

## **Criminal Records Information Policy**

1.1 This document sets out Cerebral Palsy Cymru's policy towards the recruitment of people with a criminal record.

1.2 The policy will apply to those seeking paid or unpaid work with Cerebral Palsy Cymru where a Disclosure certificate (criminal records check) is required to work within the capacity for which that person has been recruited.

1.3 The principles of this policy will also apply to contractors and agency workers.

## **2. Recruitment and offers of employment**

2.1 All applicants will be told when a basic or enhanced level of disclosure is required for a role at Cerebral Palsy Cymru.

2.2 The appointment of the successful candidate will be conditional on receipt of a satisfactory Basic Disclosure certificate, or where relevant, an Enhanced Disclosure Certificate. When making the conditional offer of employment the Human Resources department will with the successful candidate apply on-line to Disclosure and Barring Service (DBS) for the relevant certificate.

2.3 The DBS charges applicants a fee for the disclosure check, which will be paid by Cerebral Palsy Cymru.

2.4 For Basic Disclosure, the grounds for processing this will be that the applicant or employee has consented to the processing.

2.5 For Enhanced Disclosure for clinical staff, the grounds for processing are that this processing is necessary to comply with a legal obligation.

## **3. Disclosure information**

3.1 The Disclosure certificate, once received by the applicant, should be sent to the Human Resources Department within four days of receipt. Human Resources will log the details of the certificate and return the original to the applicant.

3.2 The information contained in the Disclosure is considered confidential sensitive personal information and Cerebral Palsy Cymru will restrict access to those who are entitled to see it as part of their duties. Cerebral Palsy Cymru also undertakes to ensure that disclosure information is:

- treated fairly;

- used solely for the purposes for which it was obtained;
- handled and stored securely; and
- kept for no longer than necessary

#### **4. Assessment of the relevance of criminal records**

4.1 Cerebral Palsy Cymru will only take a criminal record into account when the conviction is relevant. Candidates for clinical posts will be made aware of the need for Enhanced Disclosure Certificates and that Cerebral Palsy Cymru is exempt for these roles from the Rehabilitation of Offenders Act 1974 and applicants are required to declare all convictions, including those considered to be “spent”.

4.2 The successful candidate can discuss any convictions, cautions, reprimands, warnings and final warnings they have, spent or unspent, with the Recruiting Manager and HR before they apply for a Basic Disclosure certificate.

4.3 Where the Disclosure certificate discloses a criminal record, an assessment to decide the relevance of the criminal record will be made. To reach a fair and balanced decision this assessment will involve an evaluation of the associated risks. Protection of the applicant’s rights and interests must be weighed against the rights and interests of the organisation, its employees, those bodies or members of the public with whom an employee may come into contact and the host Department.

4.4 The Recruiting Manager, in discussion with HR, will consider each case on its individual merits but will take into account the following factors as a minimum:

- the relevance of the offence to the duties and responsibilities of the post;
- the seriousness of the offence and its relevance to the safety of other people and resources;
- the length of time since the offence was committed;
- the nature and background of the offence;
- details of the circumstances that led to the offence (e.g. domestic or financial problems);
- changes to the individual’s circumstances that make re-offending less likely,
- whether the individual has a history of re-offending; and
- the country in which the offence was committed, for example some offences in Scotland are not necessarily offences in England and Wales.

4.5 Before a final decision is made the applicant will be given the opportunity to discuss the disclosure information with the Recruiting Manager and HR. This will provide the applicant with the opportunity to explain, question and promote their own views.

4.6 Once a decision has been made, the Recruiting Manager will confirm the decision in writing.

## **5. Starting work pending a disclosure**

5.1 It is Cerebral Palsy Cymru's policy that clinical staff will not be allowed to start clinical work before an Enhanced Disclosure certificate is received. For non-clinical staff, we would aim to complete a Basic Disclosure certificate in advance of employment commencing. However, in some cases, waiting for certificate may not be practicable e.g. to ensure minimum staffing levels; therefore we may allow someone to start work before receiving the certificate.

5.2 Arrangements should be reviewed on a regular basis, at least every two weeks, until the certificate is received. All other pre-employment checks must also have been completed including identity check and satisfactory references.

## **6. Portability**

6.1 For applicants with a Data and Barring Service (DBS) check, the DBS has an Update Service, which will allow employers to check the status of criminal record checks online.

6.2 If an individual subscribes to the DBS Update Service, Cerebral Palsy Cymru can, with their consent, go online to check whether or not the individual's DBS certificate is up to date.

6.3 If the applicant requiring a Basic Disclosure certificate advises the organisation that they subscribe to the update service the HR Department will obtain a copy of the original DBS certificate and make the appropriate check.

## **7. Complaints**

7.1 Applicants or staff who are unhappy with any aspect of the application of this policy should initially raise their concerns with the Head of Finance and Operations. Where this fails to produce a satisfactory resolution, applicants have the right to complain to the Centre Director.

7.2 The above complaints procedure is intended to deal with Cerebral Palsy Cymru's own internal processes. Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the DBS.