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## **Criminal Records Disclosure and Recruitment of Ex-Offenders Policy and Procedure**

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## **1. Introduction**

Changing Faces has a duty to provide a safe environment for all those who access our services. We are committed to safeguarding the welfare of those accessing our services through the effective use of criminal record vetting processes for all relevant employees. This policy is also applicable to Trustees, volunteers and agency staff.

Equally, Changing Faces strongly supports the rehabilitation of offenders, and will not ask questions regarding offences unless required to do so by law. Any decision regarding the appointment, or continued employment, of any individual who declares an offence will be undertaken via a risk assessment to ensure proportionality and objectivity. This would be undertaken by HR Services Partnership in conjunction with the relevant Director.

Changing Faces does however have a Code of Conduct that all staff will be required to comply with.

The term 'Disclosure' is used to refer to criminal record checks carried out via the Disclosure and Barring Service (DBS) for roles based in England and Wales, or Protecting Vulnerable Groups. (PVG) Disclosure Scotland, for roles based in Scotland. This is required under the Safeguarding Vulnerable Groups 2006 legislation.

This policy sets out the process for obtaining a Disclosure, the framework in which disclosure applications will be obtained and how the information obtained in the Disclosure will be used.

Changing Faces uses the Disclosure as part of a range of checks for assessing the suitability of preferred candidates, volunteers, trustees and agency staff and the continued employment of those in specific roles which require reassessment.

You will not be permitted to begin work with children or adults at risk until the outcome of your Disclosure is known. If you will be working in 'regulated activity' with children and adults at risk, the Disclosure must include a check against the relevant barred list(s). Those who have access to client records but do not work directly with children or adults at risk do not require a DBS check.

Changing Faces is committed to obtaining criminal records checks in compliance with relevant laws applicable in either Scotland or England and Wales and to using such checks for necessary and appropriate purposes in a fair way.

## **2. Commitment to Disclosure requests**

All relevant Changing Faces staff and volunteers will be subject to a Disclosure, as applicable to their place of work or volunteering. A decision on the requirement and type of disclosure will be made prior to an advertisement being placed for the position.

A Disclosure is only requested after a risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required, the job advert

and job description or role specification (for voluntary roles) will contain a statement that a Disclosure will be requested for the individual being offered the position.

We can only ask an individual to provide details of convictions and cautions that we are legally entitled to know about. We will follow the government guidance in this regard, which can be found at <https://www.gov.uk/find-out-dbs-check>. If a line manager is in any doubt, they will speak with the Changing Faces Safeguarding Lead or our outsourced HR Consultants, HR Services Partnership. See also : Types of checks and What is Regulated Activity.

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

Managers are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or adults at risk has changed and, if necessary, to initiate a new Disclosure.

### **3. Types of checks (only checks relevant to Changing Faces are detailed)**

- Enhanced DBS Check for Regulated Activity with barred list check (Children): used when someone is undertaking regulated activity relating to children. This check involves a check of the police national computer, police information and the children's barred list.
- Enhanced DBS Check for Regulated Activity with barred list check (Adults at Risk): used when someone is undertaking regulated activity relating to adults at risk. This check involves a check of the police national computer, police information and the adults barred list.
- Enhanced DBS Check for Regulated Activity with barred list check (Children and Adults at Risk ): used when someone is undertaking regulated activity relating to both children and adults at risk. This check involves a check of the police national computer, police information and the children's and adults barred list.
- Enhanced DBS Check without barred list check: used where someone meets the pre September 2012 definition of regulated activity and includes undertaking duties such as providing healthcare or personal care to adults, teaching or caring for children.
- PVG Scheme Record: used when someone wants to undertake 'regulated work' for an employer.

### **4. What is Regulated Activity?**

#### **DBS**

Regulated Activity is an activity that you must not do if you are barred from working with children or adults at risk. The scope of regulated activity is:

1. Unsupervised activities: teaching, training, instructing, caring for or supervising children, or providing advice / guidance on well-being, or driving a vehicle only for children
2. Work for a limited range of establishments ('specified places'), with opportunity for contact. For example – schools, children's homes, childcare premises (but not work by supervised volunteers)

Work under (1) or (2) is a Regulated Activity only if done regularly. In this context, 'regular' means carried out by the same person frequently (once a week or more often), or intensively (on 4 or more days in a 30-day period) or overnight (between 2-6am).

3. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.
4. Assistance with cash, bills and/or shopping or assistance in the conduct of a person's own affairs (e.g. powers of attorney or deputies appointed under the Mental Capacity Act 2005)
5. Conveying adults from their place of residence to a place where they have or will receive health care, personal care or social care (excluding family, friends or taxi drivers).
6. Registered childminding and foster-carers

## **PVG**

Regulated work is usually jobs including:

- Caring responsibilities
- Teaching or supervising children and/or protected adults
- Providing personal services to children and/or protected adults
- Having unsupervised contact with children and/or protected adults
- It can also apply to certain positions of trust within organisations, even where the role doesn't involve any direct contact with children or protected adults

## **5. Use of Disclosure information**

We will use disclosure information only for the purpose for which it was requested and provided. Disclosure information will not be used or disclosed in a manner incompatible with that purpose. We will not share disclosure information with a third party unless the subject has given their written consent and has been made aware of the purpose of the sharing.

Disclosure information will be seen only by the Head of Finance and Resources and, for a prospective employee, the Line Manager and, for a prospective volunteer, the key member of staff. Disclosure information may also be seen by our outsourced HR providers for the purposes of administration or seeking advice.

We ensure that all those in Changing Faces who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure 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.

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

## **6. Expiry of Disclosures**

There is no period of validity for a Disclosure. A Disclosure is technically out of date on the day it is issued as a new or further criminal conviction, caution, etc may be recorded against the individual at any time after the issue date. Employees, Volunteers, agency workers and freelancers must inform Changing Faces immediately of any summons, caution or convicted criminal offence received after their start date with Changing Faces. Failure to disclose such information may lead to disciplinary action and/or termination of contract. Changing Faces policy is to require a renewal of DBS or PVG every three years.

## **7. Portability of Disclosure certificates**

### **DBS**

We do accept DBS certificates obtained prior to you coming into contact with Changing Faces, provided that:

- They are at the correct level and for a similar client group
- You subscribe to the DBS update service
- You present your certificate to us with permission to undertake a new status check
- The status check confirms that the certificate is up-to-date

### **PVG**

Once someone is a PVG scheme member, their record can be checked using a 'Short Scheme Record', provided that:

- They have previously had a scheme record issued for the same type of work before

If a request is made for a Short Scheme Record and there is vetting information on the Scheme Record, Disclosure Scotland will issue a full Scheme Record in place of a Short Scheme Record.

## **8. New Disclosures**

If you do not have an existing Disclosure that meets the criteria outlined above, you will need to apply for a new Disclosure and, for those based in England and Wales, we request that you subscribe to the online update service as part of this process. This enables us, with your permission, to undertake status checks on an annual basis and to ask for a new check if necessary.

## **9. Processing Disclosures**

### **DBS**

Changing Faces uses GB Group PLC to process DBS checks. This is an online service and you will need to complete the form and make arrangements to see the Executive Assistant Line Manager for them to

verify your identification. A list of what you need to provide us with can be found at <https://www.gov.uk/disclosure-barring-service-check/documents-the-applicant-must-provide->. This process is managed by the Executive Assistant in conjunction with the relevant Line Manager. In the case of Skin Camouflage Practitioners and all volunteers other than Trustees, the process is managed by the Head of Skin Camouflage.

Once we have processed your check, we will receive confirmation from GB Group PLC either that the certificate is clear or that information has been disclosed. You will receive a copy of the certificate sent directly to your home address. This is the only copy of the certificate that will be issued; Changing Faces will not be sent a copy. If we are informed by GB Group PLC that the certificate contains information, we shall ask you to discuss the situation with us and to make the certificate available to us so that we can assess whether there are any implications for your wish to undertake work with Changing Faces.

If the certificate has been issued because of changes identified via a DBS online status check, we shall, again, ask you to discuss the situation with us and to bring your new certificate to us so that the new information can be risk assessed.

## PVG

Changing Faces uses Disclosure Scotland to process PVG checks. The process is almost identical to the DBS process outlined above. Disclosure Scotland is an online service and you will need to complete the form and make arrangements to see either the Head of Scotland (Scotland-based staff and volunteers) or the Head of Wellbeing (England-based staff)(Line Manager for them to verify your identification. This process is managed by the Executive Assistant in conjunction with the relevant Line Manager.

## 10. Employment of staff and appointment of volunteers with a criminal record

**Having a criminal record will not necessarily bar a job applicant from working for Changing Faces or a prospective volunteer from volunteering.** This will depend on the nature of the position and the circumstances and background of the offence(s).

We actively promote 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. We select all candidates for interview based on their skills, qualifications and experience in relation to the requirements as set out in the Job Description and Person Specification for paid posts or in the role specification for voluntary positions.

As an organisation using the DBS and Disclosure Scotland services to assess applicants' suitability for positions of trust, Changing Faces complies fully with the relevant Codes 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.

#### **11. If there is no information disclosed via the Disclosure/status check**

The following details are recorded and held in electronic protected files accessible only by Changing Faces staff who require information in order to fulfil their employment duties, and our outsourced HR provider where necessary:

- Your name
- Position for which Disclosure information was requested
- Date of issue of Disclosure Certificate
- Unique reference number
- Date of most recent status check
- Confirmation that consent was obtained from you to undertake status check (DBS only)
- Details of recruitment decision taken

#### **12. If there is relevant information revealed as part of the Disclosure**

In accordance with the Rehabilitation of Offenders Act, a criminal conviction, caution, bind over, warning etc may not automatically prevent an individual from working with Changing Faces. If a conviction or other information is highlighted, a risk assessment will be undertaken to determine whether the risk of employing, or continuing to employ, an individual can be taken and what safeguards would need to be introduced, if any, to manage that risk. When making a decision the appropriate manager will consider:

- The requirements of the role and the level of supervision the individual will receive;
- The seriousness of the offence/issue raised and its relevance to the safety of employees, service users, data or property;
- How relevant the offence is to the role to be undertaken;
- How much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending;
- Whether the individual's circumstances have changed since the offence was committed making re-offending less;
- Whether the individual was open and transparent about their past and declared their criminal background prior to receiving the Disclosure.

#### **13. Recruitment and Disclosures**

We ensure that all those in Changing Faces who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training.

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 the withdrawal of an offer of employment or dismissal if employment has already commenced.

Within the boundaries required by the relevant regulatory body, we undertake to discuss any matter revealed in a Disclosure with you before withdrawing a conditional offer of employment.

#### **14. Freelancers or Contractors**

It is a requirement that Freelance practitioners or contractors hold an up-to-date enhanced Disclosure certificate that will be made available to the Manager before any regulated activity commences.

We require organisations to declare, as a condition of their contract, that they have carried out criminal record checks/status checks on their permanent members of staff and freelancers within the past year and, in each case, have either confirmed that the certificate reveals no information or satisfied themselves that the information is not relevant to any work that they will be doing in projects funded by Changing Faces. We also require that freelance practitioners who approach Changing Faces independently, undertake a new Disclosure or to give permission for us to undertake an online status check with the DBS that reveals that their existing certificate is up-to-date. This is required prior to the practitioner beginning any work and receiving payment. Any existing certificate must be of the correct level and type for the kind of work that the person will be doing for Changing Faces.

#### **Recording information on contractors' or on independent freelancers' Disclosures**

Changing Faces will keep a record of the following:

- Your name
- Position for which the Disclosure was requested
- Date of issue of the Disclosure
- Unique reference number
- Details of decision taken
- Date of most recent status check
- Confirmation that consent was obtained from you to undertake status check

All online and paper information will remain in protected files with access limited to Changing Faces employees who require access in the process of fulfilling their employment duties. Information may also be seen by our outsourced HR provider for the purpose of administration or seeking advice. No records are kept by Changing Faces of the actual Disclosures.

#### **15. Security of Disclosure information**

##### **Handling**

We recognise that it is a criminal offence to disclose disclosure information to any unauthorised person. Disclosure information is only shared with those authorised to see it in the course of their duties. This may include our outsourced HR providers. We will not disclose information which is not included in the certificate to the subject.

##### **Access and Storage**

Once an individual is recruited, only strictly necessary and relevant information about their criminal record, gathered in the course of the vetting process, will be transferred to a secure online filing

system, which is accessed only by the CEO, the Executive Assistant and our outsourced HR providers. No original or photocopied Disclosures will be kept – only the necessary information as stated above, which is provided on the Disclosure.

No criminal record information will be kept in any online location outside the folder stated above or in any paper personnel file.

### **Retention**

We do not keep any paper or electronic images of Disclosure information. We will, however, record the information stated above.

### **Disposal**

We will ensure that disclosure information is destroyed in a secure manner i.e. by shredding or secure disposal of Confidential Waste. We will ensure that disclosure information which is awaiting destruction will not be kept in any insecure receptacle (e.g. a waste bin or unlocked desk/cabinet).

## **16. Data Protection**

Changing Faces processes information about an individual's criminal convictions in accordance with our Data Protection Policy and in line with General Data Protection Regulations 2018. In particular, data collected during recruitment is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the recruitment process. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Disciplinary Procedure.

## **17. Policy Review**

This Policy is reviewed on an annual basis, or more frequently as necessary, by the Management Team to ensure it meets statutory and regulatory requirements and reflects best practice. Any substantive changes are presented for approval by the Board of Trustees.

Date of policy: October 2018

Next review: October 2019