

BEE ACTIVE

Criminal Records Information Policy

1. Introduction

1.1. This policy supplements the Company's data protection policy (employment).

1.2. This document sets out the Company's policy on asking questions about a prospective (or existing) employee's criminal record, and carrying out Disclosure and Barring Service (DBS) checks.

1.3. This policy sets out our commitment to comply with the DBS Code of Practice and our data protection obligations, to treat prospective employees fairly and not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed. Its purpose is to set out how we comply with our data protection obligations in respect of criminal records information and seek to protect such information, and to ensure that staff understand and comply with the rules governing the collection, use and deletion of criminal records information to which they may have access in the course of their work.

1.4. We are committed to complying with our data protection obligations and the DBS Code of Practice in relation to criminal records information, in particular:

1.4.1. in relation to the circumstances in which we seek criminal records information;

1.4.2. by being concise, clear and transparent about how we obtain and use such information, and how (and when) we delete it once it is no longer required; and

1.4.3. by ensuring the correct handling, use, storage, retention and disposal of DBS certificates and certificate information.

1.5. Bobby Mills, Director, is responsible for data protection compliance within the Company, including in relation to criminal records information. If you have any questions or comments about the content of this policy or if you need further information, you should contact Bobby at bobby@beeactive.co.uk.

2. Scope and definitions

- 2.1. This policy applies to criminal records information relating to job applicants and current and former staff, including employees, temporary and agency workers, interns, volunteers and apprentices.
- 2.2. Staff should refer to the Company's data protection policy (employment) and data protection privacy notice and, where appropriate, to its other relevant policies.
- 2.3. We will review and update this policy in accordance with our data protection obligations. It does not form part of any employee's contract of employment and we may amend, update or supplement it from time to time. We will circulate any new or modified policy to staff when it is adopted.
- 2.4. The definitions set out in the Company's data protection policy apply to terms used in this policy.

3. Asking for criminal records information

- 3.1. Before recruiting for any post the Company will assess whether it is justified in seeking criminal records information for that particular post (see paragraph 3.3 below) and, if so:
 - 3.1.1. whether it is appropriate to limit the information sought to offences that have a direct bearing on suitability for the job in question; and
 - 3.1.2. whether the information should be obtained from the individual or the DBS.
- 3.2. If an assessment under paragraph 3.1 has been carried out for the same or a similar post within the last 12 months, the Company may rely on that assessment.
- 3.3. The Company will be justified in obtaining criminal records information for a particular post if it is necessary:
 - 3.3.1. for the performance of the employment contract for that post;
 - 3.3.2. in order for the Company to comply with a legal obligation to which it is subject;
 - 3.3.3. in order to protect the vital interests of vulnerable service users; and/or
 - 3.3.4. for the purposes of the Company's legitimate interests.
- 3.4. The level of criminal records information and DBS check that the Company is entitled to request (ie a criminal records certificate (CRC) or enhanced criminal records certificate (ECRC)) will depend on the post for which the prospective employee's suitability is being assessed. Further details are set out in Appendix 1.
- 3.5. We will only ask for criminal records information once the employee has a conditional offer of employment.
- 3.6. We will only ask an individual to provide criminal records information in relation to convictions and cautions that the Company would be legally entitled to see in a DBS check for the relevant post (see paragraph 3.4 above), ie:
 - 3.6.1. if the Company is justified in seeking criminal records information for the post, and the post is not exempt from the Rehabilitation of Offenders Act 1974, we will ask the individual to complete a criminal records information form, which states that individuals are not required to disclose convictions that are spent under the Rehabilitation of Offenders Act 1974; and
 - 3.6.2. if the Company is justified in seeking criminal records information for the post, and the post is exempt from the Rehabilitation of Offenders Act 1974, we will ask the individual to complete a criminal records information form, which asks individuals if they have any convictions, cautions, reprimands or final warnings which are not filtered (or 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended)). For further information on filtering, see Appendix 1.
- 3.7. If the information sought can be limited to offences that have a direct bearing on suitability for the job in question, the Company will amend the criminal records information form accordingly.
- 3.8. Where a DBS check is identified as necessary, all application forms, 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.

3.9. Applicants will only be asked to complete a criminal records information form before an offer of employment is made unconditional; they will not be asked to do so during the earlier short-listing, interview or decision-making stages.

3.10. Before an individual is asked to complete a criminal records information form, they will be provided with a copy of this policy.

3.11. If the Company is not justified in seeking criminal records information for the post, it will not ask an applicant for criminal records information.

3.12. If it is assessed that the Company should use the DBS to verify criminal records information, the Company will:

3.12.1. provide the individual concerned with a copy of the Company's data handling policy (set out in Appendix 2) before asking them to complete a DBS application form or asking for their consent to use their information to access the DBS update service;

3.12.2. make every subject of a DBS check aware of the existence of the DBS Code of Practice and makes a copy available on request; and

3.12.3. comply with the DBS Code of Practice.

3.13. The Company will not rely on a previously-issued DBS certificate.

3.14. Once criminal records information has been verified through a DBS check, the Company will:

3.14.1. if inconsistencies emerge between the information provided by the individual and the information in the DBS certificate, give the applicant the opportunity to provide an explanation in accordance with paragraph 4;

3.14.2. record that a DBS check was completed and whether it yielded a satisfactory or unsatisfactory result; and

3.14.3. delete the DBS certificate and any record of the information contained in it unless, in exceptional circumstances, the Company assesses that it is clearly relevant to the ongoing employment relationship.

3.15. If, in accordance with paragraph 3.14.3, the Company assesses that the information in the DBS certificate is relevant to the ongoing employment relationship, it (and any record of the information contained in it) will be kept securely for no longer than is necessary, and no more than six months.

3.16. The Company will not seek criminal records information from any source other than the individual concerned or the DBS.

3.17. DBS certificate information will be handled and kept in accordance with the Company's policy on handling DBS certificate information set out in Appendix 2.

4. Where an unprotected conviction or caution is disclosed

4.1. If the Company has concerns about the information that has been disclosed by the DBS, or the information is not as expected, the Company will discuss its concerns with the prospective employee and carry out a risk assessment.

4.2. The Company has a legal duty, when recruiting staff to work in regulated activity with children or vulnerable adults, to check whether they are on the relevant children's or adults' barred list. If a prospective employee's name does appear on the relevant barred list, it would be against the law for the Company to employ them to work or volunteer with the relevant group.

4.3. If a prospective employee is not barred from working with the relevant group, but nevertheless has a criminal record, it is up to the Company to decide on their suitability for the role. The Company will not refuse a prospective employee employment simply on the basis that they have a criminal record. Before making a decision, the Company will:

4.3.1. give the prospective employee the opportunity to address its concerns before making any decisions; and

4.3.2. carry out a risk assessment.

4.4. In carrying out a risk assessment, the Company will take account of:

4.4.1. the relevance of the conviction or other matter revealed to the position in question;

4.4.2. the seriousness of the offence or other matter revealed;

4.4.3. the circumstances of the offence;

4.4.4. the age of the offence;

4.4.5. whether there is a pattern of offending; and

4.4.6. whether circumstances have changed since the offending took place.

5. Training

The Company will ensure that all those within the organisation who are involved in the recruitment process:

5.1. have been suitably trained to identify and assess the relevance and circumstances of offences; and

5.2. have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, eg the Rehabilitation of Offenders Act 1974.