3. A standard DBS check will detail both spent and unspent convictions, as well as any cautions, warnings or reprimands an applicant has on their record. An Enhanced check will also include the option for the police to include any information they hold and deem relevant.
- 1.4. To be able to obtain either a Standard or Enhanced DBS check, the employee must be eligible for the check, for example working in specific roles, often with vulnerable groups, in order for their employer to be able to request this higher level of check.
- 1.5. If an individual is not eligible for a Standard or Enhanced DBS check, their employer, or the individual themselves, can request a Basic Disclosure. This check will detail any unspent convictions the applicant may have. As these convictions are not yet classed as spent, any employer is entitled to ask for this information, meaning there's no eligibility criteria to obtain this check. As a result, individuals can also obtain this disclosure themselves.
- 1.6. There are two Barred Lists that are managed by DBS. One is a list of people who have been barred from working with children and the other is a list of people who have been barred from working with vulnerable adults. The barred lists allow the DBS to keep a record of people who are not permitted to work in a regulated activity with children and/or vulnerable adults.

- 1.7. As a Company 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), Purple Patch Arts complies fully with the code of practice and undertakes to treat all applicants for positions fairly.
- 1.8. Purple Patch Arts undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
- 1.9. Under the Rehabilitation of Offenders Act 1974 a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the act.
- 1.10. The code of practice published under section 122 of the Police Act 1997 advises that it is a requirement that all registered bodies must treat DBS applicants who have a criminal record fairly and not discriminate automatically because of a conviction or other information revealed. The code also obliges registered bodies to have a written policy on the recruitment of ex-offenders; a copy of which can be given to applicants at the outset of the recruitment process.
- 1.11. Purple Patch Arts can only ask an individual to provide details of convictions and cautions that the Company 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)
- 1.12. Purple Patch Arts can only ask an individual about convictions and cautions that are not protected.
- 1.13. Purple Patch Arts is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
- 1.14. Purple Patch Arts 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.
- 1.15. Purple Patch Arts select all candidates for interview based on their skills, qualifications and experience.

- 1.16. 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 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.
- 1.17. Purple Patch Arts ensures that all those in Purple Patch Arts who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.
- 1.18. Purple Patch Arts 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.
- 1.19. At interview, or in a separate discussion, Purple Patch Arts 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.
- 1.20. Purple Patch Arts makes every subject of a criminal record check submitted to DBS aware of the existence of the code of practice and makes a copy available on request.
- 1.21. Purple Patch Arts undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before considering withdrawing a conditional offer of employment. See Appendix A: Guidance on Assessing Disclosures on Criminal Record Checks.

2. Scope

- 2.1. Purple Patch Arts will undertake an Enhanced with Adult and Child Barred Lists DBS check plus ISA First Check for its employees who will be working with participants. This is what is required for positions that involve caring for Adults at Risk and / or children to ensure their safety.
- 2.2. All job adverts and recruitment briefs will contain a statement that an application for an Enhanced with Adult and Child Barred Lists DBS check will be submitted in the event of the individual being offered the position.

- 2.3. The criteria apply equally to all types of employment, including permanent, fixed-term, freelance or contractor. If agencies are used, agency staff must be subject to the same checks as permanent staff, and confirmation from the agency that clearance has occurred shall be obtained and recorded. For the sake of clarity, this policy will also apply to volunteers given the nature of the role.
- 2.4. Purple Patch Arts will undertake an Enhanced with Adult and Child Barred Lists DBS check plus ISA First Check for its volunteer Trustees; we are eligible to do this as it is in line with the checks that we carry out for employees.
- 2.5. All Trustee recruitment will contain a statement that an application for an Enhanced with Adult and Child Barred Lists DBS check will be submitted in the event of the individual being invited to join the Board.

3. Purpose

- 3.1. This policy sets out the Company's approach to using DBS Checks and implications arising from its use both for existing and potential employees and workers. It relates to checks carried out during recruitment and during the lifetime of their employment or work placement to:
 - 3.1.1. Ensure clarity and confidence in the process and approach, both internally and externally;
 - 3.1.2. Give confidence to applicants and employees that they'll be treated fairly;
 - 3.1.3. Explain what needs to be disclosed and when;
 - 3.1.4. Provide supportive guidance to ensure understanding of the process.
- 3.2. Purple Patch Arts actively 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 based on their skills, qualifications, values, and experience.
- 3.3. We undertake not to discriminate unfairly against applicants because of convictions, cautions, reprimands or outstanding criminal proceedings. Having a criminal record will not necessarily bar prospective employees from working at Purple Patch Arts. This will depend on the nature of the position and the circumstances and background of the offences.

4. Employment Checks

- 4.1. Criminal disclosure certificates do not have expiry dates, they display only an issue date. There is no set period for which they are valid.
- 4.2. From implementation of this policy, all relevant candidates who have been offered employment with the Company will be subject to an Enhanced with Adult and Children Barred Lists DBS check on employment. They will then be required to register for the annual DBS Update Service which will keep their DBS Check Certificate up to date.
- 4.3. If the Employee is to work with adults only, they will be able to start work **under supervision** once a clear DBS Adult First check has been obtained. They will only be able to work **without supervision** when their full DBS certificate has been obtained.
- 4.4. As the DBS Adult First check only checks the Adults Barred List, any Employee who is to work with children must wait until their full DBS certificate has been obtained before starting work.
- 4.5. Any Employee who has an adequate DBS check in place when they start their Employment with Purple Patch Arts will be able to work under that DBS for 1 year from the date of the certificate, before a new DBS check will be undertaken. Where Employees are not already registered with the DBS Update Service, Purple Patch Arts will apply for an Enhanced with Adult and Children Barred Lists DBS check and the Employee will be required to register for the annual DBS Update Service.
- 4.6. Purple Patch Arts will pay the fees for an Enhanced with Adult and Children Barred Lists DBS check and the DBS Update Service. Employees are required to keep their own DBS Update Service subscription up to date annually; the cost of this will be reimbursed via their expenses claim forms. Fair warning of expiry dates is issued to staff via the DBS service itself, and reminders will be sent wherever possible to individual staff members by the Operations Manager at Purple Patch. Employees who allow their DBS Update subscription to lapse will themselves be liable for the cost of a new Enhanced DBS check and subsequent subscription to the DBS Update Service.
- 4.7. Purple Patch Arts will check the Update Service twice a year and will keep a record of who is checking it, why, and of any changes to DBS status.
- 4.8. As per the Employment Contract, it is the Employee's responsibility to inform their Manager if they receive any cautions/convictions at any time.

5. Returned Traces

- 5.1. Purple Patch Arts undertake to discuss any matter revealed on the check with the candidate seeking the position before withdrawing a conditional offer of employment and will ensure an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position.
- 5.2. Failure on the part of applicants to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 5.3. Having a conviction will not necessarily bar individuals from working for the Company and each disclosure is assessed individually. Each individual case will be considered with reference to the sentence, severity and nature of the offence, the role being carried out and the potential risk to the business.
- 5.4. Where a trace is returned during recruitment, the Chief Executive Officer will make a decision on the factors for recruitment and may decide not to appoint.
- 5.5. Depending on the nature of the offence, where a current employee undergoes a first or repeat DBS that shows a charge or conviction, the Chief Executive Officer must determine if disciplinary or other action should be taken considering whether that charge or conviction is such as to detrimentally affect, or be likely to affect:
 - The suitability of the employee for the position in which they are employed;
 - The business or reputation of the Company;
 - The business or reputation of a Client or third-party provider;
 - Or, where the existence of the charge or conviction could, in the opinion of the Company, otherwise seriously undermine the trust and confidence that the Employer has in the employee.
- 5.6. Where a trace is returned for any other type of worker, reference should be made to the terms under which that worker is engaged.

6. Handling, Retention and Disposal of Documents

- 6.1. As a Company using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Purple Patch Arts complies fully with the code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information and internal risk assessment paperwork.

- 6.2. It also complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificates and certificate information and internal risk assessment paperwork.
- 6.3. Certificate information we keep a record of includes the date of issue and certificate number of the criminal record check, the name of the subject, the type of disclosure requested, the position for which the criminal record check was requested, date/s of any disclosure/s listed and the details of the recruitment decision taken.
- 6.4. In accordance with section 124 of the Police Act 1997, certificate 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 certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.
- 6.5. As a Company that requires retention of certificates in order to demonstrate 'safer recruitment' practice for the purpose of safeguarding audits we may be legally entitled to retain the certificate or certificate information. This practice is compliant with the Data Protection Act, Human Rights Act and General Data Protection Regulation (GDPR).
- 6.6. Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 6.7. Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary, as documented in our Data Register.
- 6.8. Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, for example by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

APPENDIX A: Guidance on Assessing Disclosures on Criminal Record Checks

On receipt of a criminal records check which reveals a disclosure, The Chief Executive Officer, or if unavailable, the Operations Manager, will collate the information on that certificate and the position for which the clearance is sought. Until such time as a decision on clearance has been made, the applicant must be fully supervised in their role by a person with enhanced DBS clearance and any supervising team members or delivery partners will be informed of this need but will not be provided with any details of the disclosure listed.

On receipt of a criminal records check which reveals a disclosure, The Chief Executive Officer, or if unavailable the Operations Manager, shall write to the individual and request all of the following:

- The original full criminal records check certificate, which must clearly include all sections of the disclosure and other relevant information that may be contained.
- A written explanation of the disclosure(s) and information disclosed.
- The individual's account of the disclosure(s) and a detailed breakdown of: the exact nature of the offence(s); the circumstances surrounding the offence(s) and how their circumstances have changed since the offence(s).
- What the individual has learnt from the experience that would give reassurances that similar offence (s) are unlikely to happen again.
- Two written character reference statements on the individual's suitability to work with children, young people and adults at risk.

Where a criminal records check is a renewal application, The Chief Executive Officer, or if unavailable the Operations Manager, shall write to the individual and request the original full criminal records check certificate. The certificate will be checked for any new disclosures listed or content and where the certificate reveals new information the individual will be requested to provide all of the information as listed above for any content which has not previously been risk assessed by Purple Patch Arts.

Failure to provide all of the requested information within the stipulated time frame will result in Purple Patch Arts rejecting the criminal records check and suspending the individual from working or volunteering with children and adults at risk indefinitely. This suspension will remain in place until they hold a valid criminal record check approved by Purple Patch Arts. Where the applicant fails to engage in this process, then any supervising team members or delivery partners will be informed of the suspension but will not be provided with the details of any disclosure listed.

All this information will then be used to consider the circumstances and any mitigation around the offending behaviour by The Chief Executive Officer, or if unavailable the Operations Manager, in reaching a recruitment decision through a Risk Assessment meeting with a representative from the Board of Trustees.

If the Chief Executive Officer, or if unavailable the Operations Manager, does not reach a decision, or has concerns about whether or not the risk of providing the clearance to the applicant is too high, the case will be referred to Purple Patch Arts Board of Trustees, with all the supporting evidence, for a decision.

Where the Chief Executive Officer, or if unavailable the Operations Manager, refers the disclosure to Purple Patch Arts Board of Trustees their function will be to consider whether an individual is a suitable and appropriate person for the role and responsibilities within Purple Patch Arts, including whether they pose an actual or potential risk of harm to children or adults at risk within the context of the charity's context. Purple Patch Arts Board of Trustees is not required to prove beyond reasonable doubt that a person is or may pose a risk of harm but will assess this on the balance of probabilities. Purple Patch Arts Board of Trustees is required to identify and impose appropriate sanctions in order to manage any such risk where possible.

In its decision-making, Purple Patch Arts Board of Trustees will consider the following factors (along with any other factors it considers relevant):

- Age of the individual at the time of the offence.
- The nature of the offence (including seriousness, sentence, plea).
- Whether any conviction or other matters revealed is/are relevant to the position in question.
- The seriousness of any offence or other matter revealed.
- The length of time since the offence occurred.
- Whether the individual has a pattern of offending behaviour or other relevant matters.
- Whether the individual's circumstances have changed following the offending behaviour and/or other relevant matters.
- The circumstances surrounding the offence and the explanations offered by the individual concerned.
- If/how the person has become rehabilitated.
- If the person is barred from the type of activity undertaken by Purple Patch Arts.

The individual will be notified as soon as possible after the risk assessment has been carried out. Any supervising team members or delivery partners will also be notified of the decision, but they will not be provided with any details of the disclosure listed.