



# Policy, Procedure and Guidelines on Criminal Records Checks and the Recruitment of Ex-offenders

## 1. Purpose and Principles

As an organisation using an umbrella organisation which uses the Disclosure and Barring (DBS) service to assess applicants' suitability for positions of trust, ELHAP will ensure the umbrella organisation is one which complies fully with the DBS Code of Practice and the guidelines issued by the Department of Education (DfE). ELHAP will treat all applicants for positions fairly and will not discriminate unfairly against any subject of a disclosure on the basis of a conviction or other information revealed.

ELHAP will support the fair treatment of its staff, potential staff, volunteers, trustees or users of its services, regardless of sex, gender reassignment, pregnancy and maternity, race, (which includes colour, nationality, ethnic or national origins), sexual orientation, religion or belief, age, disability, offending background or because someone is married or is a civil partner.

The policy on the recruitment of ex-offenders is made available to all disclosure applicants at the outset of the recruitment process - it is on the ELHAP website.

ELHAP will actively promote equality of opportunity for all with the right mix of talent, skills and potential and will welcome applications from a wide range of candidates, including those with criminal records. Candidates will be selected for interview based on their skills, qualifications and experience.

Under the Safeguarding Vulnerable Groups Act 2006, (as amended by the Protection of Freedoms Act 2012) regulated activity relating to children is defined in general terms as any form of teaching, training, instruction, care, advice, guidance, treatment or therapy in relation to children which takes place in ELHAP.

The regulations make it mandatory for ELHAP to obtain an Enhanced Disclosure + Children's Barred List check for all those undertaking regulated activities.

All relevant recruitment briefs, (terms and conditions) along with the application form will contain a statement that a Criminal Records Check through the Disclosure and Barring Service, (DBS) will be requested in the event that the individual is offered the position.

The ELHAP Application Form contains the following statement: Due to the nature of our work any convictions, cautions, reprimands or final warnings that are not "protected" as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) by SI 2013 1198

([http://www.legislation.gov.uk/ukxi/2013/1198/pdfs/ukxi\\_20131198\\_en.pdf](http://www.legislation.gov.uk/ukxi/2013/1198/pdfs/ukxi_20131198_en.pdf)) must be declared and all applicants are asked - Do you have any convictions, cautions, reprimands, final warnings, or bind-overs that are not protected and have you been disqualified from working with children, are named on the Children's Barred List (previously List 99 and the Protection of Children Act List) or subject to any sanctions imposed by a regulatory body (e.g. the National College for Teaching and Leadership)?

Where a Criminal Records Check through the DBS is to form part of the recruitment process ELHAP encourages all applicants to provide details of their criminal record at an early stage in the application process. ELHAP requests that this information is sent under separate, confidential cover, to the Director or Projects Manager within ELHAP and guarantees that this information will only be seen by those who need to see it as part of the recruitment process.

ELHAP ensures that staff involved in recruitment processes receive appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

At interview, or separately, ELHAP will 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 could lead to withdrawal of an offer of employment, or dismissal.

ELHAP will make every subject of a Criminal Records Check through the DBS aware of the existence of the DBS Code of Practice and will make a copy available on the internet; alternatively a hard copy will be provided if requested.

The Director or Projects Manager will discuss any matter revealed in a Criminal Records Check with the person seeking the position, before withdrawing a conditional offer of employment, or taking further action. Unless the nature of the position allows ELHAP to ask questions about the applicant's entire criminal record, they will only be asked about 'unspent' convictions, not protected as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) by SI 2013 1198.

Having a criminal record will not necessarily bar applicants from working at ELHAP. This will depend on the nature of the position and the circumstances and background of the offence but under the relevant legislation, it is unlawful for ELHAP to employ anyone who is included on the lists maintained by the DBS of individuals who are considered unsuitable to work with children. In addition, it is also unlawful for ELHAP to employ anyone who is the subject of a disqualifying order made on being convicted or charged with the following offences against children: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence. It is also unlawful for ELHAP to knowingly employ someone who works in the relevant settings and is disqualified from providing childcare under the Childcare (Disqualification) Regulations 2009, whether by association, or otherwise.

It is a criminal offence for any person who is disqualified from working with children to attempt to apply for a position within ELHAP. ELHAP will report the matter to the Police and/or the DBS if:

- ELHAP receives an application from a disqualified person;
- ELHAP is provided with false information in, or in support of an applicant's application; or
- ELHAP has serious concerns about an applicant's suitability to work with children.

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, ELHAP will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question;
- the seriousness of any offence or other matter revealed;
- the 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 or other relevant matters;
- in the case of disqualification from providing childcare, whether the applicant has or is able to obtain an Ofsted waiver from disqualification; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

If the post involves regular contact with children, it is ELHAP's normal policy to consider it a high risk to employ anyone who has been convicted **at any time** of any the following offences: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence, serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is ELHAP's normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is ELHAP's normal policy to consider it a high risk to employ anyone who has been convicted of drink or drug driving.