

REHABILITATION OF EX-OFFENDERS POLICY

Policy Date	Jan 2022
Review Date <i>when under review, this policy should continue to be used</i>	Jan 2025
This policy is non contractual.	
Author	HR Dept
Version This policy may be amended prior to the review date to comply with any new, relevant legislation or organisational change that affects how this policy is used	1
Related Policies	Recruitment Policy Equality Policy Safeguarding Policy Code of Conduct

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1. Purpose

- 1.1 This policy sets out how the council manages the recruitment and employment of ex-offenders and sets out the council's commitments and legal obligations under the Rehabilitation of Offenders Act 1974.
- 1.2 The policy has been developed in consultation with UNISON.

2. Scope

- 2.1 This policy applies to the recruitment and employment of all employees regardless of gender, gender reassignment, race, religion or belief, disability, sexual orientation, age, trade union membership or public interest disclosure status. It also applies to eligible part time and fixed term employees.

3. Principles

- 3.1 Havant Borough Council is committed to safeguarding children, young people and vulnerable adults and protecting them from abuse when engaged in services organised and provided by or on behalf of the council. We have a duty of care and take all necessary steps to ensure that these groups are emotionally and physically safe. Our Code of Conduct (available separately) outlines our commitments and responsibilities in this regard.
- 3.2 The council is committed to promoting equality of opportunity by appointing a wide range of applicants.
- 3.3 Having a criminal record will not necessarily prevent applicants from working with the council. It will depend on the nature of the position and the context of the offences.
- 3.4 Line managers are responsible for ensuring that this policy is followed during the recruitment process and for any subsequent criminal record checks which take place during employment.
- 3.5 Depending on the role, the council may be required to check whether you have a criminal record. These roles will be subject to a satisfactory disclosure from the Disclosure and Barring Service (known as a DBS check).
- 3.6 The Rehabilitation of Offenders Act 1974 helps rehabilitated ex-offenders back into work by allowing them not to declare criminal convictions and cautions to employers after a defined rehabilitation period has elapsed, and the convictions become "spent". During the rehabilitation period, convictions and cautions are referred to as being "unspent". Unspent convictions, cautions, reprimands and final warnings must always be declared as defined by the Rehabilitation of Offenders Act 1974.

- 3.7 Line managers are responsible for ensuring they do not discriminate unfairly against applicants or employees in relation to a conviction or any other information revealed on a DBS check.
- 3.8 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 relevant recruitment paperwork will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.
- 3.9 This policy will be reviewed from time to time and may be amended to ensure it continues to meet legal and operating requirements.

4. Recruitment of Ex-Offenders Statement

- 4.1 To protect the vulnerable, the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) exempts some professions from this approach.
- 4.2 Where the profession has been identified as being 'exempt', employers are legally permitted to consider all convictions, cautions or reprimands and final warnings that are not protected (or filtered out) by the provisions set out in the Exceptions Order.
- 4.3 Protected offences will never be disclosed as part of a standard or enhanced DBS check when certain conditions have been met. Applicants are not required to declare any such information when responding to a self-disclosure request or when completing our job application form. The council will not take any such information into account when assessing an applicant's suitability for a post.
- 4.4 At interview, or in a separate discussion, the council will ensure that an open and measured discussion takes place about 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.
- 4.5 Line managers are responsible for discussing any matter revealed on a DBS certificate with the applicant or employee before taking any further action. Advice can be sought from the HR team in such matters.
- 4.6 The council makes every subject of a criminal record check submitted to DBS aware of the existence of the code of practice and makes a copy available on request.

5. Guidance on 'spent' and 'unspent' convictions

- 5.1 Guidance and criteria for the filtering of convictions and cautions can be found on the DBS website at: www.gov.uk/government/organisations/disclosure-and-barring-service.
- 5.2 If you have a criminal record and are unsure about what might be revealed about you as part of a DBS check, the type of information you should consider declaring when completing the form, or need some further guidance contact:

Unlock:

A simple guide to filtering hub.unlock.org.uk/knowledgebase/filtering-simple-guide/

A useful [calculator](#) to help you. It identifies any unspent offences that you need to declare.

NACRO:

Practical guidance on the DBS filtering rules www.nacro.org.uk/resettlement-advice-service/support-for-individuals/.