

The Recruitment of Ex-Offenders

Guidance Leaflet



The Rehabilitation of Offenders Act 1974 was introduced with the aim of preventing ex-offenders who have not re-offended for a significant period of time from being denied access to jobs purely on the basis of their past criminal convictions. The general principle of the Act is that an ex-offender who has not re-offended for a specific length of time will be considered 'rehabilitated', and the ex-offender will be entitled to present him or herself to employers as if he or she had never been convicted in the first place.

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), West Lancashire Borough Council complies fully with the DBS Code of Practice (which is available upon request) and undertakes to treat all applicants for positions fairly.

We undertake not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

We can only ask an individual to provide details of convictions and cautions that we are legally entitled to know about. For Basic Disclosure Scotland applications, this will be unspent convictions and conditional cautions only.

Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended) we can only ask an individual about convictions and cautions that are not 'protected', however, this will include both 'spent' and 'unspent' convictions and cautions.

For guidance and criteria regarding 'protected' cautions and convictions please visit:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286421/rehabilitation-of-offenders-guidance.pdf

We are committed to the fair treatment of its staff, potential staff or users of its services, 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 with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and 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 job adverts and person specifications will contain a statement that an application for a disclosure certificate will be submitted in the event of the individual being offered the position.

We ensure that all those in West Lancashire Borough Council who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences and have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

At interview, or in a separate discussion, we ensure 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. Where a disclosure is to form part of the recruitment process, we encourage all applicants to provide details of their criminal record at an early stage in the application process.

We make every subject of a criminal record check submitted to DBS aware of the existence of the code of practice and make a copy available on request. We undertake to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

This policy on the recruitment of ex-offenders will be made available to all disclosure applicants at the start of the recruitment process and is also available on the Council's website.

Having a criminal record will not necessarily bar you from working with us.

This will depend on the nature of the position and the circumstances and background of your offences.

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Disclosure Type	Details Requested	Eligibility
Basic	All unspent convictions and conditional cautions	Anyone
Standard	All unprotected convictions and cautions, both unspent and spent	The position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975
Enhanced	All unprotected convictions and cautions, both unspent and spent as well as any non-conviction information that has a bearing on your suitability for employment	The position must be included in both the ROA Exceptions Order and the Police Act 1997 (Criminal Records) regulations
Enhanced (with children's and/or adults' barred list check(s))	All details as per Enhanced check (above), plus a check on whether an individual is registered on the barred list for working with children and/or adults (as applicable)	The position must be eligible for an enhanced level DBS certificate and be specifically listed in the Police Act 1997 (Criminal Records) regulations as being eligible to check the appropriate barred list(s)

We request that this information is sent under separate, confidential cover, to the designated person (currently Sharon Lewis, Head of Human Resources and Organisational Development) within West Lancashire Borough Council and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

Since the 2014 reforms, rehabilitation periods (the length of time after which a caution or conviction becomes 'spent') for community orders and custodial sentences now comprise the period of the sentence plus an additional specified period. So, for an example, an adult offender sentenced to two and a half years custody, who would previously have had to declare their criminal conviction for ten years from the date of conviction, will now have to disclose their conviction for the period of the sentence plus a further four years (giving a total rehabilitation period of six and a half years).

Current Rehabilitation Periods (for sentences with additional 'buffer periods' which run from the end of the date of the sentence – including the licence period):

Sentence/disposal	Buffer period for adults*
Custodial sentence of 6 months or less	2 years
Custodial sentence of over 6 months and up to and including 30 months	4 years
Custodial sentence of over 30 months and up to and including 4 years	7 years
Custodial sentence of over 4 years (or a public protection sentence)	Never spent
Community Order or Youth Rehabilitation Order	1 year (or 2 years from date of conviction if no specified end date)

Current Rehabilitation Periods (for sentences which do not have 'buffer periods' and for which the rehabilitation period runs from the date of conviction):

Sentence/disposal	Rehabilitation period of adults*
Fine	1 year
Conditional discharge	Period of the order
Absolute discharge	None
Conditional caution and youth conditional caution	3 months or when the order ceases to have effect if earlier
Simple caution, youth caution	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full)
Binding over order, attendance centre order or Hospital order (with or without a restriction order)	Period of the order

*As with previous legislation, the above periods are halved for young people (persons under 18 at date of conviction or the time the disposal was administered) except for custodial sentences of up to 6 months where the buffer period will be 18 months for persons under 18 at the date of conviction. Where sentences/disposals are not available for adults, the rehabilitation period for young people will be the period of the order for referral orders and no rehabilitation period for reparation orders. See Gov.uk website for further details.

Further information can also be found in the 'Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Order 2014)' or by visiting the Nacro the crime reduction charity at www.nacro.org.uk