

DARLINGTON BOROUGH COUNCIL THE RECRUITMENT OF EX-OFFENDERS

Policy Statement

Introduction

1. Darlington Borough Council recognises the importance of ensuring equality of opportunity in its employment practices and is committed to eliminating unfair discrimination when employing people with criminal records. The Council's Equality Policy supports this commitment.

The Rehabilitation of Offenders Act 1974

2. This Act provides that anyone who has been convicted of a criminal offence and who is not convicted of a further offence during the specified period becomes a 'rehabilitation person' and his/her conviction becomes spent.
3. This means that the conviction does not have to be declared when applying for a job. The rehabilitation period depends on the sentence and runs from the date of conviction. A conviction resulting in a prison sentence of more than 30 months can never become spent.
4. Under the Act, a spent conviction, or failure to disclose a spent conviction or any circumstances connected with it, is not a proper ground for dismissing or excluding a person from employment.
5. Rehabilitation periods for community orders and custodial sentences comprise the period of the sentence plus an additional "buffer" period, rather than all rehabilitation periods starting from the date of conviction. For example, for a sentence of six months or less, the current rehabilitation period of seven years from date of conviction becomes the period of sentence plus a buffer period of two years.

The Rehabilitation of Offenders (Exceptions) Order 1975

6. There are some exceptions to the Act detailed in the Exceptions Order of 1975, which, broadly relate to work with children, sick, elderly or disabled people and the administration of the law. Where an exception applies an individual must, if asked, disclose all convictions, including spent ones.

Disclosure

7. Before asking a person to make an application for a Disclosure and Barring Service (DBS) check, the Council will ensure that they are entitled to ask that person to reveal their conviction history in accordance with the Protection of Freedoms Act 2012 which describes occupations that are known as the exceptions to the Rehabilitation of Offenders Act 1974. For posts covered by the Exceptions Order, Darlington Borough Council will be able to access information regarding both spent and not spent information in addition to information regarding the applicants suitability for work with children, vulnerable people
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and in excepted professions.

Standard checks – To be eligible for a standard level DBS check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

Enhanced checks – To be eligible for an enhanced level DBS check, the position must be included in both the ROA Exceptions Order and in Police Act Regulations.

Enhanced checks with children's and/or adults' barred list check(s) – To be eligible to request a check of the children's or adults' barred lists, the position must meet the new definition of regulated activity. There are a small number of other positions for which you can also request list checks.

Appointment Process

8. Darlington Borough Council is committed to the principle of making appointments on merit and will focus on a person's abilities, skills, experience and qualifications. When considering an applicant with a criminal record the Council will consider the relevance of the convictions to the job for which the person is applying. In considering this relevance the Council will explore:
 - (a) the circumstances leading up to an offence
 - (b) whether the individual has committed repeat offences
 - (c) the nature and seriousness of the offence
 - (d) the length of time since the offence took place
 - (e) the nature of the work in which the individual will be involved, including their exposure to money, property and vulnerable people
 - (f) the extent to which the person will be supervised
 - (g) the individual's attempts not to re-offend
 - (h) the potential risks associated with employing the person in the post
9. The Council does not necessarily see a criminal record as a bar to employment. This will depend on the nature of the position and the circumstances and background of the offence.

Ensuring the Appropriate Use of Disclosure

10. The Council will make it clear on the Application for Employment where a post is subject to the provisions of the Exceptions Order and where there is a requirement to declare spent convictions, a standard or enhanced disclosure will be sought. In no other circumstances will questions relating to spent convictions be asked.
11. The Council will only request a Disclosure where it is considered both proportionate and relevant to the position concerned.

Failure to disclose a criminal record

12. Failure to disclose unspent and/or spent convictions when required on the Application for Employment will be considered a serious matter and may lead to an offer of

employment being withdrawn, disciplinary action or even dismissal. However, the matter will be discussed with the applicant/employee prior to any decisions being made.

Confidentiality

13. Any information requested and provided regarding criminal records will be treated confidentially and with discretion. Access to criminal record information will be on a need-to-know basis and information will be stored confidentially and in accordance with the Data Protection Act and Disclosure guidance.

Communication of this Policy

14. The Council will undertake to ensure that key employees receive appropriate training about their personal roles and responsibilities in this area. In addition specific training will be provided on assessing the risks associated with employing those with criminal records, identifying safeguards and making balanced objective judgements.
15. All job applicants, where Disclosure is required, will receive a copy of this policy with the information pack sent out with the Application for Employment.

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