

# Section 10 - Criminal Records

5 minutes read

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Version: 1

## Requirements

10.1 Church bodies must have a clear process for assessing and making decisions in respect of criminal record information.

10.2 The process for assessment and decision making must include clear agreement as to who is the appropriate point of contact for advice from within the safeguarding team relevant to the Church body e.g. Diocesan Safeguarding Adviser, Cathedral Safeguarding Adviser, Chief Operating Officer, Dean, Diocesan Registrar.

# Good practice advice

## Why?

Over 11 million people in the UK have a criminal record - more than 20% of the working-age population. Criminal record information may come to light at any stage of the safer recruitment process, as well as during the ongoing employment or volunteering relationship.

Having a criminal record does not necessarily prevent an individual working or volunteering with children, young people or vulnerable adults - this will depend on the exact nature of the position applied for and the details and circumstances of his/her 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.

## How?

### Policy Statement

As detailed in the Requirements, Registered Bodies and those in receipt of DBS Update Service information must have a written policy on the recruitment of ex-offenders in place.

Such a policy needs to reflect the practices of the church body in terms of ensuring fair and equal practice for applicants who may have a criminal record, including no automatic discrimination. This ensures that both the church body requesting the DBS check and the applicant in question are aware of the rights and responsibilities that the body has in terms of fair practice and treatment in recruitment.

For those roles where a DBS check is required (see [Section 9: Disclosure and Barring Service](#)), the policy should identify that this is made clear in job adverts/notices (see [Section 3: Advertising a Role](#)) and throughout the recruitment process. It should also make reference to the policy itself being made available to prospective candidates at the outset of the recruitment process.

A sample policy on the recruitment of ex-offenders can [be found on the DBS website](#).

### Information provided within a Confidential Declaration

(see [Section 5: Confidential Declarations](#))

Information declared on a Confidential Declaration must be referred to the appropriate point of contact for advice from within the safeguarding team relevant to the body (e.g. Cathedral or Diocesan Safeguarding Advisor (CSA/DSA)), and considered in a reasonable and measured way. This should include, where appropriate, a discussion with the applicant to provide them with the opportunity to respond to any concerns.

A clear record must be kept at this stage as to why, based on the information provided within the Confidential Declaration and the subsequent

discussion with the individual, this information does or does not affect his/her ability to be progressed to the next stage of the process.

## **Information provided within a DBS Certificate**

**(see [Section 9: Disclosure and Barring Service](#))**

Once the DBS Certificate is viewed, the contents should be verified against what has been previously declared on the Church of England Confidential Declaration form by the appropriate member of the safeguarding team relevant to the body (e.g. CSA/DSA).

If the DBS Certificate identifies information that the individual has not disclosed on his/her Confidential Declaration form or at any other time during the proceedings to date, then serious consideration must be given as to whether this candidate can be appointed after such a potential breach of trust. In all cases, the applicant should be given the opportunity to explain the discrepancy before a final decision on their suitability for the position is made.

## **DBS Risk Assessment**

The relevant safeguarding adviser (e.g. CSA/DSA) will carry out a risk assessment once all of the above relevant information is gathered together. The risk assessment should evidence the decision-making process that has taken place and document the rationale behind the final recruitment decision – particularly important in the case of potential discrimination claims. The risk assessment should also include any approvals and authorisations required by local policy.

The safeguarding adviser will make a recommendation concerning the suitability of the applicant to the person responsible for the appointment in line with local arrangements.

If the applicant is appointed, the risk assessment should be securely stored on the appropriate file.

Individuals with convictions/sentences for serious offences such as sex offences will not be considered for positions working or volunteering alongside children, young people and vulnerable adults. Convictions for drug and violence offences will generally not be considered, however, there may be exceptions and advice should be sought from the appropriate point of contact from within the safeguarding team as well as legal advice from the diocesan registrar. Exceptions would include someone who has successfully reformed and now works with young people to help them with drug or violence issues, or where the conviction is for a minor offence (e.g. possession of cannabis) and is from a considerable time ago.

If issues are complex, assistance may be sought from the Local Safeguarding Children or Adults Safeguarding Partnership. In very complex cases the advice of an independent specialist may be required. Assistance with this should be sought from the National Safeguarding Team.

## **Criminal Record Discrepancies**

Discrepancies can occur in criminal records. This is sometimes simply because the applicant may not understand how the disclosure system works in terms of spent/unspent cautions or convictions or has been given inaccurate information about what he/she needs to disclose.

Additionally, mistakes can sometimes be made on DBS Certificates – if an individual disagrees with the information contained within their DBS certificate it is his/her responsibility to appeal directly to the DBS but any appointment decisions should be deferred until such time as the dispute is concluded.

## **Criminal Records and Data Protection**

Criminal records are a particularly sensitive type of personal data and therefore must be handled lawfully and with particular care. Advice and guidance from those responsible for data protection in the given body should always be sought.

## **External Resources**

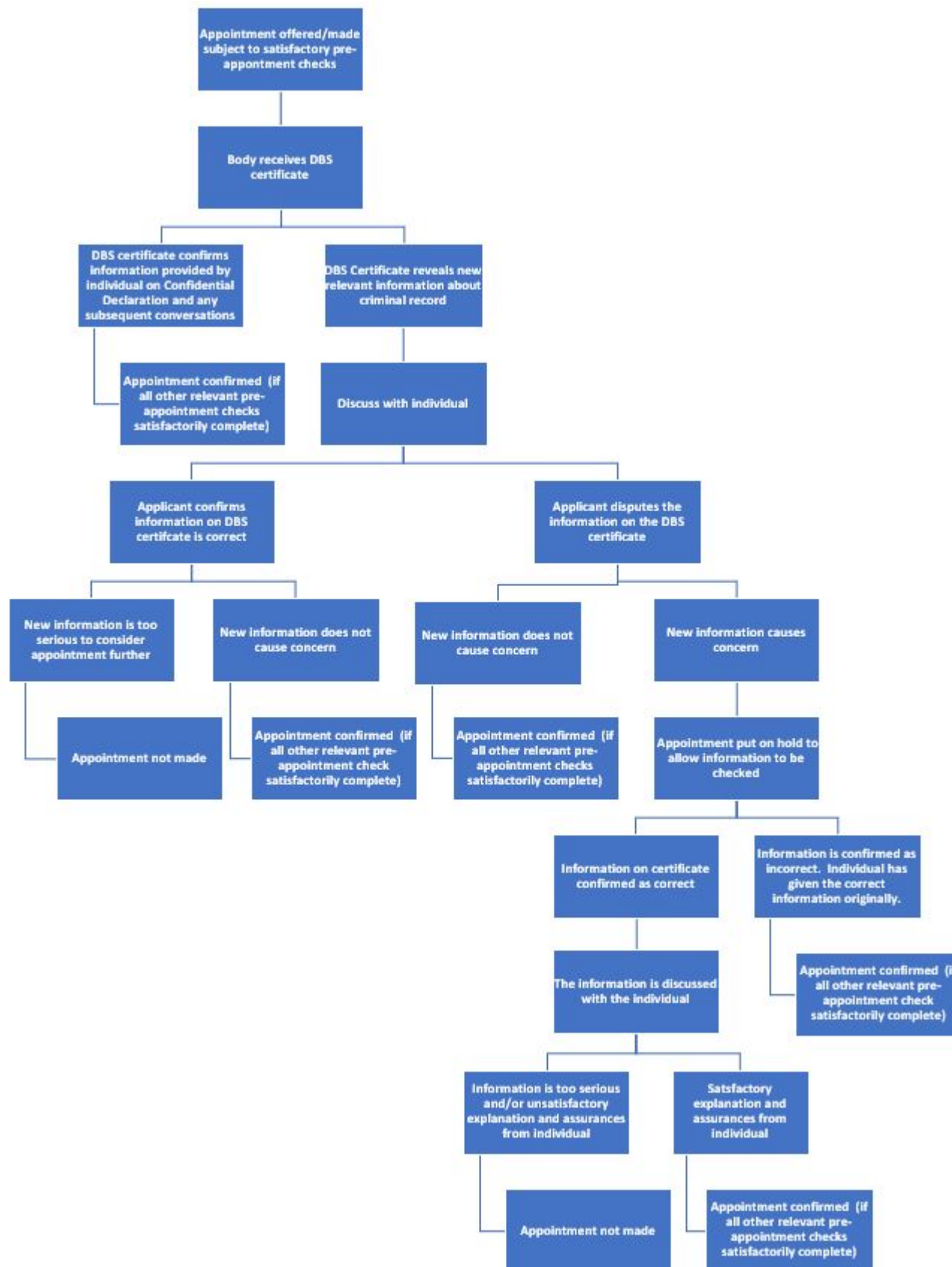
- [NACRO provide useful background information on dealing with criminal convictions](#)

## **Toolkit**

- [DBS Risk Assessment Form template](#)

# Dealing with Criminal Records

- [Download this flow chart as a PDF \(with readable text\)](#)



Source URL: <https://www.churchofengland.org/safeguarding/safeguarding-e-manual/safer-recruitment-and-people-management-guidance/section-10>