

Criminal Record Check Policy POL119

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1. Version History

Version	Description	Date	Owner	Approved by
v0.1	Draft of Group DBS policy	09 Mar 2023	GT	
v0.2	Draft of Group Criminal Record check policy	28 Mar 2023	GT	
v1.0	Approval of Group Criminal Record Check Policy	09 Nov 2023	GT	 S.Wake

2. Purpose and Scope

- 2.1 The purpose of this policy is to outline the circumstances under which Xperience use Criminal Record Checks (including Disclosure and Barring Service, Access NI, Disclosure Scotland and Counter Terrorism Checks) and the process that will ensure that these checks are carried out fairly, transparently and in compliance with relevant legislation.
- 2.2 This policy applies to those seeking employment with Xperience, current employees who work under a contract of employment within the Xperience group of companies, contractors and agency workers as well as to members of the Board.
- 2.3 Xperience will use Criminal Record Checks to check the criminal history of those falling into the groups named in 2.2, for the purpose of making safe recruitment decisions and/or prevent people from completing work for which they are unsuitable.
- 2.4 Note, a Criminal Record Check is one part of our Recruitment Process. See the Recruitment & Selection Policy.
- 2.5 This policy does not form part of any employee's contract of employment, and we may amend it at any time.
- 2.6 Employees identified as working in a setting that may bring them into contact with children or vulnerable adults, such as a school, children's hospital or care home will be required to undergo a more in-depth Enhanced Check
- 2.7 Counter terrorism checks may be required by certain Xperience customers. These checks are processed by the Disclosure and Barring Service (DBS) in England and Wales, Access NI in Northern Ireland and Disclosure Scotland in Scotland.

3. Undertaking criminal record checks

- 3.1 Xperience will carry out Criminal Record for relevant candidates or employees in the following circumstances:
 - 3.1.1 All applicants will be informed during the recruitment process if a Criminal Record Check is required and at what level. This will usually apply to applicants with the potential of working in a regulated activity, as defined by the Safeguarding of Vulnerable Groups Act 2006. These activities include roles that involve working with children or vulnerable adults, and in the case of Xperience where the location is a specified establishment such as a school.
 - 3.1.2 Where it is planned that an existing employee will move into a role that requires them to work in regulated activity as outlined in in 3.1.1.
 - 3.1.3 Where an employee's role is planned to change and will require a higher level of Criminal Record Check than previously undertaken.
 - 3.1.4 Where an Xperience client requests that a specific employee(s) undertake a Counter Terrorism Check.

4. Types of criminal record check

- 4.1 Xperience will carry out the following types of Criminal Record checks as appropriate dependant on role and circumstance.
 - 4.1.1 **Basic:** A Basic Check or Basic Disclosure will show any unspent convictions or conditional cautions.
 - 4.1.2 **Standard:** A Standard Check will show any spent or unspent convictions, cautions, reprimands, or warnings.
 - 4.1.3 **Enhanced:** An Enhanced Check will show any spent or unspent convictions, cautions, reprimands, or warnings, as well as any other relevant information held by the individual's local police force.
 - 4.1.4 **Enhanced with Barred List(s)** this will include all of the checks that are within an enhanced check as above with the addition of a check of the Child and/or Adult Barred List.

5. Disclosure of information

- 5.1 When a criminal check has been processed and completed, the applicant will receive a detailed certificate directly, it will not be sent to the Company.
- 5.2 The Company will receive a summarised certificate via the relevant external portal; this will not be transferred to or stored on any internal Company systems.
- 5.3 The information contained in the Disclosure is considered sensitive personal information and Xperience will restrict access to those who are entitled to see it as part of their duties.
- 5.4 Xperience will also undertake to ensure that the information is treated fairly, used solely for the purposes for which it was obtained.
- 5.5 Once the Disclosure has been reviewed and relevant decisions made as a result of the information obtained, it will not be accessed further. It will only be further accessed to allow for the consideration and resolution of any disputes or complaints.

6. Assessment of the relevance of criminal records

- 6.1 Xperience will only take a criminal record into account when the conviction is relevant. Since questions about criminal records are only asked of the successful candidate, job applicants can feel assured that having a criminal record will play no part in the initial selection process.
- 6.2 The successful candidate can discuss any convictions, cautions, reprimands, warnings and final warnings they have, spent or unspent, with the Hiring Manager and People Team before they apply for a Disclosure certificate.
- 6.3 Where the Disclosure certificate discloses a criminal record, an assessment to decide the relevance of the criminal record will be made. To reach a fair and balanced decision this assessment will involve an evaluation of the associated risks. Protection of the applicant's rights and interests must be weighed against the rights and interests of the organisation, its employees, those bodies or members of the public with whom an employee may come into contact.
- 6.4 The Hiring Manager, in discussion with the People Team will consider each case on its individual merits but will take into account the following factors as a minimum:
 - 6.4.1 the relevance of the offence to the duties and responsibilities of the post,

- 6.4.2 the seriousness of the offence and its relevance to the safety of other people and resources,
 - 6.4.3 the length of time since the offence was committed,
 - 6.4.4 the nature and background of the offence,
 - 6.4.5 details of the circumstances that led to the offence (e.g. domestic or financial problems),
 - 6.4.6 changes to the individual's circumstances that make re-offending less likely,
 - 6.4.7 whether the individual has a history of re-offending,
 - 6.4.8 the country in which the offence was committed, for example some offences in Scotland are not necessarily offences in England and Wales.
- 6.5 Before a final decision is made the applicant will be given the opportunity to discuss the disclosure information with the Hiring Manager and People Team. This will provide the applicant with the opportunity to explain, question and promote their own views.
- 6.6 Once a decision has been made, the People Team will confirm the decision in writing.
- 6.7 There is no legal obligation to reveal spent convictions. If a conviction has become spent, Xperience will treat the conviction as if has not happened.

7. Starting work pending a disclosure

- 7.1 It is Xperiences' policy that no one should be allowed to start work (either as a new employee or due to internal move or promotion) before the relevant Disclosure Certificate is received. However, in some cases, waiting for certificate may not be practicable e.g. to ensure minimum staffing levels; therefore we may allow someone to start work before receiving the certificate.
- 7.2 In these instances, those without the appropriate clearance should not work unaccompanied in settings set out in 2.6 or have access to systems for which they do not have the relevant clearance.
- 7.3 Arrangements should be reviewed on a regular basis, at least every two weeks, until the certificate is received. All other pre-employment checks must also have been completed including identity check and satisfactory references obtained.

8. Employer responsibilities

- 8.1 Xperience has a responsibility to:
- 8.1.1 Only accept valid and original identification and proof of address documents as outlined on the criminal record check provider portal (for example a passport and a recent utility bill) – scans or photocopies are not sufficient.
 - 8.1.2 Ensure that across all identification and proof of address documents, the name, date of birth and current address match those on the Criminal Record Check application.
 - 8.1.3 Check that any photos on identification documents are a true likeness of the applicant.
 - 8.1.4 Be sure the applicant declares any change in name, and that as far as is reasonably possible, documentation is provided to support the change – for example, a marriage certificate.
 - 8.1.5 Check identity documents are not fraudulent.

9. Employee's responsibilities

9.1 It is the responsibility of those listed in 2.2 to:

- 9.1.1 apply for the appropriate Disclosure Certificate as requested by Xperience within three working days of the request being made in writing by the Company.
- 9.1.2 Supply Xperience with the required documents as outlined on the criminal record provider portal to allow for verification of the individuals identity.
- 9.1.3 Sign up for Update Service (Standard and Enhanced checks only) within 30 days of initial check and keep annual subscription up to date.

10. Costs

10.1 Xperience will reimburse the costs incurred by those outlined in 2.2 of Criminal Record Checks on production of a valid receipt to the People Team.

11. Complaints

11.1 Applicants or staff who are unhappy with any aspect of the application of this policy should initially raise their concerns with the People Director in the first instance. Where this fails to produce a satisfactory resolution, applicants have the right to complain to the Chief Executive Officer.