

Title

Recruitment of Rehabilitation of Offenders Policy

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Recruitment of Rehabilitation of Offenders Policy

Policy Statement

The aim of this policy is to state Slough Borough Council's approach towards employing people who have criminal records. This policy should be read in conjunction with the Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information (available on request).

The Council is committed to equality of opportunity for all job applicants and aims to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

1. INTRODUCTION

The Council will consider ex-offenders for employment on their individual merits. The Council's approach towards employing ex-offenders differs, however, depending on whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974.

2. SCOPE

2.1 This policy applies to all employees of Slough Borough Council. It excludes school-based staff who are under the control of Governing Bodies.

3. PROCEDURE

Applicants should apply to the HR Business Partner Teams for assistance and may do so in complete confidence.

Applicants cannot be forced to undergo the checking process. However, the Council are fully within their rights not to offer a post involving working with children and other vulnerable groups to those who refuse to agree to the relevant criminal record checks. The welfare of children and other vulnerable groups will be paramount.

Where questions are required to be asked regarding past records, these will reflect the principles of the Rehabilitation of Offenders Act 1974 and will thus be composed taking into account the 'time expired' nature of the offence.

In line with the Council's Equal Opportunities policy all applicants for positions within the council will be assessed on merit and ability. The Council will give a fair opportunity of employment to people with criminal records (subject to the nature of the post).

When considering the relevance of a criminal record the recruiting manager will carry out a risk assessment based on the following:-

- The nature of the offence in relation to the nature of the job
- The examination of the circumstances leading up to the offence
- Repeat offences
- The length of time since an offence took place
- The nature of the job, workplace environment, exposure to money, property and vulnerable people
- The extent of job supervision
- An individual's attempt to go 'straight'

Criminal Convictions Received Whilst in Employment of the Council

Employees must disclose any criminal offence they have been convicted of and any criminal charges that they may face. The requirement is stipulated in the Employee Code of Conduct, a copy of which is available on SBC Insite and referred to in the Corporate Induction.

Should an employee be convicted of an offence, the circumstance of and the type of offence will be considered in relation to their continued employment, before a decision is made regarding retention. If it is felt that the offence is not one which affects continuation of the employment, ie it has no bearing on the type of work being carried out; employment may be able to continue. If a custodial sentence is imposed, in excess of the time that could be covered by the application of leave of absence and holiday amalgamation rules, it may be necessary to treat the contract as having been frustrated and thus, the employment as having ended. If continuation of employment is not found to be appropriate the Council's Disciplinary procedure must be invoked.

A dismissal on the grounds of a legal restriction Employment Rights Act 1998, Section 98 will not preclude the employee from applying to rejoin the council on release, when an application will be considered on its individual merits.

Rehabilitation Periods of Offence

All managers should make themselves conversant with the rehabilitation periods for offences as outlined below:

Sentence Period	Rehabilitation
Disqualification orders or orders imposing a penalty etc	until the order ceases
Absolute discharge, discharge by children's hearing Under social work (Scotland) Act	6 months
Remand Home or approved school custody	1 year after cessation of Order

Conditional discharge, care supervision and approved School orders	1 year from date of conviction or the order, Whichever is the longer
Probation Orders (persons under 18)	2.5 years from the date of the conviction or date probation order ceases (whichever is the longer)
Probation orders (persons over 18)	5 years from date of conviction
Detention of up to 6 months, order for detention In a centre	3 years from date of conviction
Mental Health Order	5 years from conviction or 2 years from the cessation of the order whichever is the longer
Fine or other sentence subject to rehabilitation	5 years from date of conviction
Borstal training, detention of over 6 but not more than 30 months, imprisonment or youth custody for 6 months or less	7 years from date of conviction
Imprisonment of youth custody for over 6 months but less than 30 months	10 years from date of conviction

The above periods after which the conviction is spent are reduced by 50% for offenders aged 18 or under.

Some sentences are not subject to ROA 1974 and hence do not become spent at any time; these are life imprisonment (and life custody), imprisonment or youth custody for a period in excess of 30 months, a sentence of preventative detention, a sentence of detention during the Sovereign's pleasure.

Anyone who has been convicted of a criminal offence, and received a sentence of not more than 2.5 years in prison, benefits as a result of the Act, if he or she is not convicted again during a specified period otherwise known as the

'rehabilitation period'. The length of this period depends on the sentence given for the original offence and runs from the date of the conviction. If the person does not re-offend during this rehabilitation period, they become a 'rehabilitated person', and their conviction becomes 'spent'.

For example, if a person receives a sentence of imprisonment or detention in a young offenders institute of between 6 months and 2.5 years, the rehabilitation period is 10 years, or 5 years if the individual was under 18 at the time of conviction. For an absolute discharge the rehabilitation period is six months.

Sentences can carry fixed or variable rehabilitation periods and these periods can be extended if the person offends again during the rehabilitation period. **However, if the sentence is more than 2.5 years in prison the conviction never becomes 'spent'**. It is the sentence imposed by the courts that counts, even if it is a suspended sentence, not the time actually spent in prison.

Once a conviction is 'spent', the convicted person does not have to reveal it or admit its existence in most circumstances. However, there are some exceptions relating to employment and these are listed in the Exceptions order to the ROA. **The two main exceptions relate to working with children or other vulnerable groups. If a person wants to apply for a position that involves working with children or other vulnerable groups they are required to reveal all convictions, both spent and unspent.**

Driving Offences

In endeavouring to discover a driver's record, questions should be phrased as follows:

- In the last 4 years have you received an endorsement (or penalty points) for a driving offence?
- In the last 5 years have you received a fine for a driving offence?
- In the last 7 years have you received a prison sentence of less than 6 months in respect of a driving offence?
- In the last 11 years have you received a penalty in respect of a drink driving offence? If so, please give details.

It should also be stressed that failure to provide accurate answers will be regarded as gross misconduct, the information provided on the basis on which insurance cover is provided and inaccurate information may lead to the employee driving without insurance cover and the insurer refusing to accept a claim.

Confidentiality

Confidentiality of information throughout the whole process of disclosure is paramount.

All documents relating to disclosure information will only be made available to the relevant HR Officer and the recruiting manager to the post and will be kept in a lockable and non-portable storage container. Please see CRB Secure

Storage, Handling, Use, Retention and Disposal of Disclosures Policy for further information.

Employers are liable for the misuse of CRB information not the CRB.