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CRIMINAL RECORDS & DISCLOSURE CODE OF PRACTICE

NODA is registered with the Disclosure & Barring Service (DBS) as an umbrella organisation, and in consequence is obliged to abide by the DBS's Code of Practice (a copy of which is available upon request) It is also obliged to keep an updated written record of the names of all people (whether in their organisation or outside) to whom they have revealed any Disclosure information.

This imposes a responsibility for ensuring that Disclosure information is stored and handled in such a way that it is not open to abuse. Registered bodies are also obliged to have a written policy that outlines their commitment to non-discriminatory recruitment practices and equality of opportunity for all staff and service users. NODA is committed to equality of opportunity and is non-discriminatory in the recruitment of its staff. It believes that its members should also be non-discriminatory in the recruitment of volunteers. Both the Society and NODA are responsible for ensuring the security of Disclosure records.

This should be achieved as follows:

1. Affiliated Societies wishing NODA to act as the counter-signatory on Disclosure applications will be required to provide NODA at the outset with a designated contact and written confirmation (to be signed by two officers of the Society eg. Chairman and Secretary) that they have obtained a copy of and are capable of abiding by the DBS's Code of Practice, including the security, storage and disposal of Disclosure information. They are also required to provide their own written policy outlining their commitment to non-discriminatory recruitment practices and equality of opportunity for all members and service users, including people who have been convicted in the past. A sample policy can be obtained from the DBS. The Society should also adopt a policy statement on safeguarding the welfare of children, plan its work so as to minimise situations where the abuse of children may occur, and appoint an independent person in whom children can confide. These policies should be communicated to all members of the Society.
2. Societies should inform volunteers with responsibility for children that a Disclosure will be requested and that a previous conviction will not necessarily be a bar to obtaining the position. They should provide them with a copy of their written policy and make a copy of the DBS's Code of Practice available on request. The volunteer must be assured that the Disclosure information will be used fairly and confidentially.
3. Societies should satisfy themselves of the identity of the person for whom they wish to obtain a Disclosure. This should (if possible) take the form of at least one item of photographic evidence (eg. current passport or photocard UK driving licence) plus two items of address-related evidence (eg. a utility bill or bank, credit card or mortgage statement).
4. Applicants should send to the Society their completed application form. If NODA is to counter-sign the application, please complete Section X of the application form and ensure that Section Y is left blank (as it can only be signed by a registered person approved by the DBS). The application should then be sent to Richard Hutchinson at NODA in a sealed envelope marked 'Private & Confidential', ideally at least six weeks before the Disclosure is required by the

Society. Each application should be accompanied by a £10 administration fee cheque per application (made payable to 'NODA').

If the application relates to a paid position eg. Director, a fee of £26 for a Standard Disclosure or £44 for an Enhanced Disclosure, made payable to 'NODA', should be attached, plus the £10 administration fee. The application will then be checked, counter-signed and forwarded to the DBS, usually within two days. The societies DBS contact should make a note of each applicant's application reference number, their full name and date of birth. These are the fields required for when they wish to track a person's application online.

5. The Disclosure will be sent by the DBS to the applicant only, normally within two-four weeks. A copy of the same Disclosure will no longer be sent to NODA. It is up to the applicant to show the society their disclosure for the societies record. If the applicant claims to have not received the disclosure the society can check on the online tracker to see if it has been completed and dispatched.

6. The designated contact of the Society may only disclose Disclosure information in the course of his/her duties and to another officer of the Society. Passing information in any other circumstances may be a criminal offence. If Disclosure information is disclosed to a person and constitutes an offence under the terms set out above, that person commits an offence if he/she then divulges the information to any other person.

7. The Society should consider:

- whether the conviction or other matter revealed is relevant to the position in question,
- 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 matter,
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters, and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

8. The Society should discuss any matters revealed by the Disclosure with the individual before making a recruitment decision.

9. The Society must ensure that, in line with the DBS's Code of Practice, the Disclosure (if the applicant is happy for the society to keep the Disclosure on their files), or any record of information regarding the disclosure, is kept in a secure cabinet to which only the designated person will have access and that the Disclosure or any information regarding the disclosure is destroyed by shredding, pulping or burning no later than six months after a decision on the person has been made.

10. The Society must not make and retain any photocopy or representation of the Disclosure. But it is advisable to keep a record of the date of the Disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken.

11. If the Society loses Disclosure information it must immediately inform NODA so that the loss can be reported to the DBS.

12. NODA reserves the right to inspect the security arrangements of the Society and to satisfy itself that the Disclosure has been destroyed. The DBS may also carry out assurance checks and if dissatisfied withdraw access to Disclosure information not just for the Society but for NODA members in general. So, it is vital that the rules are followed to the letter, for the good of all. Societies should be aware that the unauthorised disclosure of information about a spent conviction is illegal. Unauthorised disclosure is where an official with access to information about a person's criminal record discloses this information other than during their official duties.

Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1000, or both.

Note: Whilst every care has been taken in the preparation of this factsheet it is not intended to be a complete guide to the law. Societies should seek appropriate advice on specific problems before any action is taken.

HOW TO FILL IN THE DISCLOSURE APPLICATION FORM

A number of Disclosure application forms have been rejected by the DBS on the grounds that they have not been properly completed or contain inaccuracies. The DBS will reject and return any forms that are illegible and do not follow the application guidelines and a new form will need to be submitted.

In particular:

- Always write in black ink and BLOCK CAPITALS. The form will be rejected if it is in blue ink and you will have to start all over again. If you do use blue ink, don't try to overwrite in black, as the characters will lose their clarity.
- Do not use correction fluid to amend mistakes – instead put a line through it and write the correction clearly to the right. If there is no space to the right, write the correction as close as possible.
- Always write very clearly and neatly in block capitals within the boxes and ensure that you complete each letter – for example sometimes an 'O' can look like a 'C' if care is not taken.

Section A

- Ensure that questions 1-27 are completed. • Question 3 – ensure that all the applicant's forenames are inserted. Section B Ensure that questions 32-37 are completed. The applicant must provide an address history of at least 5 years.

Section C

- Questions 38-49 must be completed if the address history in Section B does not go up to 5 years. Section D Leave blank no longer required. Section E This must be signed and dated by the applicant. Question 55 must be completed.

Section W

Name of evidence checker is the societies DBS contact, this is the person who should have viewed the applicant's identification and checked this against section A questions 20-27

Section X

The societies DBS contact (the person named evidence checker in section W, question 58) must complete questions 61-68.

The position applied for should be the role of the applicant within the society (eg Chaperone, Director, Costume manager) and whether this position is Child Workforce - Use this for any position that involves working/volunteering with children. 'Volunteer' is not acceptable. The role needs to be specific.

Adult Workforce -Use this for any position that involves working/volunteering with disabled or vulnerable adults

Child and Adult Workforce - Use this for any position that involves working/volunteering with both children and disabled or vulnerable adults

Other Workforce - Use this for any position that involves working/volunteering with children or adults eg security guard.

Question 62 should be the society name not NODA.

Question 63 should be completed by the society contact and proceed to questions 64-66 if an Enhanced check is required.

Question 67 should be completed

Question 68 - Yes should be selected if the applicant is a volunteer, if No is selected a cheque for the correct amount payable to NODA should be included. £26 for a standard disclosure, and £44 for an enhanced disclosure, plus the £10 administration fee.

One of the most common reasons for rejected application forms is an incorrect driving licence number. The driving licence number will always consist of part of the surname & date of birth in some format along applicants first and second initial (if applicable) followed by computer generated numbers. If the proofs of identity supplied by the individual are different from those requested on the application form, list all documents seen on a separate sheet of paper, making sure you include on this sheet:-

- Name of the applicant
- The form reference number
- The registered body number.

Other forms of identity accepted are:-

- Bank statement / Credit card statement
- Utility bill
- TV licence / Telephone bill

Section Y - This should be left blank for completion by NODA.

- Store card statement
- Council Tax bill
- Vehicle registration document (V5) *

- Addressed payslip All utility bills and statements must be no more than 3 months old. Further details of which proofs of identity are acceptable can be found in the DBS's An Applicant's Guide to completing the DBS Application Form.

Section Z

This section must be left blank, for completion by the DBS.

DBS PORTABILITY FRAMEWORK

The Disclosure & Barring Service for England and Wales (DBS) has recently published a Portability Framework. Portability refers to the re-use of a DBS check (Disclosure), obtained for a position in one organisation and later used for another position in another organisation. What this means is that it no longer facilitates portability of certificates between organisations, and organisations that choose to accept a previously issued Disclosure do so at their own risk. The effect of this has been that an increasing number of local authorities, when licensing chaperones, are refusing to accept DBS certificates obtained by societies via NODA. Instead they are demanding that the society obtains the DBS certificate directly through the local authority. It is important to check with your local authority what their policy on portability of DBS certificates is before using NODA's counter-signatory service. Otherwise you may find that the certificates you have obtained via NODA are unusable. In relation to other posts within the society for which you deem a DBS certificate is necessary, it is entirely at the society's discretion whether to accept a DBS certificate issued to another organisation, for example to a teacher, and you should follow the steps below. If you ask an individual to be DBS checked and they tell you that they already have a DBS check, you can:

- Ask the individual to show their copy of the DBS check.
- Contact the Counter-signatory named on the front of the DBS check and confirm that the reference number and identity details match.
- Ask if the Counter-signatory received any additional information - the Counter-signatory can only confirm or otherwise the existence of such information – but not the content of the information.
- If there is no additional information, carry out a formal risk assessment to decide whether to accept the DBS check.
- If there was additional information, you are strongly advised to ask the individual to apply for a fresh check. Those who move frequently between short-term appointments may not wish to apply for a fresh DBS check each time they seek a new position, especially if this occurs every few days. Similarly, those who take up two positions that both require a DBS check (for example, a full-time job and a weekend or voluntary position) may be able to avoid making two applications to the DBS – but read the limitations below and carry out a full risk assessment.

Limitations

- The DBS check may not be at the level you require - there are two different levels of check: Standard & Enhanced. If an Enhanced check is needed do not accept a ported Standard check.
- The DBS check may not have included a check of the Children's or adults barred list
- A DBS check carries no formal period of validity and the older a check the less reliable the information is, as the information it contains may not be up to date. The date of the issue (on the individual's copy) should be used as a guide as to when to request a new DBS check.

- Information revealed through a DBS check always reflects the information that was available at the time of its issue.
- An original DBS check (not a photocopy) contains a number of security features to prevent tampering or forgery.
- You need to understand the meaning of the wording that appears in the information boxes on Disclosure. 'None recorded' means no information was found, 'Not requested' means that that check was not done.

BOX 1 - Police Records of Convictions, Cautions, Reprimands and Warnings

BOX 2 - Protection of Children Act List information

BOX 3 - Protection of Vulnerable Adults List information

BOX 4 - Information from the list held under Section 142 of the Education Act 2002

BOX 5 - Other relevant information disclosed at the Chief Police Officer(s) discretion.

- Once a recruitment decision (or other relevant decision – e.g. for regulatory or licensing purposes) has been made, a recipient of a Disclosure must not retain it, or any associated correspondence, for longer than is necessary for the particular purpose. In general, this should be for a maximum of 6 months.

Risks

- Using a previously issued DBS check does not constitute a fresh DBS check – the person's criminal record or other relevant information may have changed since its issue.
- Registered Bodies are responsible for the accuracy of the information provided to the DBS and on which it carries out its checks. By accepting a previously issued DBS check you are accepting the risk that the previous Registered Body provided the DBS with a fully validated applicant's identity on which to carry out its checks.
- Enhanced checks may contain 'approved' non-conviction information provided by the police from their local records. In the majority of cases the DBS will print this information on applicant's copy in the box entitled 'Other relevant information disclosed at the Chief Police Officer(s) discretion'.

However, occasionally, the Chief Police Officer may, (if thought necessary in the interests of the prevention or detection of crime), withhold this information from the applicant's copy. The Registered Body's copy will contain the following words 'Please refer to the letter sent 'under separate cover', printed under the date of issue on the Disclosure. If you choose to accept the applicant's copy you will need to find out from the previous Counter-signatory if such information was revealed in a separate letter.

Risk Assessment Framework: If you are considering accepting a previously issued DBS check you should carry out a full risk assessment.

You may also wish to take further independent advice. Any risk assessment should take into account the following:

- Are you required by law to get a new check?
- Is the level of DBS check the same as the level you need?

- How old is the DBS check?
- Is the position for which the previously issued DBS check was obtained, similar to the position for which you need a DBS check?
- Have all checks that you need been carried out?
- Have you validated and authenticated the person's identity to ensure that the person presenting the DBS check is the person on whom the check was done? For instance, have you seen a range of identity documents that confirm their name, address, date and place of birth?
- Is the applicant still living at the same address as the one printed on the DBS check?
- If it is an Enhanced check, have you confirmed from the previous Counter-signatory if any additional information was released by way of a separate letter?
- Have you obtained the consent of the applicant to approach the other organisation? Code of Practice 'The DBS's Code of Practice' sets out the circumstances when the details of a DBS check can be passed to a third party. The Code states that information revealed through a DBS check can only be passed to individuals who need to see it as part of the recruitment decision, for which the DBS check was requested. This also applies to any additional information provided by the police under cover of a separate letter.

If you are contacted by another organisation about a previously issued DBS check, you can only:

- Confirm or not, whether the information provided reflects that which appears on your copy of the DBS check.
- State if the police did or did not issue additional information issued under cover of a separate letter.

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The logo for NODA (National Operatic and Dramatic Association) features the word 'noda' in a stylized, blue, cursive script font.

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