



Lancaster Community Music Trust

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RECRUITMENT OF EX-OFFENDERS POLICY

Lancaster Community Music Trust (the Trust) aims to be an Equal Opportunities organisation and has a legal and ethical responsibility to act fairly, as an employer, and in the provision and delivery of its services. This means that the Trust will do everything possible to ensure that every customer, job applicant and employee has equal access to employment opportunities or the Trust's services and is treated with dignity and respect.

The Trust believes that a job is the best help that any ex-offender can get to avoid returning to crime. However, the Trust also has a legal and moral duty to protect the health, safety, well being, and property of children, and others, with whom its employees have contact.

The purpose of this policy is:

- To ensure that unless the nature of the position allows the Trust to ask questions about an applicant's entire criminal record, it will only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974.
- To provide guidance to ensure that the Trust does not discriminate unfairly against those with a criminal record.
- To ensure that standard and enhanced disclosures from the Disclosure and Barring Service are obtained for all eligible positions to fulfil the Trust's duty to protect those who are vulnerable.

1. Scope

This policy applies to all applicants for posts and volunteers with the Trust.

2. Legal Responsibilities

The Rehabilitation of Offenders Act 1974 and Regulations thereunder sets out the legal position with regard to 'spent' and 'unspent' convictions, and the types of employment for which information about "spent" convictions may be taken into account.

The Police Act 1997 set up the Disclosure service through the Criminal Records Bureau [now Disclosure and Barring Service] and the guidance in the Act is supplemented by the CRB [now DBS] Code of Practice that is published under Section 122 of the Act.

The Code of Practice is available at www.crb.gov.uk .

3. Disclosure and Barring Service

The Trust obtains disclosures of an individual's criminal record through an Umbrella Body, (one which countersigns applications and receives Disclosure information on behalf of other employers or recruiting organisations), namely Lancaster City Council ("The Council"). The Council is a "Registered Body" with the Disclosure and Barring Service, to whom it can apply for a Disclosure of an individual's criminal record, including spent and unspent convictions. It has nominated its Head of Legal and HR Services as its "Lead Counter-signatory". The latter will be responsible for the appointment of additional counter-signatories as may be required from time to time.

4. Use of Information about Convictions

Unless the nature of the position allows it to ask questions about an employee or applicant's entire criminal record, the Trust only asks about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974.

Applicants with unspent convictions are encouraged to disclose them at an early stage in the recruitment process. The Trust's Application for Employment form asks applicants to disclose any unspent convictions.

Having a criminal record will not necessarily be a bar to obtaining a position with the Trust. This will depend upon the nature of the position and the circumstances and background of the offence/s.

The Trust requires DBS Disclosures for all individuals whom it wishes to employ in posts which:

- give them access to children on a one to one basis, or
- give them access to a group of children as group leaders, or
- are otherwise eligible because of the nature of the post

Posts for which Disclosures are routinely required are listed in Appendix A. However, Disclosures may also apply to other posts if appropriate.

A Disclosure is only requested after a risk assessment has indicated that one is both proportionate and relevant to the position concerned.

The Trust will comply with the DBS Code of Practice on the use of Disclosure information. It will not unfairly discriminate against any subject of a Disclosure on the basis of convictions or other information revealed.

Where a post has been identified as requiring a Disclosure all recruitment information (job advert, job description and person specification) will contain a statement that a Disclosure will be requested in the event of the individual being offered the position and any subsequent offer of a post will be subject to a satisfactory Disclosure.

Any matters revealed by Disclosures will be discussed with the candidates before any final recruitment decision is made.

All employees involved in the making of recruitment and selection decisions will be trained in this policy and relevant parts of the Rehabilitation of Offenders Act 1974.

Three years after a Disclosure has been obtained for any individual a risk assessment will be carried out in order to determine whether a new Disclosure should then be sought.

5. Handling and Storage of Disclosure Information

The Trust has a separate policy and procedure for the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information. This is attached as Appendices B and C.

6. Portability of Disclosures

Subject to a risk assessment the Trust will accept previously issued Disclosures at the appropriate level, from individuals, without seeking a new Disclosure, to enable them to commence employment, provided these are less than six months old.

This written policy on the recruitment of ex-offenders is made available to all applicants at the outset of the recruitment process.

POSTS REQUIRING DISCLOSURES

Standard disclosure required for:

None

Enhanced disclosure required for:

- All one to one instrumental teaching posts,
- All appointed leaders of Centre ensembles where the majority of the ensemble membership comprises children aged under 18 years,
- Any other appointments where risk assessments conclude such Disclosures are necessary.

POLICY STATEMENT ON THE SECURE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF DISCLOSURES AND DISCLOSURE INFORMATION

Introduction

As an organisation using the Disclosure and Barring Service (DBS) to help assess the suitability of applicants for positions of trust within its employment, the Trust complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

This is the Trust's written Policy on these matters, and this document is available to those who wish to see it on request.

Storage and Access

Disclosure information must be kept securely, in lockable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with Section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. Such authorised persons are officers of the Trust.

Usage

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment decision has been made, Disclosure information is not retained for any longer than is necessary to allow for the consideration and resolution of any disputes, complaints or licensing appeals. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, we will consult the Umbrella Body, Lancaster City Council, about this, and will give full consideration to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed we will ensure that any Disclosure information is immediately destroyed by secure means. While awaiting disposal/destruction, Disclosure information will not be kept in any insecure receptacle (eg waste bin or confidential waste sack that is not locked away). We will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment/licensing decision taken.

Umbrella Body.

The Trust will take all reasonable steps to handle, use, store, retain and dispose of Disclosure information received from the Umbrella Body, Lancaster City Council (which will countersign applications and receive Disclosure information on behalf of the Trust), in full compliance with the DBS Code and this Policy.

PROCEDURES FOR THE SECURE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF DISCLOSURES AND DISCLOSURE INFORMATION

Use of Disclosures

Enhanced Disclosures are sought in respect of applicants for posts within the Trust. Disclosures are sought for posts that are exempt from the Rehabilitation of Offenders Act 1974 by virtue of the fact that the responsibilities of the post include access to children and/or vulnerable adults.

All of the checks undertaken will be at the *enhanced disclosure* level, which covers positions 'caring for, training, supervising or being in sole charge' of vulnerable people. Enhanced disclosures will show details of convictions, whether spent or unspent under the Rehabilitation of Offenders Act 1974, cautions, reprimands and final warnings on the Police National Computer (PNC). Enhanced disclosures may also show additional information held by local police forces, where a chief police officer thinks this is relevant.

If a person is banned from working with young people or vulnerable adults, the enhanced disclosures will, where relevant, show this too.

Storage of Disclosure Applications

The completion of all Disclosure applications is the sole responsibility of the Trust's appointed DBS Contact (Mrs Ruth Hutchison), Company Secretary of the Trust [with responsibility delegated to Mr Robert Gill, member of the Trust]. All information relating to Disclosure applications is retained securely by the DBS contact [delegated to Mr Gill] at their home address. Applications will be forwarded to the Umbrella Body, Lancaster City Council ("The Council"), at the earliest opportunity and a copy of the application form will be kept, together with a record of the date of submission to the Council.

Receipt of Disclosure Information

Upon receipt of the Disclosure from the Council the DBS Contact will retain the Disclosure in secure storage at their home address and record the following information:

1. The name / address / contact details for the person who is the subject of the Disclosure.
2. The post to which the Disclosure application related to.
3. The date of issue of the Disclosure by the DBS.
4. The type of Disclosure received.
5. The Disclosure number.
6. The date of receipt of the Disclosure from The Council.
7. The date the person or persons responsible for recruitment for the post applied for (or the review of the post if this is a follow-up check) were advised of the Disclosure content.
8. The decision reached on whether or not to recruit the person (or continue their employment if this was a follow-up check) who was the subject of the Disclosure.
9. The date of destruction of the Disclosure received from The Council and the copies of the Disclosure application (and any information relating thereto) taken pending receipt of the Disclosure from The Council.

Storage & Normal Disposal of Disclosure Information

Once a decision has been taken about the recruitment, or continuing employment, of the individual who is the subject of the Disclosure, the Disclosure and any documentation relating to the Disclosure application will be destroyed securely. The only information to be retained by the DBS Contact [or their delegate] is that shown in the section above ("Receipt of Disclosure Information").