



Essex
Wildlife Trust

Rehabilitation of Offenders Policy Statement

Essex Wildlife Trust is committed to the fair treatment of its staff, potential staff, volunteers, and customers, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability, or offending background. We actively promote equality of opportunity for all and welcome 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.

Essex Wildlife Trust complies fully with the DBS Code of Practice and undertakes not to discriminate against anyone based on conviction or other information. However, if it is believed that a disclosed conviction or caution places our duty of care to children or adults at risk, an offer of employment or to volunteer may be withdrawn.

Both Standard and Enhanced DBS checks are currently available for posts exempt under the Rehabilitation of Offenders Act 1974.

While most DBS checks will be at Standard or Enhanced level, certain posts where staff come into regular lone contact with children and adults at risk, will also require a check of the barred lists held by the DBS. A Disclosure is only requested after a job role assessment has indicated one is both proportionate and relevant to the position concerned.

During the application process, applicants will be asked whether they have any unspent criminal convictions. Unless the nature of the position allows Essex Wildlife Trust to ask questions about the entire criminal record, they will ask only about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020), (and the Early years foundation stage (EYFS) statutory framework and Department for Education ("DfE") document, 'Keeping Children Safe in Education' and any amended version in carrying out the necessary required DBS checks).

For those roles that are exempt from the Act the candidate may be asked at interview whether they have any spent or unspent cautions or convictions. This must be declared. This information will only be seen by those who need to see it should the application be successful. Failure to reveal information regarding unspent (or spent in some cases) convictions that are directly relevant to the position sought could lead to withdrawal of an employment offer.

Any cautions, convictions, warnings, or reprimands revealed in a Disclosure will be discussed with the person seeking the position and a Risk Assessment undertaken. Having a criminal record will not necessarily prevent anyone from working with Essex Wildlife Trust. This will depend on the nature of the position and the circumstances of the offences.

It is a criminal offence for any person who is disqualified from working with children, young people and/or adults at risk to attempt to apply for a position within the Trust that has access to children, young people and/or adults at risk. The Trust will report the matter to the Police and/or the DBS if:

- the Trust receives an application from a disqualified person.
- is provided with false information in, or in support of, an applicant's application; or
- the Trust has serious concerns about an applicant's suitability to work with children, young people and/or adults at risk.

All candidates should be aware that provision of false information is an offence and could result in the application being rejected or summary dismissal if they have been appointed, and a possible referral to the police and/or DBS.

Exemptions to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020

Various kinds of employment, occupations and professions are exempt from the

Rehabilitation of Offenders Act 1974. This means that the employment rights of an ex offender in respect to convictions are overruled. Ex-offenders therefore have to disclose information about spent, as well as unspent convictions including any convictions, cautions, warnings, reprimands and bind-overs where the role being applied for requires them to do so. Exempted occupations fall into the following categories:

- work that brings the person into contact with vulnerable groups such as the those receiving healthcare, e.g. who are elderly, those with mental health conditions and those aged under 18
- posts concerned with the administration of justice, for example, police officers, lawyers
- Professions that have legal protection, for example, nurses, doctors, dentists, chemists etc.
- Health Service appointments
- Work involving matters of national security.

It is illegal to carry out either Standard or Enhanced DBS check on any post that is not exempt under Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).

Such posts are defined as those where the individual does not have access to children, young people and/or adults at risk in the course of their usual duties.

How this Policy Statement is Applied Relating to Ex-Offenders (suitability policy as required by the DBS code of conduct)

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act using criminal record checks processed through the Disclosure and Barring Service (DBS), The Trust complies fully with the Code of Practice.

The Trust selects all candidates for interview based on their skills, knowledge, experience.

An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the Individual being offered the position.

The Trust ensures that all those in The Trust who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.

At interview, or in a separate discussion, The Trust 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 sought could lead to withdrawal of an offer of employment.

The Trust undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

DBS Filtering Rules

Filtering is the term used to describe the process that identifies which criminal records will be disclosed on a Standard or Enhanced DBS certificate. Certain old or minor offences may not be disclosed on DBS certificates. These are known as 'protected' offences.

There is a list of offences that will always be disclosed on a Standard or Enhanced DBS certificate (unless they relate to a youth caution). These are known as 'specified offences' and are usually of a serious nature or are relevant for safeguarding children and adults at risk.

Filtering rules were first introduced on 29 May 2013 and removed certain old and minor conviction information from the Exceptions Order of the Rehabilitation of Offenders Act. Following a Supreme Court ruling, the filtering rules were further updated on 28 November 2020.

The updated filtering rules apply for any Standard or Enhanced DBS Disclosure processed after 28 November 2020. For further information, please visit: <https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>.

Positions with Access to Money or Budget Responsibility

If the post involves access to money or budget responsibility, it is the Trust's normal policy to consider it a high risk to employ (or allow to volunteer) anyone who has been convicted at any time of, for example, robbery, burglary, theft, deception, or fraud. If a criminal record check discloses data, a full risk assessment will be carried out.

Positions with Driving Responsibilities

If the post involves some driving responsibilities, it is the Trust's normal policy to consider it a high risk to employ (or allow to volunteer) anyone who has been convicted, for example, of drink driving. If a criminal record check discloses data, a full risk assessment will be carried out.

Positions with direct access to children, young people and adults at risk

Under the relevant legislation, it is unlawful for the Trust to employ (or allow to volunteer) anyone who is included on the lists maintained by the DBS of individuals who are considered unsuitable to work with children. In addition, it will also be unlawful for the Trust to employ anyone who is the subject of a disqualifying order made on being convicted or charged with the following offences against children or adults at risk: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm, or other serious acts of violence. This is not an exhausted list. It is also unlawful for the Trust to knowingly employ someone who works in the relevant settings and is disqualified from providing childcare under the statutory guidance "Disqualification under the Childcare Act 2006".

It is a criminal offence for any person who is disqualified from working with children, young people and/or adults at risk to attempt to apply for a position within the Trust that has access to children, young people and/or adults at risk. The Trust will report the matter to the Police and/or the DBS if:

- the Trust receives an application from a disqualified person.
- is provided with false information in, or in support of, an applicant's application; or
- the Trust has serious concerns about an applicant's suitability to work with children, young people and/or adults at risk.

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the Trust will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question.
- whether the conviction or caution is 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) (if yes, it will not be taken into account).
- the seriousness of any offence or other matter revealed.
- the length of time since the offence or other matter occurred.
- whether the applicant has a pattern of offending behaviour or other relevant matters.
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters.
- in the case of disqualification from providing childcare, whether the applicant has or is able to obtain an Ofsted waiver from disqualification; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

If the post involves regular contact with children, young people and/or adults at risk, it is the Trust's normal policy is to consider it a high risk to employ (or volunteer) anyone who has been convicted at any time of any the following offences: i.e. murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence, serious class A drug related offences, robbery, burglary, theft, deception, or fraud.