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# **Recruitment of Ex-Offenders Policy**

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### Version control

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| 1 to 2  | Amended to new template and to include reference to GDPR | November 2018 |
| V3      | Update   | December 2021 |

## EQUALITY IMPACT STATEMENT

As part of its development, this policy and its impact on equality have been reviewed in line with Brainkind's Equality and Diversity Policy. The purpose of the assessment is to minimise and if possible remove any disproportionate impact on service users and people employed by Brainkind on the grounds of any protected characteristic.



## Purpose

The purpose of this policy is to provide procedural guidance and direction for the recruitment of ex-offenders

The overarching aim is to confirm Brainkind's approach towards employing people who have a criminal record.

Brainkind is committed to equality of opportunity for all job applicants and aims to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training. Brainkind will therefore consider ex-offenders for employment on their individual merits.

## Scope

Due to the nature of the service Brainkind provides, Brainkind is included under the list of excluded services in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 which covers England, Scotland and Wales.

This policy also applies to:

- All Brainkind staff and workers/suppliers of services including registered, unregistered, bank, temporary, locum staff and self-employed contractors.
- All students, volunteers and those on secondments or other flexible working arrangements.
- The majority of job roles in Brainkind are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This entitles Brainkind to seek detailed information relevant to the job role on both spent and unspent convictions/cautions/warnings/reprimands/bind-overs from job applicants and base employment decisions on this information.

This policy is for guidance only and may be amended from time to time.

All employees have a duty to follow any code of conduct and/or any rules contained; non-compliance with this policy is likely to result in disciplinary action being taken in accordance with this Disciplinary policy and procedure.

## Principles

The following key principles outline Brainkind's approach to the recruitment of ex-offenders



- Brainkind will not automatically refuse to employ a particular individual just because he/she has a criminal record.
- Brainkind will review individual circumstances on a case by case basis in relation to the role the applicant has applied for
- Brainkind will comply fully with the Disclosure and Barring Service (DBS) and Disclosure Scotland Codes of Practice and any employment based decisions relating to Disclosure or PVG Scheme Record information will be made in accordance with these.

## Procedure

### Requesting information

Within the application form and during job interviews, Brainkind will ask job applicants to disclose any unspent convictions/ cautions/ warnings/ reprimands/ bind-overs. Under Brainkind's exemption from the Rehabilitation of Offenders Act 1974, additional questions may be asked about spent convictions/ cautions/ warnings/ reprimands/ bind-overs. The job applicant is expected to disclose all relevant information.

### Relevance of offences

Brainkind will not refuse to employ a particular individual unless the nature of the conviction/caution/warning/ reprimand/bind-over has some relevance to the job for which the individual has applied. When deciding the relevance of offences, the following will be considered on a case by case basis: (Note: this list is not exhaustive.)

- Does the post involve one-to-one contact with children or other vulnerable groups such as vulnerable adults or employees?
- What level of supervision will the post holder receive?
- Does the post involve any responsibility for finance or items of value?
- Would the nature of the job present any opportunities for the post holder to re-offend in the course of work?

After considering the above, if Brainkind deems the nature of the offence relevant to the job for which they have applied, Brainkind may, at its discretion, decline or retract an offer of employment.

### DBS/PVG Process

Disclosure and Barring Service (DBS) and/or Disclosure Scotland/PVG Scheme Record are functions that provide support to help employers make safer



recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

The services allow employers to access the criminal history of individuals working or volunteering in certain positions, especially involved in working with vulnerable groups including children.

Therefore, when processing an enhanced Disclosure and/or a Disclosure Scotland/PVG Scheme Record these lists will be checked as part of this process in accordance with the vulnerable group(s) that the individual will be working with.

Any individual who is on one or both of the barring lists will also be barred from working with children and/or vulnerable adults across England, Wales and Scotland. It is a criminal offence for anyone who is barred from working with a particular group (i.e. children or vulnerable adults) to seek work or volunteer opportunities with that particular group. Furthermore, it is an offence to employ/use staff/volunteers with specified groups if they have been barred. As such Brainkind will not employ or offer work to any individual barred from working with the particular group the role is associated with. In circumstances where the Brainkind is notified that a barring decision has been made, following the employment of the relevant individual, Brainkind will invoke disciplinary proceedings in order to terminate the contract of employment. Other appropriate action will be taken should the individual be a bank worker or volunteer.

DBS/PVG are the ones who decide whether it is appropriate for a person to be placed on or removed from a barred list.

More information regarding DBS and Disclosure Scotland checks can be found in Brainkind's Criminal Records Check Policy and Procedure.

## **Documentary Evidence**

Brainkind will, once it has selected the person to whom it wishes to offer employment, seek documentary evidence about that person's history and any criminal records. Brainkind will require the applicant to make an application to the DBS for a standard or enhanced Disclosure (whichever Brainkind deems appropriate for the role) or Disclosure Scotland for a PVG Scheme Record or Disclosure. Brainkind will cover the fee incurred in obtaining the appropriate DBS/PVG certificate.

Brainkind is committed to ensuring that all information provided about an individual's criminal history, including any information released in Disclosures/PVG Scheme Records, is used fairly and stored and handled



appropriately in accordance with the provisions of the Data Protection Act 2018 and General Data Protection Regulations 2018. Data held on file about an individual's criminal history will be held only as long as required for employment purposes and will not be disclosed to any unauthorised person.

Brainkind's Criminal Record Check and Disclosure Scotland Policy and Procedure contains further information relating to Disclosures and PVG Scheme Records.

## **Employment Decisions**

Brainkind complies fully with the Disclosure and Baring Service and Disclosure Scotland Codes of Practice and any employment-based decisions relating to Disclosure or PVG Scheme Record information are made in accordance with these. Copies can be obtained from the DBS or Disclosure Scotland websites.

## **Associated Policies and Procedures**

Other Policies and Procedures to be operated in succession with

- Recruitment of Ex-Offenders Policy Statement
- Equal Opportunities Policy and Procedure
- Recruitment and Selection Procedure
- Criminal Record Check Policy and Procedure