



Recruitment of Staff, Volunteers and Trustees with Criminal Records

Purpose

This policy sets out LandWorks' approach to the recruitment of staff, volunteers and trustees who have criminal records and explains when and how information about criminal records may be requested and considered during recruitment.

LandWorks is committed to safer recruitment, safeguarding, equality of opportunity, rehabilitation and inclusion. Having a criminal record will not automatically prevent an individual from working or volunteering with LandWorks. Decisions will be made fairly, proportionately and on an individual basis, taking account of the requirements and responsibilities of the role.

Scope

This policy should be read alongside LandWorks' Recruitment and Selection Policy, Safeguarding Policy, Equal Opportunities and Diversity Policy, Data Protection Policy, Retention Policy and Handling of DBS Certificate Information & Retention Policy.

Opening Statement and Principles

In line with Charity Commission guidance and our Safeguarding Policy, there are circumstances when LandWorks needs to consider the previous criminal records of candidates to assess an applicant's suitability to undertake a role.

LandWorks will only seek and consider information that is relevant to a role, and the charity undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of the information revealed.

LandWorks is committed to the fair recruitment and inclusion of applicants with criminal records and positively welcomes candidates with relevant lived experience of the criminal justice system.

LandWorks recognises its responsibilities under the Rehabilitation of Offenders Act 1974 and associated legislation. Applicants will only be required to disclose criminal record information that LandWorks is legally entitled to request in relation to the role concerned.

Having a criminal record will not automatically prevent an individual from being appointed as a member of staff, volunteer or trustee. Any information disclosed will be considered fairly, proportionately and on an individual basis, taking account of its relevance to the role and any associated safeguarding responsibilities.

LandWorks seeks to balance its safeguarding responsibilities with its commitment to rehabilitation, inclusion and the positive contribution that people with lived experience can make to the organisation. Where appropriate, following an individual risk assessment, proportionate measures may be put in place to support an appointment safely. These may include additional supervision, phased responsibilities, role-specific restrictions or other appropriate support arrangements.

Criminal Record Disclosures and Checks

LandWorks will only ever seek information about criminal records that it is legally entitled to know about.

When using criminal record checks processed through the Disclosure and Barring Service (DBS) LandWorks will comply fully with the DBS Code of Practice and will treat all applicants fairly. Candidates will be made aware of the DBS Code of Practice, and a copy will be made on request.

Before requesting a DBS check, LandWorks will determine whether the role is legally eligible for a check and, where applicable, the appropriate level of check. The level of check requested will be based on the duties and responsibilities of the role and current DBS eligibility requirements. DBS requirements will be reviewed where the duties or responsibilities of a role materially change.

A criminal record check will only be sought when it has been risk assessed as being proportionate and relevant to the position concerned. We will ensure that the key people involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. A summary of the DBS requirements applying to LandWorks roles is set out in the annex to this policy and will be reviewed periodically against current DBS eligibility guidance.

For those positions where a criminal record check is identified as necessary, all job/role descriptions and recruitment adverts will make clear what the requirements are and what the process will be.

To encourage applications from people with criminal records and to shortlist candidates purely on merit, LandWorks will not ask or seek details of criminal records at the initial application stage (in line with the 'Ban the Box' campaign) and will only undertake checks at the recruitment offer stage.

However, if potential candidates are concerned about disclosures and checks that would be required at the later stage in the process, there will be the opportunity to discuss the situation confidentially with the Project Director first before applying.

Where criminal record information is relevant to the recruitment process, applicants will be given an appropriate opportunity to discuss relevant information confidentially. Applicants will not be required to disclose information that LandWorks is not legally entitled to request.

Assessment of criminal record information

Having a criminal record will not automatically prevent an individual from being appointed. LandWorks will only consider information disclosed or identified that is relevant to the role. Where criminal record information is disclosed or identified, LandWorks will consider the circumstances on an individual basis before reaching a recruitment decision.

Relevant factors may include:

- the nature and seriousness of the offence;
- its relevance to the duties and responsibilities of the role;
- the length of time since the offence;
- the individual's age and circumstances at the time;
- whether there is a pattern of offending;
- the circumstances surrounding the offence;
- evidence of rehabilitation or changed circumstances;

any safeguarding implications;

the level of responsibility and supervision associated with the role; and

whether proportionate risk-management measures could appropriately address any identified concerns.

The individual will be given an opportunity to explain the circumstances and provide any relevant information before a final decision is made. No recruitment decision will be based solely on the existence of a conviction or other information appearing on a DBS certificate without considering its relevance to the role and the individual's circumstances.

Confidentiality and handling of information

Criminal record and DBS information will only be accessed by individuals who require it for recruitment, safeguarding or governance purposes. DBS certificate information will be handled, stored, retained and securely destroyed in accordance with LandWorks' Data Protection Policy and Handling of DBS Certificate Information & Retention Policy.

Trustee and Senior Manager Roles

Trustees and certain senior managers roles – in LandWorks' case, the Project Director – are subject to the Charity Commission's 'automatic disqualification rules', where certain categories of individuals are legally prevented from taking up these posts.

Potential candidates for these roles will be made aware of the rules and given the opportunity to discuss any concerns confidentially with the Chair of Trustees before going through the recruitment process.

Before appointment, LandWorks will undertake appropriate checks and require individuals to complete a declaration confirming that they are not disqualified from acting as a trustee or relevant senior manager under the applicable charity law automatic disqualification provisions.

Automatic disqualification checks are separate from Disclosure and Barring Service (DBS) checks. Where a trustee or senior manager role requires a DBS check, the appropriate level of check will be determined according to the duties and responsibilities of that role and current DBS eligibility requirements.

Disqualified people can apply to the Charity Commission for a waiver from the rules. If someone is disqualified due to the rules, but the trustees believe the appointment would still be appropriate and in the best interests of the charity, they can consider supporting an application to the Charity Commission for a waiver to allow an appointment to proceed. This would require trustee board agreement before being supported.

Annex - Approach to Criminal Record Checks

Role	Disclosure / Checks	When	DBS Requirement	Purpose
Trustees	Automatic disqualification declaration and appropriate eligibility checks. Relevant criminal record information only where LandWorks is legally entitled to request it.	Before appointment / appointment	DBS level determined according to the duties of the trustee role and current DBS eligibility requirements. A DBS check is separate from the automatic disqualification process.	Compliance with charity law automatic disqualification requirements; safeguarding and suitability where relevant to the role.
Senior Manager (e.g Project Director, Operations Manager & Charity Manager)	Automatic disqualification declaration and appropriate eligibility checks. Relevant criminal record information only where LandWorks is legally entitled to request it.	Job Offer Stage	DBS level determined according to the duties and responsibilities of the role and current DBS eligibility requirements.	Compliance with applicable automatic disqualification requirements and assessment of suitability/safeguarding where relevant.
Trainee-facing staff roles	Relevant criminal record information may be requested where legally permitted. Opportunity for confidential discussion.	Job Offer Stage	Appropriate DBS level determined through role assessment and current DBS eligibility requirements. Adult Barred List information will only be	Safer recruitment and safeguarding, taking account of the nature of contact with trainees and responsibilities of the role..

			requested where the role meets the relevant legal eligibility requirements.	
Non-Trainee facing staff roles	Relevant information only where necessary and legally permitted.	Before appointment where applicable	No DBS check unless the duties of the role justify a check and LandWorks is legally entitled to request it.	Proportionate assessment of suitability where necessary.
Volunteer – all trainee facing roles	Relevant criminal record information may be requested where LandWorks is legally entitled to do so. Applicants will have an opportunity to discuss relevant information confidentially.	Volunteer role offer	The appropriate level of DBS check will be determined according to the duties and responsibilities of the volunteer role and current DBS eligibility requirements. An Enhanced check and/or Adult Barred List check will only be requested where the role is legally eligible.	Assess suitability and support safer recruitment and safeguarding, taking account of the nature and level of contact with trainees.

Volunteers – non trainee facing	Relevant criminal record information will only be requested where necessary, proportionate and legally permitted. Relevant criminal record information will only be requested where necessary, proportionate and legally permitted.	Volunteer role offer	No DBS check will normally be required unless the duties and responsibilities of the role justify a check and LandWorks is legally entitled to request one.	Assess suitability where necessary and proportionate to the role.
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