



CRIMINAL RECORDS BUREAU

POLICY AND PROCEDURE

Dated December 2010- Reviewed by Paul Graham – Registered Care Manager
Reviewed in line with Mental Capacity Act 2005
Next Latest Review Date – December 2011

ASPECTS CARE CRIMINAL RECORDS BUREAU POLICY AND PROCEDURE

CRIMINAL RECORDS POLICY

1. INTRODUCTION

Disclosure is an information service provided by the Criminal Records Bureau – an executive agency of the Home Office. It helps employers make informed recruitment decisions and so protect the vulnerable members of society. Like the previous police checking procedures which it supersedes, the CRB uses the Police National Computer record which services England and Wales and also holds most relevant convictions from Scotland. At present, any Northern Ireland convictions may not be reflected in Disclosure.

Disclosure is an impartial and confidential document that details an individual's criminal record and where appropriate, details of those who are banned from working with children. In due course, Disclosures will also contain details of those banned from working with vulnerable adults. The CRB has a responsibility to ensure that any information disclosed is accurate and relevant. They must establish an individual's identity beyond doubt and be sure that they are the person to whom the record refers. To do this, they need written consent from the individual which is incorporated into the Disclosure Application Form.

2. SCOPE OF POLICY

The policy will apply to those seeking paid or unpaid work with Aspects Care. It will also apply to contract and agency staff required to carry out work or students attending placements within Aspects Care.

Aspects Care is also an Umbrella Body to provide other organisations access to the information available from the Criminal Records Bureau (CRB).

In addition, where there are reasonable grounds, Aspects Care may require existing employees to apply for an up to date criminal record disclosure.

3. PRINCIPLES

It is essential that all persons working for Aspects Care are trustworthy and reliable. Aspects Care has a duty to ensure that service users receive a good standard of care/support and to take all practicable steps to ensure the safety of service users and staff by undertaking thorough pre-employment checks. Aspects Care is committed to best practice in recruitment to ensure that all appointments are safe.

Registration with a professional body imposes a duty on health care professionals to provide a good standard of medical care for and behave appropriately towards service users.

CRB Disclosures will not be regarded as a substitute for any other pre-appointment checks, including taking up references and enquiring into to the person's previous employment history. Disclosures are complimentary to other existing recruitment practice and will only be sought after a candidate has been offered employment or a voluntary position with the Company.

People who have been convicted will be treated fairly and given every opportunity to establish their suitability for a post within the CQC guidelines. A criminal record will not necessarily stop an individual obtaining a post and the Company will not unfairly discriminate against the subject of disclosure information on the basis of conviction or other details revealed.

Appointing managers will discuss any matters revealed in Disclosure information with the person seeking the post before withdrawing an offer of employment.

Aspects Care will ensure that disclosures and the information they contain are available only to those who need to have access in the course of their duties.

Disclosures and the information that they contain will be securely stored and destroyed within the required time limits.

4. WHAT IS A CRIMINAL RECORD

A criminal record arises from a conviction in a court of law. There are also Police Records, Cautions, Reprimands and Warnings are issued by the Police as an alternative to prosecution, usually for less serious offences and usually after an offence is admitted.

Criminal records do not normally include speeding and other minor driving or traffic offences.

5. GENERAL

Due to nature of the service users supported by the Company, Aspects Care are entitled to ask applicant to disclose convictions that would otherwise be 'spent' under the provisions of the Rehabilitation of Offenders Act 1974. All applicants to work in Aspects Care are required to disclose on their application forms whether they have any spent or unspent criminal convictions.

All applicants are also expected to inform Aspects Care if, before taking up any position offered to them, they are charged with a criminal offence in the UK or any other country. In order to assess job related risks Aspects Care also need to verify externally, by a CRB check, whether applicants who have been offered certain positions do have a criminal record in the UK or in another country.

When recruiting, Aspects Care will inform applicants if a CRB check will be required as part of the appointment process. This will enable applicants to decide whether they wish to apply for the position.

This check will disclose whether the individual has any spent or unspent convictions and whether they have been 'bound over', have received a police caution, warning or reprimand or have been charged with a criminal offence that is not yet disposed of. It will also reveal whether or an applicant is included on a Department for Education and Employment or Department of Health list of people considered unsuitable to work with children or vulnerable adults. The disclosure may also contain non-conviction information from local police records which a chief police officer thinks may be relevant in connection with the matter in question.

As part of the appointment process, applicants undergoing a CRB check will also be asked to complete a pre-employment declaration.

Prior to making an appointment Aspects Care also need to establish if applicants for such positions have ever been qualified from the practice of a profession or required to practice it subject to specified limitations following fitness to practice proceedings by a regulatory body in the UK or in another country, and whether they are currently the subject of any investigation or proceedings by any body having regulatory functions in relation to health/social care professions including such a regulatory body in another country. This is also reflected in the declaration.

Where such a position involves regular care, training, supervision or sole charge of persons aged under 18 or vulnerable adults (as defined by the Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) Regulations 2002), applicants will also be asked whether they are currently the subject of any police investigation in the UK or any other country of which they are aware.

Where the position is a 'regulated position' under the terms of the Protection of Children act 1999 (as amended by the Criminal Justice and Court Services Act 2000, checks will be carried out in accordance with the Protection of Children Act 1999. Anyone whose name is on the list is legally barred from working with children. It is a criminal offence for such a person to knowingly apply for, offer to accept or do such work. It is also an offence to employ such a person in a childcare position.

Aspects Care are an equal opportunities employer and all applications will be decided fairly and on merit. Information declared will be used to consider the applicant's suitability for the position will be treated in confidence and will not be used as the sole criteria to decide on applicant's fitness for the position.

Unless law prohibits on appointment, a criminal conviction will not automatically debar the applicant from appointment. Applicants will be given an opportunity to discuss any information supplied before a final decision is taken regarding their appointment. However, an applicant may not be selected if the appointing manager, after discussion with Head Office managers, considers that the information declared renders that person unsuitable for the position for which they have applied. In reaching such a decision the nature of the record/action, it's relevance to the position

applied for and any other information the applicant wishes to provide will be considered.

The information declared or disclosed by CRB will be treated in compliance with the Data Protection Act 1998.

Failure by an applicant to provide accurate and truthful information is considered to be a serious matter. Where it is found that a person has intentionally or recklessly provided inaccurate information or withheld information relevant to the position, this may disqualify them from appointment. It may also result in dismissal or disciplinary action and referral to the appropriate professional regulatory body.

6. LEVEL OF DISCLOSURE

To provide this service, the CRB will issue three levels of Disclosure each representing a different level of check. The three levels of Disclosure will be Enhanced, Standard and Basic.

6.1 Basic Disclosures

These will be available for all types of employment or volunteering organisations not covered by the higher-level Disclosures. This level of Disclosure will only contain details of convictions considered 'unspent' under the Rehabilitation of Offenders Act 1974 and held on the PNC. The Basic Disclosure will be applied for by, and issued only to, the individual concerned. It will then be at the individual applicant's discretion whether to show the Disclosure to an employer. It will not be job-specific and may be used more than once. Aspects Care is unlikely to make much use of basic disclosures.

6.2 Standard Disclosure

These are primarily for posts that involve working with children or include regular contact with vulnerable adults. Standard Disclosures may also be issued for people entering certain occupations that involve positions of authority within Aspects Care, such as members of the legal and accountancy professions.

The Standard Disclosure will contain details of all convictions held on the Police National Computer (PNC) including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings.

If a position involves working with children, the Disclosure will indicate whether information is held on government department lists held by the DoH and DfEE. In due course, Disclosure will also include information held by DoH of those considered unsuitable to work with vulnerable adults.

6.3 Enhanced Disclosures

These are for posts which involve a greater degree of contact with children or vulnerable adults.

In general the type of work might involve regularly caring for, supervising, training or being in sole charge of such people. Examples include a nurse or social worker who cares for children or vulnerable adults.

Enhanced Disclosures are also issued for certain statutory licenses, such as gaming and lottery licenses.

This level of Disclosure involves an additional level of check to those carried out for the Standard Disclosure and includes any relevant information held on local police records. Standard and Enhanced Disclosure applications are made by a "registered body" and must be countersigned by an approved signatory on behalf of that organisation. A copy of the Disclosure document is sent to both the individual and the organisation.

Aspects Care is a Registered Body with the CRB. The Director of Care has overall responsibility for recruitment procedures. A number of Senior Managers are registered signatories for CRB Disclosures. They will countersign the candidate's application for a criminal records disclosure and will receive the details released by the CRB about individual prospective employees. Each of these Senior Managers will themselves have been subject to the disclosure procedure.

7. CRB PROCEDURE

Job packs sent out to prospective candidates will inform them whether a CRB check will be required and at what level. They will also be informed of relevant Company guidelines.

When candidates for posts requiring a CRB check who do not live within easy traveling distance of Aspects Care are invited for interview, they will be sent the disclosure application form and asked to bring the required original documentation on the day of the interview.

Other candidates will be issued the disclosure application form at the time of an offer of employment being made.

The relevant declaration form will also be issued to all applicants at the time of an offer of employment.

New employees will not be allowed to work in Aspects Care until clearance has been received from the CRB.

7.1 Re-use of Disclosures

Disclosures have no period of validity as they are only a declaration of criminal conviction status at the time of the check. Disclosures presented by applicants from previous employers cannot be carried over.

7.2 Re-checking existing staff

Aspects Care will aim to recheck all staff every 3 years.

8. MONITORING

Implementation and monitoring of the procedure will be undertaken by Director of Care.

9. THE ROLE OF HUMAN RESOURCES

The role of HR is to ensure all parties adhere to the procedure and that it is fair and equitable. HR advice may be sought at any stage of the procedure.

10. POLICY REVIEW

This policy will be reviewed by the Senior Care Manager annually.

11. POLICY DESTRUCTION

It is the responsibility of the Policy File Holder to ensure that when a new or revised policy is ratified and distributed, the old policy is removed from the policy file and destroyed, together with the old content / index listing.

12. STAFF WITH CRIMINAL CONVICTIONS

When staffs are recruited two references from previous employers will be sought prior to the start date. These will consist of written references which will then be verbally confirmed; the verbal should be dated and signed by the person obtaining the reference. The written should contain the name of the person giving the reference, their position within the company and the date.

Should applicants only have one previous employer, a character reference will be accepted from a person that has known the applicant for 5 years or more (a family member is not acceptable).

A full CRB to include ISA clearance will be sought if any convictions are not declared at interview the offer of a position will be withdrawn when the CRB is received.

Applicants with convictions will be assessed for suitability for the post taking into consideration the client's vulnerability and the type of offence that has been committed.

Should a post be offered to an applicant with convictions the company's policy and procedure should be implemented. The policy and procedure is:

1. The sole responsibility of employing an ex-offender with convictions registered on their CRB lies with the Registered Care Manager.
2. Any applicant that has convictions on their CRB and is employed by Aspects Care shall be risk assessed on their probability of re-offending.
3. The risk of re-offending will be managed with monitoring of the applicant over a three year period. The applicant will have yearly CRB checks completed for the first three years of employment, complimented with regular monthly supervisions and yearly PDR's. These will include specific covering of the staff member's current criminal conviction status and will be carried out by the Registered Care Manager or her designate.
4. There will be weekly visits by Care Coordinator to the client(s) being support by the individuals with convictions registered on their CRB's.
5. Staff members employed will have to sign to agree to the company's policy and procedures prior to commencing work.
6. New employees with convictions, where those convictions support it, shall be given abuse training prior to starting work with service users.
7. Applicants with criminal convictions that re-offend in any manner within the three year assessment period will be dismissed without notice. If POVA referral needs to be made it will be implemented with immediate effect. If further convictions are disclosed after the three year period then the Registered Care Manager will review the staff member and a decision will be made on their continued employment.

13. OVERSEAS EMPLOYEES

1. All applicants from overseas who are offered a position of work with Aspects Care will have their visa information recorded and will be confirmed eligible to work by the Registered Care Manager.
2. Applicants that need visa's to work in the United Kingdom will be monitored and post booked supervisions to coincide with expiry dates will be arranged.
3. If applicants are found to be working illegally then they will be dismissed from employment immediately.
4. If applicants are found to be working illegally then the Immigration Service will be notified.