

Arawak Walton Housing Association

Recruitment of Ex-offenders Policy (DBS Policy)

Approved by	Senior Management Team
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Policy Ownership	Corporate Services Manager
Strategic Bridges	Value People and our Roots We are Open and Accountable
Legal Review	N/A
Version	1.1
Revision details	Refers to Equality act Includes consideration of youth offenders in procedure
Statement of Values	We Aim High We Value People We Move With The Times

1 Policy statement

- 1.1 Arawak Walton is committed to equality and diversity in employment. This policy sets out the association's approach to the recruitment of ex-offenders.
- 1.2 Candidates are assessed on their skills, experience and qualifications for the job role and criminal convictions will not be immediate grounds for refusal of employment. Candidates will be required to disclose "unspent" convictions during the application and/or interview process. If the nature of the offence is relevant to the role they are applying for, the suitability of the candidate will be considered. In these circumstances, the association reserves the right to refuse to offer employment to the candidate in particular circumstances. Having an unspent conviction will not necessarily bar applicants from employment. In determining whether disclosure of a criminal record will lead to withdrawal of offer of employment, or may lead to termination of employment, consideration will be given to the nature, circumstances and background to the offences committed.
- 1.3 Information relating to "spent" convictions will not be required to be disclosed by the candidate, unless the job role is exempt from the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 as amended. The Association recognises that some spent convictions are pre-equality legislation, including the Equality Act 2010, and will make sure that these do not prejudice employment opportunities.
- 1.4 Arawak Walton ensures that all those who are involved in the recruitment process receive guidance from the Corporate Services Manager to identify and assess the relevance and circumstances of offences and in the relevant legislation relating to the employment of ex-offenders.
- 1.5 At interview, or in a separate discussion, Arawak Walton 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.
- 1.6 This policy applies to all employees. This policy does not form part of any employee's contract of employment, and it may be amended at any time. AWWA may also vary the associated procedure, including any time limits, as appropriate in any case.

2. Aims

- 2.1 The aims of this policy are:
 - To safeguard the people we work with from abuse and neglect and to protect our customer's property;
 - To ensure our employees are treated fairly, appropriately and in accordance with the relevant legislation relating to the recruitment of ex-offenders;

- To ensure correct handling, use, storage, retention and disposal of Disclosures and Disclosure information;
- To ensure that all relevant roles are subject to the correct level of disclosure checks.
- To ensure that we have a process of renewing DBS checks regularly where relevant. As a minimum all disclosures will be undertaken every three years. If the association has reasonable grounds, they may reserve the right to request existing employees re-apply for a DBS check if actions or activities give cause for concern. This could include allegations of inappropriate behaviour made by a colleague or member of the public.

3. Disclosure and Barring Service (DBS) checks

- 3.1 DBS checks enable organisations to make safer recruitment decisions by identifying candidates who may be unsuitable for work that involves children under the age of 18, or that involves working with vulnerable adults. This policy sets out Arawak Walton's approach to DBS checks within the statutory framework.
- 3.2 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 (see appendix I). 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.
- 3.3 Arawak Walton 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.
- 3.4 Arawak Walton undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

4. Types of DBS checks:

- **Basic checks** - These are non-job specific therefore can be applied for regardless of role. Arawak Walton will ensure that all employees obtain at least a basic level check upon appointment (excluding those eligible for a higher-level check). This is due to the nature of the work the association does and in recognition of the fact that due to our size, all staff will on occasion work with our customers or prospective customers.
- **Standard checks** - To be eligible for a standard level DBS check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.
- **Enhanced checks** - To be eligible for an enhanced level DBS check, the position must be included in both the ROA Exceptions Order and in Police Act Regulations. This can include a search of the adults' barred list, if the position meets the new definition of regulated activity.

4.1 It is at the employer's discretion as to whether a DBS check should be undertaken. **The job roles that will be processed for DBS Checks under this policy are detailed in Appendix II.**

4.2 Basic checks

4.2.1 This is sometimes referred to as a Basic DBS check or basic criminal record check. A basic check is carried out by the DBS and will search for any unspent convictions and conditional cautions on an individual's criminal history in order to make an informed hire and prevents the hiring of unsuitable candidates around vulnerable groups.

4.2.2 All applications for a basic check are processed through the Police National Computer (PNC) and the Scottish Criminal History System (CHS) in search for any details of convictions considered "unspent" under the Rehabilitation of Offenders Act 1974.

5. Standard checks

5.1 A standard DBS check discloses information including any convictions considered to be **spent** or unspent under the Rehabilitation of Offenders Act 1974, convictions, cautions, warnings and reprimands held on the Police National Computer (PNC) which stores convictions which stores details of all convictions in England and Wales, and most of Scotland.

5.2 Currently none of Arawak Walton's roles have been identified as falling under this category of check (see appendix I).

6. Enhanced checks

6.1 An enhanced check discloses information including any convictions considered to be spent or unspent under the Rehabilitation of Offenders Act 1974, convictions, cautions, warnings and reprimands held on the PNC. In addition it discloses any information the Police 'reasonably believe to be relevant' to the role and/or whether applicants are included on the adults' barred list which means they are excluded for working in certain positions.

7. Legal context

7.1 The law makes provision for the protection of ex-offenders to help with their rehabilitation however the law also recognises the necessity for employers to consider the background of individuals in order to assess their suitability for certain work and to protect vulnerable groups from risk.

7.2 Key points to note:

- An employer will commit a criminal offence if it engages or supplies a barred person to undertake a regulated activity
- It is also a criminal offence for a barred individual to engage, or try to engage, in a regulated activity from which they are barred

- The safeguarding schemes impose a duty on employers to refer relevant information about individuals carrying out regulated activities where this may affect their suitability to perform such roles in the future.
- Where an employer's operation involves regulated activities, and it is recruiting individuals to roles which fall within those regulated activities, checks must be made with the Disclosure and Barring Service to ensure the individual is not barred from such employment and any offers of employment must make clear the employment is subject to this check.

7.3 This policy takes account of the following legislation:

- a. The Protection of Freedoms Act 2012
- b. The Safeguarding Vulnerable Groups Act 2006
- c. The Police Act 1997
- d. The Protection of Children Act 1999,
- e. The Criminal Justice and Court Services Act (Part II) 2000
- f. The Mental Health Act 1983
- g. The Human Rights Act 1998
- h. Rehabilitation of Offenders Act (1974) and Exemptions Order (1975)
- i. Data Protection Act (2001)
- j. Disclosure and Barring Service Code of Practice
- k. The Equality Act 2010

8. Data Protection

8.1 As an organisation using the Disclosure and Barring Service (DBS) to assess applicants' suitability for positions of trust, Arawak Walton complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.

8.2 It also complies fully with its obligations under the General Data Protection Regulation and other relevant information relating to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see it on request.

8.3 Disclosure information is never kept on an applicant's file and is always kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

8.4 In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties.

9. Related Policies

- 9.1 Recruitment and Selection Procedure
- 9.2 Safeguarding Adults and Children Policy
- 9.3 Equality, Diversity and Inclusion Policy

9.4 Code of Conduct

10. Equality, Diversity and Inclusion

10.1 This policy has been subject to an Equality Impact Analysis with solutions to any barriers identified built into the policy.