

*This policy was approved by Chapter on 29th November 2023.*

*Responsible Officer: Chapter Safeguarding Lead*

*Next Review: November 2024*

## **Introduction**

Wakefield Cathedral is committed to ensuring that all applicants for vacant positions undergo a fair recruitment process, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background. Wakefield Cathedral actively promotes equality of opportunity and welcomes applications from a wide range of candidates, including those with criminal records. All candidates are selected for interview based on their skills, qualifications, and experience.

Positions which meet certain criteria, such as roles involving work with children, young people, or vulnerable adults, will require applicants to undergo a criminal record check processed through the Disclosure and Barring Service (DBS). As advised by the DBS Code of Practice published under section 122 of the Police Act 1997, any applicant for a position requiring a DBS check who has a criminal record will be treated fairly by the Cathedral and not discriminated against because of a conviction or other information revealed.

Having a criminal record does not necessarily prevent an individual from working in certain roles. This will depend on the exact nature of the position applied for and the details and circumstances of the individual's offence(s).

Criminal record information does, however, need to be considered in a fair, effective and robust manner, focusing on the need to safeguard people and, where necessary, exclude individuals with particular forms of criminal record.

## **Scope and Definitions**

This policy applies to the recruitment of all staff and volunteers at Wakefield Cathedral.

In this policy, the term 'ex-offenders' will be used for individuals with any kind of historical criminal record.

The term 'DBS check' will refer to a criminal record check through the Disclosure and Barring Service (DBS), which results in obtaining a DBS certificate.

It is not within the scope of this policy to:

- Explain the available levels of DBS checks and the criteria job roles must meet to require a DBS check;
- State how often a job holder must renew their DBS certificate, and the rules surrounding the DBS update service; and
- Define when a conviction or caution is spent or unspent, and which convictions and cautions may be included in or filtered from a DBS certificate.

## **Principles**

The main aims of this policy are to:

- State Wakefield Cathedral's commitment to the fair treatment of ex-offenders during any recruitment process;
- Lay out the legislation on which this policy is based;
- Explain what happens when a role requires the job holder to have a DBS certificate;
- Explain when a job applicant must disclose convictions and cautions; and

- Explain what will happen if an applicant has a conviction and/or caution.

## **Relevant Legislation**

The Recruitment of Ex-Offenders Policy is based on the following legislation:

- The Rehabilitation of Offenders Act 1974, which makes it illegal for an organisation to discriminate against an ex-offender on the grounds of a spent conviction and which makes illegal the unauthorised disclosure of previous convictions;
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, which permits applicants to be asked about spent convictions and cautions for certain job roles. It also permits spent convictions and cautions, or a failure to disclose them, to be a ground for excluding an individual from these job roles or for making decisions in relation to those types of employment;
- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013, which sets out situations in which cautions and convictions become 'protected' from disclosure on standard and enhanced checks, making it unlawful for an employer to take into account a caution or conviction that is 'protected';
- Part V of the Police Act 1997, the central piece of legislation that enabled the creation of the DBS and the provision of criminal record certificates. It also established the legal basis for employers to ask exempted questions and to obtain information about an applicant's spent cautions and convictions;
- Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) (England and Wales) Order 2013, which amended the definition of 'relevant matter' (what is disclosed on a standard and enhanced criminal record disclosure certificate) in the Police Act 1997, effectively setting out what information can be disclosed by the DBS;
- Police Act 1997 (Criminal Record) regulations, which set out the positions that are eligible for enhanced checks;
- The Protection of Children Act 1999 and the Criminal Justice and Court Service Act 2000, which make it an offence for any organisation to offer employment that involves regular contact with young people under the age of 18 to anyone who has been convicted of certain specified offences or is included in the lists of people considered unsuitable for such work
- Protection of Freedoms Act 2012, which introduced several legislative changes including the launch of the DBS update service and minimum age of 16 at which a person can apply for a DBS check; and
- General Data Protection Regulation (GDPR) and Data Protection Act 2018 (replacing the Data Protection Act 1998), making it a requirement for organisations to identify both a lawful basis and a schedule condition before processing criminal records information. It also makes it a criminal offence for an employer to require an applicant or existing employee to make an 'enforced subject access' request (such as requiring an applicant to obtain a copy of their police record directly from the police) and then share the information with the employer.

## **Roles requiring a DBS certificate**

For roles where a DBS check is identified as necessary, this, and the level of check required, will be clearly stated in the job advert. Candidates will also be made aware during the recruitment process of the level of disclosure needed in order to apply.

Although disclosure of criminal convictions and cautions may be needed to apply for a role, an individual's application for a criminal record check will only be submitted to DBS upon accepting a job offer.

By accepting a job offer, the candidate gives consent for a DBS check to be carried out on their behalf, and for Wakefield Cathedral to be informed about any convictions or cautions which come up during the check.

For roles requiring a DBS certificate, a candidate will not be able to start in their new role until the DBS check is complete and has been deemed acceptable by the Cathedral.

### **Disclosure of a criminal record on a job application**

When an individual applies for a position with Wakefield Cathedral they will need to disclose convictions and cautions when asked in a job application depending on the nature of their conviction or caution, and the role that they are applying for. Wakefield Cathedral can only ask an individual to provide details of convictions and cautions that the organisation is legally entitled to know about. If the role requires working with children and/or vulnerable adults, the candidate will be asked to complete a Confidential Declaration Form.

During the recruitment process, applicants may be asked about unspent convictions and cautions. Unspent convictions will be on an individual's basic criminal record, and will show up on any DBS check. If asked, an applicant must disclose unspent convictions to Wakefield Cathedral.

Spent convictions and cautions must be disclosed to Wakefield Cathedral if asked during the recruitment process because of the nature of the role being applied for, if the role requires a standard or enhanced DBS check, or if the conviction(s) and caution(s) are not removed ('filtered') from DBS certificates. The Confidential Declaration Form will be accompanied by guidelines to assist the candidate in understanding what needs to be disclosed and what doesn't.

At interview, or in a separate discussion, Wakefield Cathedral ensures 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 that is directly relevant to the position in question could lead to the termination of a candidate's application or a withdrawal of a job offer, and the individual may risk criminal charges.

The relevance of convictions should be judged against, but may not be limited to, the following criteria:

- The seriousness of the offence and its relevance to the job role, other employees and customers etc;
- The length of time since the offence occurred;
- Whether the offence was a one-off or part of a history of offending;
- Circumstances which led to the committing of the offence;
- Whether the applicant's personal circumstances have since changed;
- The country in which the offence occurred; and
- Decriminalisation and remorse.

If upon reviewing the conviction(s) and/or caution(s) it is agreed that it would not be appropriate for the individual to work in the role, the job offer to the candidate will be withdrawn by Wakefield Cathedral.

### **Further information**

Further information about criminal records in the Church of England can be found on the national church's website: <https://www.churchofengland.org/safeguarding/safeguarding-e-manual/safer-recruitment-and-people-management-guidance/section-10-criminal-records>

More Safeguarding resources, including national policy and practice updates and guidance, can be found on the Diocese of Leeds' website:

<https://www.leeds.anglican.org/safe-national-policy-guidance>.