



# Criminal Records Bureau Disclosure Policy/Procedure

(Incorporates Secure Storage Policy and  
Recruitment of Ex-Offenders Policy)

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# CRIMINAL RECORDS BUREAU DISCLOSURE POLICY/PROCEDURE

Written by Human Resources



## 1. Introduction

- 1.1 Exeter College is committed to fair treatment of existing and prospective employees, and subject to its responsibilities to protect children and vulnerable adults, undertakes to treat all applicants for positions fairly and not discriminate unfairly on the basis of offending background.
- 1.2 Exeter College uses the Criminal Records Bureau (CRB) Disclosure service to assess an individual's suitability for positions of trust. As a registered body, the College complies fully with the CRB Code of Practice.
- 1.3 This procedure should be adopted when recruiting to posts involving work (direct or indirect) with children and vulnerable adults. This applies to work of any kind, whether paid or unpaid. This includes all employees, agency workers on long term assignments, volunteers, students, Modern Apprentices and Governors.

## 2. Legislative framework

- 2.1 The Rehabilitation of Offenders Act 1974 enables criminal convictions to become 'spent' or ignored after a rehabilitation period. This means that once the rehabilitation period has expired an ex-offender is not obliged to mention their conviction when applying for a job. However, the Exceptions Order 1975 and 2000 sets out occupations and positions where there is a valid need to see a person's full criminal record (including 'spent' convictions) in order to assess their suitability for a position. These are called 'exempted' posts. This includes:
  - Any work concerned with the provision of care services to vulnerable adults.
  - Any work in a regulated position ['working with children' as defined by Criminal Justice and Court Act 2000].
  - Any work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18.
- 2.2 The Protection of Children Act 1999 requires childcare organisations proposing to employ someone in a childcare position to ensure they do not employ anyone who is included on the Protection of Children Act (POCA) List or List 99.

- 2.3 The Care Standards Act 2000 sets out similar obligations in relation to individuals in care positions involving regular contact with vulnerable adults. There is a statutory requirement on providers of care to check if an individual is included on the Protection of Vulnerable Adults (POVA) List prior to the appointment to a care position:
- In a care home involving regular contact with residents
  - Providing personal care in individuals' own homes for a person who by reason of illness, infirmity or disability is unable to provide it for themselves without assistance
- 2.4 It is an offence for an individual who is disqualified from working with children or vulnerable adults to knowingly apply for, offer to do, accept or undertake work with children or vulnerable adults.
- 2.5 Part V of the Police Act 1997 established the Criminal Records Bureau (CRB). The CRB provides access to criminal record information, POVA, POCA and List 99 through its Disclosure service. It enables organisations entitled to ask exempted questions under the Exceptions Order to make safer recruitment decisions by identifying candidates who may be unsuitable for work involving children and vulnerable adults. All checks are made via the CRB as part of a 'Disclosure'.

### **3.0 Procedure**

- 3.1 Applicants are required to provide details of their criminal record on application forms. Information about 'unspent' convictions as defined by the Rehabilitation of Offenders Act 1974 is required only if the nature of the position allows the College to ask about an individual's entire criminal record.
- 3.2 A criminal record check will be requested for all employees, including casuals, volunteers and temporary agency staff (if working on a long term assignment, for example cover for maternity leave or long-term sickness). Recruitment materials for such posts will state that a Disclosure will be requested in the event of an individual being offered employment.
- 3.3 Applicants for all posts are required to declare details of all 'spent' and 'unspent' convictions, plus details of any cautions, reprimands or warnings.
- 3.4 If a candidate is successful in their application the College will apply for a Disclosure of Information from the CRB. All offers of employment for posts requiring a Disclosure must be made subject to confirmation of satisfactory CRB clearance.
- 3.5 Failure by an applicant to reveal information that is directly relevant to the post sought could lead to withdrawal of an offer of employment.

- 3.6 Having a criminal record will not necessarily debar an individual from being employed by Exeter College unless it is considered that the conviction renders that person unsuitable for appointment to the post applied for. This will depend upon the nature of the position and the circumstances and background of the offences.
- 3.7 In the event of offences being disclosed, it is for the College to make a judgement as to the suitability of the individual for the post, with due consideration of our responsibility to protect children and vulnerable adults.
- 3.8 In determining an applicant's suitability for a post, the following factors will be taken into account:
- Whether the conviction or other matter revealed is relevant to the position
  - Seriousness of any offence revealed
  - Length of time since the offence or other matter occurred
  - Whether the applicant has a pattern of offending behaviour or other relevant matters
  - Whether the applicant's circumstances have changed since the offending behaviour
- 3.9 The Disclosure of Criminal Convictions Assessment Form in Appendix 1 should be completed to demonstrate the consideration given in making the decision.
- 3.10 The appointing Head of Department will discuss any matters of concern with the relevant HR representative. Responsibility for the decision to appoint or not will lie with the relevant Director in consultation with the HR representative. Any such matters will be discussed with the applicant before a decision is made.
- 3.11 Where information received from the CRB contradicts that provided by the applicant, the College undertakes to discuss any matter revealed in the Disclosure with the person seeking the position before a decision is made regarding the withdrawal of a conditional offer of employment.
- 3.12 If an applicant believes the information provided by the CRB is incorrect, they are entitled to appeal to the CRB. Where this occurs, the conditional offer of employment will remain, pending a response from the CRB. A final decision as to the applicant's suitability for employment will be made on the basis of this information.
- 3.13 A written record of the decision and reasons for the decision should be retained with the original Disclosure information. This will enable the College to provide clear reasons for its decision in the event that this is challenged. This information will be stored and retained in accordance with Section 7 of this procedure.

## **4.0 STANDARD AND ENHANCED DISCLOSURES**

- 4.1 An Enhanced Disclosure is required for positions involving direct contact with children or vulnerable adults. This relates to direct and unsupervised contact. Examples of where an Enhanced Disclosure will be required are for Security Assistants, Lecturers, Support Workers
- 4.2 A Standard Disclosure is required for positions where the postholder will be expected to come into contact with children or vulnerable adults but are not working directly with such groups. An example of when a Standard Disclosure will be required is for Administrative staff.
- 4.3 The Enhanced Disclosure includes details of any 'spent' and 'unspent' convictions as well as cautions, reprimands and warnings held at a national level. It will also indicate whether information is held on government department lists, held by the Department for Education and Skills (List 99) and the Department of Health (POVA/POCA), of those who are banned from working with children or vulnerable adults. It may also contain non-conviction information from local police records, which is considered relevant in connection to the position sought.
- 4.4 The Standard Disclosure provides the same information as an Enhanced Disclosure except for relevant non-conviction information from local police records.
- 4.5 The appointing manager, in consultation with the relevant HR Representative, must ensure the appropriate level of Disclosure is obtained for all successful applicants.
- 4.6 The Criminal Records Bureau does not conduct overseas criminal record checks for either standard or enhanced level Disclosures. Where an individual has resided overseas for any period of time, additional criminal record checks should be carried out using the appropriate overseas agency.

## **5.0 DURABILITY AND PORTABILITY OF DISCLOSURES**

- 5.1 Disclosures are required for all employees who have joined since 1 March 2002. Existing staff employed prior to 1 March 2002 will not be checked unless they are applying for another post within the College.
- 5.2 Where a member of staff already has Disclosure clearance issued by Exeter College it will be considered valid where they move to another post within the College requiring the same level of Disclosure and with similar responsibilities.
- 5.3 A new Disclosure will be required for existing employees where:
- The new post requires a Disclosure at a higher level than currently held

- The new post the employee is moving to is significantly different
- An existing employee transfers from a post working with children to a care position working with vulnerable adults, and vice versa. This is to ensure that the required checks are made against POCA and POVA lists.
- An existing employee transfers from a non-care position to a post involving direct contact with vulnerable adults or children (as defined in Section 2).

5.4 Disclosures will not be accepted from other Registered Bodies.

## **6.0 DISCLOSURE OF CRIMINAL RECORDS BY EXISTING EMPLOYEES**

6.1 Existing employees are required to inform their Head of Department and the Human Resources Department if, during the course of their employment or between checks, they obtain a new criminal conviction. Any matters disclosed by the employee or revealed through a Disclosure, will be discussed with the employee to determine their suitability to continue working in the post. Such matters will be dealt with sensitively and in the strictest confidence.

6.2 Depending upon the nature of the conviction, the matter may be dealt with in accordance with the College's Disciplinary procedure. Failure to reveal such information may also lead to disciplinary action being taken.

## **7.0 STORAGE AND HANDLING OF DISCLOSURE INFORMATION**

7.1 The College recognises the sensitive nature of personal data held on Disclosures. It complies fully with the CRB Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act.

7.2 The Human Resources Department will hold all Disclosure information received from the CRB. This information will not be held on an individual's personal file. It will be kept separately in lockable, non-portable storage. Access to this information is restricted to those who are entitled to see it as part of their duties. A note of the certificate number will be kept on the individuals' personal file to show that a check has been carried out.

7.3 Once a recruitment decision has been made the original Disclosure information is kept for a period of six months to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, the College will consult the CRB and give full consideration to Data Protection and Human Rights legislation before doing so.

7.4 Once the retention period has elapsed, the Human Resources Department will ensure that any Disclosure information is destroyed by secure means. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle such as waste bin or confidential waste sack. The College will not keep any photocopy or other image of the Disclosure.

7.5 The College will keep a record of the date of issue of the Disclosure, the name of the subject, the type of Disclosure requested and the unique reference number of the Disclosure.

## **8.0 ADDITIONAL**

8.1 A copy of this Policy/Procedure will be made available to all individuals subject to a Disclosure.

8.2 The College will co-operate with requests from the CRB to undertake assurance checks to ensure proper use and safekeeping of Disclosure information.

8.3 This Policy/Procedure will be reviewed on a regular basis in accordance with legislative developments and the need for good practice within the College.

8.4 The CRB have a Code of Practice which is available on request.