

Policy – Criminal records information

Policy Author and Owner	Simone Bartley
Approval date and by who	Audit and Risk Committee 18 November 2025
Next review date	December 2028
Version number	2
Has this policy been discussed at the Client Forum (if applicable)?	N/A
Has this policy been discussed at the Staff Forum (if applicable)?	Yes
Affected	All colleagues

Values

<p>Respect</p> <ul style="list-style-type: none"> Value diversity and fairness Act with honesty and integrity Treat people with care and compassion 	<p>Empowerment</p> <ul style="list-style-type: none"> Support the needs of each individual Encourage personal development and independence Provide safety, stability and security
<p>Responsibility</p> <ul style="list-style-type: none"> Work together, in partnership Take responsibility for our actions Continue learning and improving 	<p>Excellence</p> <ul style="list-style-type: none"> Provide a first-class service Deliver excellent value for money Explore innovative ways of working

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1. Introduction

1.1. Our Commitment to Fair, Safe and Inclusive Recruitment

At Transform, we believe everyone deserves a fair chance. We're committed to making our recruitment process inclusive, safe, and fair for every applicant.

We welcome applications from people of all backgrounds and assess candidates based on their skills, experience, and potential to do the job, not automatically on their past or personal circumstances. This includes people with convictions and those who may have been involved in previous investigations or disciplinary matters. We recognise that gaining meaningful employment can be a vital step for individuals who have moved on from past offending, helping them to become productive and financially independent members of society. At the same time, we have a clear duty of care to the people we support, including vulnerable adults and children and we are committed to meeting the highest safeguarding standards. Our approach seeks to balance these priorities, ensuring the safety and wellbeing of clients and seeking to offer fair opportunities. As part of our approach, we use a combination of tools to assess suitability for roles, including Disclosure and Barring Service (DBS) checks, employment references, and values-based interviews.

We treat any information shared with us including criminal records or other previous conduct concerns with fairness, sensitivity, and confidentiality. We encourage applicants to be open with us and will always consider the context, circumstances, and any learning or positive steps taken since.

As an organisation, we proudly uphold our safeguarding responsibilities while also supporting rehabilitation and second chances. We believe that safeguarding and inclusion are both important to creating a safe, fair, and supportive environment. However, we recognise that in certain roles and in cases involving particular offences, safeguarding considerations must take precedence. Decisions will always be made on a case-by-case basis, in line with our commitment to Safer Recruitment practices.

1.2. How We Handle Criminal Record Information

As part of our recruitment and employment process, we may collect and use information about criminal records where it is relevant to the role. This information will always be obtained directly from the individual — either through a self-declaration or, where appropriate, via a criminal record check at the relevant level through the Disclosure and Barring Service (DBS).

We recognise the valuable contribution that people with convictions can make as employees and volunteers. We are committed to treating all applicants fairly while balancing our safeguarding responsibilities with individual rights and our legal obligations under data protection law. Any [criminal offence data](#) is handled fairly, lawfully, and in accordance with the UK GDPR and the Data Protection Act 2018.

As an organisation using the DBS to assess suitability for roles involving positions of trust, we comply with the [DBS Code of Practice](#) and the [Basic check: Processing standards](#).

1.3. About This Policy

This policy sets out our approach to:

- The recruitment/continued employment of people with criminal records
- Handling criminal record and conduct disclosures
- Managing data protection and confidentiality
- Conducting risk assessments and making fair, consistent decisions.

It applies to all new applicants and to existing employees who acquire a criminal record during their employment. It is intended to guide applicants, employees, and managers involved in recruitment or employment decisions.

The policy is shared with all applicants at the start of the recruitment process and is available at any time upon request.

It reflects the latest legal updates to:

- [The Rehabilitation of Offenders Act 1974 \(amended in 2023\)](#)
- [DBS filtering rules \(amended in 2020\)](#)
- The Data Protection Act 2019 and the UK General Data Protection Regulations – please see [Processing Criminal Offence Data under UK GDPR and the Data Protection Act 2018](#).

2. Purpose and Objectives

2.1. We are committed to the following aims:

- Protecting the safety and welfare of vulnerable groups, including adults at risk, and children
- Ensuring fair, inclusive, and transparent treatment of all applicants and employees — including those with criminal records — while complying with our legal obligations and safeguarding responsibilities
- Complying with the DBS Code of Practice, Basic check processing standards, and all relevant legal and regulatory frameworks
- Handling personal and criminal record information fairly, lawfully, and in accordance with UK GDPR and the Data Protection Act 2018.

3. Key Updates Since 2019

3.1. This policy reflects key changes in legislation, guidance, and practice, including:

- **DBS Filtering Rules (2020):** A broader range of cautions and convictions may now be protected (i.e. filtered) and will no longer appear on standard or enhanced DBS certificates
- **Rehabilitation of Offenders Act 1974 (2023):** Disclosure periods for custodial and community sentences have been significantly reduced, allowing many convictions to become spent more quickly
- **DBS Update Service:** We have increased our use and acceptance of the DBS Update Service to improve efficiency, reduce duplication, and streamline the recruitment process
- **Data Handling:** We have strengthened our processes for handling, storing, and retaining criminal record information in line with DBS Handling Certificate Information guidance and current guidance from the Information Commissioner's Office (ICO).

4. Scope

4.1. This policy applies to all applicants, employees, agency staff, contractors, and volunteers (including Trustees, Committee members and involved clients (as defined in our Code of Conduct) working with Transform.

5. Employment of People with Criminal Records

5.1. We do not discriminate unfairly against anyone who discloses a caution or conviction or who is the subject of a DBS check that reveals a caution, conviction or other relevant information. We are committed to the fair treatment of all applicants, employees, agency staff, and volunteers — regardless of their offending background.

5.2. Only roles involving regulated activity with adults or children, or work within a regulated environment, will require a higher-level DBS disclosure (e.g. an enhanced DBS check with a check of the relevant barred list).

Examples include:

- Providing assessment and support services to adults with support needs.

- Providing support services to children.
 - Working in settings such as care homes, schools, children's centres, or other regulated environments where vulnerable adults or children receive services.
- 5.3. These roles are identified following a thorough risk assessment to ensure that the check is lawful, proportionate, and relevant to the role. For all our other roles, where we consider it appropriate and consistent with our policy, we seek a basic DBS disclosure. The level of check required is clearly stated in our job adverts.
- 5.4. We make all individuals undergoing a DBS check aware of the relevant DBS Code of Practice and/or the [DBS Code of Practice](#) and the [Basic check: Processing standards](#).
- 5.5. If a DBS check reveals information, we will discuss the content with the individual before making any decision to withdraw a conditional job offer or affect their ongoing employment. Having a criminal record will not automatically prevent someone from working or volunteering with Transform. Each case will be considered on its own merits, taking into account the nature of the role, the circumstances and context of the offence(s), and any evidence of rehabilitation.

6. Recruitment and Internal Applicants

- 6.1. All applicants invited to interview are asked to complete a criminal record self-disclosure form and return this to a member of the People Team. We use different forms depending on whether the role:
- Is covered by the Rehabilitation of Offenders Act 1974 (as amended in 2023), or
 - Is eligible for a standard or enhanced DBS check under the Police Act 1997.
 - Any criminal record information disclosed is treated strictly confidentially and only shared on a strict 'need to know' basis.
- 6.2. If the role is covered by the Rehabilitation of Offenders Act 1974 (as amended in 2023), we only ask applicants to disclose unspent cautions and convictions. For roles eligible for higher-level DBS checks (standard, enhanced or enhanced with barred), we also ask about adult cautions and spent convictions that are not protected under the DBS filtering rules (as amended in 2020).
- 6.3. At the conditional offer stage, we verify this information through the relevant level of DBS check. If the applicant is subscribed to the DBS Update Service, we may carry out a status check.
- 6.4. We ensure there is an open and measured conversation about any criminal record information, either at interview or in a separate confidential discussion. This enables the applicant to provide context and explain the circumstances before any decision is made.
- 6.5. All colleagues involved in recruitment and selection receive training on relevant legislation, fair assessment of criminal records, and making informed, balanced decisions about disclosures in line with our risk-based framework.

Transgender Applicants

Transgender applicants who do not wish to disclose details of a previous name or gender identity to Transform, or have this information appear on their DBS certificate, may choose to use the **DBS Sensitive Applications route**.

This confidential process is available for all levels of DBS checks — basic, standard, and enhanced — and enables applicants to verify their identity without disclosing gender history to the employer.

Applicants must contact the **DBS Sensitive Applications Team** before submitting their DBS application to receive guidance and a case reference number.

- Telephone: 0300 131 2784
- Email: sensitive@dbs.gov.uk

The team will advise on how to complete the application securely and discreetly.

7. Handling Disclosures and Decision-Making

7.1. Open Dialogue

Applicants and colleagues are given the opportunity to explain any criminal record information in a confidential and non-judgemental setting before a final decision is made.

7.2. Risk-Based Decision-Making

We assess each case individually, considering:

- The relevance of the offence to the role
- The seriousness of the offence and its relevance to the safety of other colleagues, customers, clients and property
- The age of the individual at the time of the offence
- The time elapsed since the offence
- Whether the offence was isolated or part of a pattern
- The circumstances surrounding the offence, including any explanation offered (e.g., domestic or financial difficulties, drug or alcohol related offending)
- Evidence of change, rehabilitation, or reduced risk of reoffending, including recovery from drug or alcohol problems
- Ongoing or circumstance-specific support needed in relation to managing triggers or risks
- The potential impact on clients, colleagues, and the organisation's reputation
- The nature of the role, including:
 - Direct contact with the clients and the public
 - Responsibility for finance or valuable items
 - Level of 1:1 supervision or management support available

Disclosures are treated in strict confidence and only shared on a need-to-know basis. Applicants will not be unfairly disadvantaged due to caution or convictions that are irrelevant to the role.

If, following a risk assessment, it is determined that the risk of employment or continued employment is too great, a conditional job offer may be withdrawn, or a formal process initiated to determine whether the employment relationship can continue.

7.3. Failure to Disclose

Providing false, misleading, or incomplete information may be treated as a serious matter. Where there is evidence of deliberate concealment, this may result in withdrawal of a job offer or, if already employed, disciplinary action which could result in termination of employment.

7.4. Existing Employees

We may seek repeat DBS checks during employment, normally every three years. However, we reserve the right to request a new check at any time, where there is a change in role or responsibilities, or if concerns arise.

If an employee refuses to cooperate with a lawful and necessary DBS check, we will offer the opportunity to explain their reasons. If unresolved, we may need to consider whether the employment relationship can continue.

7.5 Notification of Changes to Criminal Record or Barring Status

Colleagues have a continuing obligation to inform their line manager and the People Team immediately if, during their employment, they:

- receive any conviction, caution, reprimand, or final warning; or
- are added to, or become subject to consideration for, a relevant DBS barred list.

This requirement applies regardless of whether the individual's most recent DBS disclosure was clear and at any point between DBS checks.

Any information disclosed will be handled confidentially and considered in line with the DBS Code of Practice, safeguarding responsibilities, and employment legislation. The organisation may undertake a risk assessment and, where appropriate, request a further DBS check to determine ongoing suitability for the role.

Failure to notify your line manager and the People Team of relevant information relating to changes in criminal record or barring status, as set out above, will be treated as a serious matter. Such failure may result in disciplinary action, up to and including dismissal.

8. Use of Criminal Record Information

8.1. We process criminal record information to:

- Confirm whether an individual is lawfully eligible to undertake the role for which they have applied or are currently employed
- Assess suitability for appointment or continued employment, including whether any safeguarding measures are required
- Determine and implement any proportionate safeguards or risk management measures.

8.2. Where a higher-level DBS check is required (standard or enhanced), we submit the application through a registered third-party body acting on our behalf. That organisation is contractually bound to process the data securely, in line with our written instructions and data protection law.

8.3. DBS certificates are issued directly to the applicant. The applicant is required to share the original DBS certificate with us. We do not retain a copy of the certificate unless we consider it necessary in order to demonstrate '*safer recruitment*' practice for safeguarding audits, dispute resolution, or legal defence — and always in accordance with the DBS Code of Practice, the DBS Handling of Certificate Information guidelines, and our Data Protection Policy.

8.4. All criminal record information is handled confidentially and processed only for purposes that are lawful, necessary, and proportionate, in line with Article 10 of the UK GDPR, Schedule 1 of the Data Protection Act 2018, and the DBS Code of Practice. Further details on our legal bases for processing, storage, and retention of this information can be found in our Data Protection section.

9. Data Protection

- 9.1. Transform is committed to processing personal data, including criminal offence data, in compliance with the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018). We apply the principles of lawfulness, fairness, transparency, data minimisation, and security when handling any criminal records information throughout our recruitment and employment processes. Full details of our broader data handling responsibilities can be found in our Data Protection Policy.
- 9.2. We only process criminal offence data where we have a lawful basis under Article 6 and Article 10 of the UK GDPR, alongside a relevant condition under Schedule 1 of the DPA 2018. Our processing is based on one or more of the following grounds:
- It is necessary for the purposes of exercising rights or obligations in connection with employment (e.g. assessing suitability for a role)
 - It is required by law or regulation — for example, where roles are subject to criminal record checks under Ofsted and ‘fit and proper person’ requirements, or are eligible under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or the Police Act 1997 (Criminal Records) Regulations
 - It is necessary for reasons of substantial public interest, including safeguarding children and adults at risk
 - In rare cases, it is necessary for the establishment, exercise, or defence of legal claims, or the individual has already made the information public
 - If we rely on any alternative lawful basis, we will inform the individual at the time.
- 9.3. We only request criminal records information when it is strictly necessary for the role and at an appropriate stage of the process - typically at interview or conditional offer stage. Repeat DBS checks are conducted only where required by law, safeguarding good practice, or our internal policy.
- 9.4. No criminal record check will ever be carried out without the individual's knowledge, and we will always explain why such information is required. Criminal records data is used solely for the purpose it was obtained and is accessed only by those with appropriate authorisation. This may include the People team, relevant line managers, and senior staff involved in recruitment risk assessments. We keep a record of who has accessed this data.
- 9.5. Individuals have the right to challenge the accuracy of information disclosed via a DBS certificate and may do so directly with the Disclosure and Barring Service (DBS). We will process only the corrected version of any certificate and will securely delete any superseded information.
- 9.6. All criminal records information is stored securely within our HR systems using appropriate technical and organisational safeguards. We do not retain physical copies of DBS certificates or disclosure details beyond what is necessary. Once a recruitment decision has been made, such data is securely destroyed unless retention is justified by safeguarding, audit, dispute resolution, or legal defence requirements.
- 9.7. Where appropriate, we retain a summary record that includes the following:
- Name of the subject
 - Date of certificate issue
 - Type of certificate
 - Role applied for
 - Certificate reference number (if applicable)
 - Whether any content was disclosed

- Outcome or reference to any risk assessment undertaken
- Rationale for the decision made.

9.8. This information may be retained during and after employment, where necessary and proportionate for safeguarding, regulatory, or employment-related purposes. We regularly review this data to ensure that ongoing retention remains lawful, justified, and in line with our legal obligations.

10. Monitoring and Review

Policy Review Cycle

10.1. This policy is subject to a review every three years or earlier, if significant changes and arrangements take place, or if legislation, regulatory requirements or best practice guidelines so require.