Healthy Minds Criminal Conviction Policy

This policy is based on the criminal Record Bureau Code of Practice, and is intended as a guide in relation to prospective/ current employees, trustees and volunteers, rather than members of the public who may use our services.

Calderdale Wellbeing (which will be referred to as Healthy Minds, [the operating name of Calderdale Wellbeing] throughout the rest of this policy) recognises that most people who have a criminal conviction have the right to an opportunity to gain paid employment or volunteer roles.

The majority of crimes are not custodial. Research has shown that employment is the single most important factor in reducing re-offending. Individuals may have a criminal conviction for a wide range of reasons not related to the work of Healthy Minds. Healthy Minds would wish to support the employment or involvement as volunteers/ trustees of people with a criminal conviction, whilst ensuring that our paid staff, volunteers, service users and trustees are not at any risk.

Healthy Minds recognises that some people may acquire a criminal record as a result of a period of mental distress or ill health. Healthy Minds recognises that high levels of stigma and discrimination that surround mental distress mean that some people will not be treated with respect, understanding or offered support during times of distress, and this may contribute to the circumstances which result in them acquiring a criminal record.

Healthy Minds recognises that non–violent direct action by campaigners is a legitimate tactic in order to fight against injustice even though this may result in criminal convictions e.g. anti-war protests, environmental protests.

**1. Gathering information about criminal records**

Healthy Minds will make a risk assessment of each job or volunteer /trustee role in connection to access and management of finances or work with children and young people or vulnerable adults and the extent to which this access is unsupervised in order to determine the level of disclosure required.

Healthy Minds will endeavour to ask prospective employees/ volunteers/ trustees about criminal records in such a way as to encourage honesty. Prospective employees/ volunteers / trustees should be informed that a criminal conviction does not necessarily bar them from employment/ volunteering with Healthy Minds.

In the initial information sent out to job applicants Healthy Minds will include:

* This policy
* The following statement

*“As Healthy Minds meets the requirements in respect of exempted questions under the Rehabilitation of Offenders Act 1974, all applicants who are offered employment will be subject to a criminal records disclosure from the Criminal Records Bureau before the appointment is confirmed. This will include details of cautions, reprimands or final warnings. This information will not necessarily be a bar to obtaining a position.”*

* Information about the level of disclosure required for the relevant post

All prospective volunteers /trustees likely to have contact with vulnerable adults or children and young people will be informed at the first stage of the volunteer recruitment process that a CRB disclosure will be required, and at what level.

**2. Requests for information about convictions**

Prospective employees:

a) Once an applicant has been offered the post they will be given information about Disclosure information that will be required, and who to contact in order to do the CRB check.

b) Job offers are subject to suitable references, medical information and Disclosure details being acceptable.

If there are any issues of concern about the information contained in the Disclosure, these will be discussed with the prospective employee.

Prospective Volunteers/ Trustees:

a) Once the prospective volunteer/ trustee has made it clear that they do want to become a volunteer/trustee they will be given information about Disclosure information that will be required, and who to contact in order to do the CRB check.

b) Certain volunteer roles are subject to a suitable reference and Disclosure details being acceptable, as well as satisfactory in-house training.

If there are any issues of concern about the information contained in the Disclosure, these will be discussed with the prospective volunteer/ trustee.

Some issues for the candidate /volunteer/trustee could be:

* They have been given inaccurate information and are under the impression their convictions have become spent under the terms of the Rehabilitation of Offenders Act.
* It may be that they hid their convictions in order to increase their chances of employment/volunteering
* It may be that information contained in the Disclosure is inaccurate or relates to someone else with the same name.

Prospective employees/ volunteers/ trustees should be given the opportunity to explain the situation before a final decision is made.

**3. Assessing the relevance of criminal records**

The following checklist will be used to decide the relevance of offences to particular posts/ volunteer /trustee roles;

* Does the post/ volunteer /trustee role involve one to one contact with children/young people or vulnerable adults?
* Does the post/ volunteer/ trustee role involve frequent contact with children/young people or vulnerable adults?
* What level of supervision will the post-holder / volunteer / trustee receive?
* Does the post /volunteer/ trustee role involve any direct contact with the public?
* Does the post/ volunteer / trustee role involve any direct responsibility for finance or items of value?
* Will the nature of the job/ volunteer / trustee role present any opportunities to re-offend?

Some candidates/ potential volunteers may have a criminal record that would not prevent them from working /volunteering for Healthy Minds.

For relevant posts/ volunteer/ trustee roles the following issues will be taken into account:

* The seriousness of the offence and it’s relevance to the safety of other employees, service users/vulnerable adults, children and young people, volunteers, Trustees, members of the public, and property
* The length of time since the offence occurred
* The age when the offence occurred
* Any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of health, domestic or financial difficulties
* Whether the offence was a one-off, or part of a history of offending
* Whether the applicant’s circumstances have changed since the offence was committed making re-offending less likely
* The country in which the offence was committed; since some activities are offences in Scotland and not in England and Wales and vice versa
* Whether the offence has since been decriminalised by Parliament
* Does the applicant understand the nature of the offence and its implications

It may be clear that the conviction is not relevant, and there would be no need to discuss this directly with the prospective employee/volunteer.

The Co-ordinator or Chair should record this decision in writing. It should be kept securely.

It may be necessary to arrange a meeting with the prospective employee/volunteer/ trustee to find out more information, before approving the appointment/volunteer/trustee position. The person should be offered the opportunity to bring a friend/representative with them to the meeting.

The meeting will be conducted by 2 Healthy Minds representatives, which should include the Chair or Co-ordinator. The questions in the “Procedure for Risk assessing a criminal record” should form the basis of this meeting. The Chair/Co-ordinator and other staff member/Trustee should seek clarification from the prospective employee/volunteer/ trustee on any area which is not clear. Where necessary direct questions should be asked in response to general information / general statements given or made by the prospective employee/volunteer/ trustee.

Following the meeting the Chair/Co-ordinator, in conjunction with the other Healthy Minds representative, will write a report outlining their findings including a risk assessment. A decision will be made by the Co-ordinator, Chair and Vice Chair, at least one of whom will have attended the meeting.

**A copy of the volunteers 2 references should be available to the meeting**

A copy of the meeting report, risk assessment and decision will be held on the personnel file / volunteer file of the individual concerned.

**4. What happens to Disclosure Information?**

Information about a prospective employee’s criminal record will only be made available to those involved in the recruitment process.

The successful applicant should be informed who in the organisation knows of the conviction and the reasons why that person was informed.

Information about a prospective volunteer’s criminal record will only be made available to the relevant project worker, Co-ordinator and if necessary the Chair/Vice Chair.

Offence information will be kept securely in a lockable filing cabinet. Access to keys will be restricted to the Co-ordinator and Chair.

**5. Which staff will be asked to obtain Disclosure information?**

Enhanced Disclosure will be requested for:

* All staff or volunteers working with vulnerable adults or children and young people.
* Officers of the Management Committee

Standard Disclosure will be requested for:

* Other workers
* Other Volunteers
* Other MC members

**6. On-going obligation of staff /volunteers**

All staff /volunteers are required to disclose to the organisation any charge, conviction or pending court action in respect of any offences committed during the course of employment/volunteering. Failure to do so may render the employee liable to disciplinary action and may lead to the termination of employment, or to the termination of the volunteering.

*Healthy Minds acknowledges WHM in the preparation of this policy*

*Date approved:*

Can someone check whether this is included in any of the employment related policies/contract (I looked quickly at contract and couldn’t see it). If so need to add it in somewhere….

**Procedure for risk assessing a criminal record**

**Stage 1: Meeting WITHOUT the prospective employee/volunteer/trustee**

|  |  |
| --- | --- |
| PROSPECTIVE EMPLOYEE/ VOLUNTEER/ TRUSTEE |  |
| POST / ROLE APPLYING FOR |  |
| CHAIR/CO-ORDINATOR |  |
| OTHER STAFF MEMBER/TRUSTEE |  |
| DATE |  |
| TIME |  |
| LOCATION |  |

**Prior** to meeting directly with the prospective employee/ volunteer/ trustee, an initial meeting conducted by 2 Healthy Minds representatives, including the Chair or Co-ordinator, should discuss and record the following:

1. Does the post/ volunteer /trustee role involve one to one contact with children/young people or vulnerable adults?
2. Does the post/ volunteer/ trustee role involve frequent contact with children/young people or vulnerable adults?
3. What level of supervision will the post-holder / volunteer / trustee receive?
4. Does the post /volunteer/ trustee role involve any direct contact with the public?
5. Does the post/ volunteer / trustee role involve any direct responsibility for finance or items of value?
6. Will the nature of the job/ volunteer / trustee role present any opportunities to re-offend?
7. The seriousness of the offence and it’s relevance to the safety of other employees, service users/vulnerable adults, children and young people, volunteers, Trustees, members of the public, and property
8. The length of time since the offence occurred
9. The country in which the offence was committed; since some activities are offences in Scotland and not in England and Wales and vice versa
10. Whether the offence has since been decriminalised by Parliament
11. Whether the offence was a one-off, or part of a history of offending
12. **Any concerns raised on the references:**

**Stage 2: Meeting WITH the prospective employee/volunteer/trustee**

Prior to this meeting the following should be agreed:

1. A timescale for the decision making (including meeting dates) should be agreed between the chair, vice chair and co-ordinator (this ideally should be within 2 weeks of the meeting).
2. Who will be the note taker.

|  |  |
| --- | --- |
| PROSPECTIVE EMPLOYEE/ VOLUNTEER/ TRUSTEE |  |
| POST /ROLE APPLYING FOR |  |
| CHAIR/CO-ORDINATOR |  |
| OTHER STAFF MEMBER/TRUSTEE |  |
| DATE |  |
| TIME |  |
| LOCATION |  |

The prospective employee/volunteer/trustee should be welcomed to the meeting, and

re-assured that the conviction does not necessarily bar them.

It should be explained that we will need to ask a series of questions in order to better understand the conviction and make a risk assessment.

The process for making a decision after the meeting should be explained, including who will have access to the information, who will be involved in the decision making, timescale for decision and whether they will be informed by telephone/letter/email/face to face.

*“Following the meeting the Chair/Co-ordinator, in conjunction with the other Healthy Minds representative, will write a report outlining their findings including a risk assessment. A decision will be made by the Co-ordinator, Chair and Vice Chair, at least one of whom will have attended the meeting.*

*A copy of the meeting report, risk assessment and decision will be held on the personnel file / volunteer file of the individual concerned.”*

1. Can you tell us how old you were when the offence occurred?
2. Can you tell us about the circumstances which led to the offence being committed?

*(“Where necessary direct questions should be asked in response to general information / general statements given or made by the prospective employee/volunteer”)*

1. Can you tell us about whether your circumstances have changes since the offence? *(to find out whether re-offending less likely…Where necessary direct questions should be asked in response to general information / general statements given or made by the prospective employee/volunteer)*
2. Can you tell us how you feel about the offence?

*(looking for whether they understand the nature of the offence, its implications, its impact on other people, level of responsibility taken for offence etc…)*

1. Is there anything else you would like to tell us?

Thank the person for their time, and acknowledge that it can be a stressful process.

Remind them of the procedure and timescale for making a decision.

Meeting closed at:

**Observations of staff /trustees conducting meeting** (for example comments on body language of person, whether they answered questions directly or tried to avoid answering, level of awareness/empathy expressed for others etc):

**After the meeting:**

1. The Chair/Co-ordinator, in conjunction with the other Healthy Minds representative, will write a report outlining their findings including a risk assessment. Agree a timescale for report to be complete.
2. Report circulated to Co-ordinator, Chair and Vice Chair prior to meeting
3. Co-ordinator, Chair and Vice Chair meet. Decision made and recorded.
4. Prospective employee/volunteer/trustee informed of decision
5. A copy of the meeting report, risk assessment and decision will be held on the personnel file / volunteer file of the individual concerned.

**Decision Making meeting:**

Thorough notes of this meeting should be recorded, outlining the discussion and decision made, with a clear rationale for decision.

The notes should be kept with the paperwork from the other 2 meetings.

**Decision:**

**Informing** **prospective employee/volunteer/trustee**

Record here the date and method of informing prospective employee/volunteer/trustee of decision: