

**PM Guidance**

**Suitability of Ex-Offenders**

Introduction

The purpose of this document is to provide recruitment guidance on the Suitability of Ex-Offenders. This guidance should be read in conjunction with the Safer Employment procedure.

This guidance is made available on-line to candidates and employees and will be provided to any candidate that requests it, at the start and any point during the recruitment process.

Scope

* All employees
* All Candidates
* Volunteers
* Externally Provided Workforce

It is expected that governing bodies of all community and voluntary controlled schools would adopt this procedure. Foundation and voluntary aided schools and academies are encouraged to do the same.

The Rehabilitation of Offenders Act 1974, the Exceptions order and protected / filtered offences.

The Rehabilitation of Offenders Act 1974 (ROA) was introduced to support the rehabilitation of

offenders who have not been convicted of any serious offence for specific periods. The Act

enables criminal convictions to become ‘spent’ or ignored after a specified ‘rehabilitation period’.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, excludes some activities, offices and occupations and if these apply to a particular role with Cumbria County Council, people can be expected to declare their convictions during the recruitment process, even if they are spent.\*

\*However, changes to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) in 2013 introduced additional protections for those with offences, meaning that some spent criminal offences are protected and “filtered” off a DBS certificate. These offences do not have to be disclosed by candidates and may not be taken into account by employers when making recruitment decisions.

What do Candidates need to disclose?

We ask all candidates to disclose any unspent criminal offences during the recruitment process and employees thereafter as and when applicable.

If candidates are applying for roles that require a DBS certificate, it means they are applying for a role that is outlined in the ROA (exceptions) order and as such, we additionally require candidates to disclose any spent offences.

However, in all circumstances, candidates or employees should not disclose any offences which are protected or filtered from an individual’s criminal record.

Additional information which explains the filtering of old and minor offences which are now ‘protected’ (so not subject to disclosure to employers) is available at <https://www.gov.uk/government/collections/dbs-filtering-guidance>

Selection, Assessment and Fair Treatment

It is recognised that in order to appoint on merit, and to comply with legislation, it is important to consider candidates for employment from the broadest range possible, which includes ex-offenders. Obtaining a job is an essential part of successful rehabilitation.

Cumbria County Council is committed to the fair treatment of its workforce, potential workforce or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

Cumbria County Council actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates for interview based on skills, competencies, qualifications and experience.

Through the recruitment process, we will only ask individuals to provide details of convictions and cautions that we are legally entitled to know about.

If candidates incorrectly disclose information during the recruitment process that we are not legally entitled to know about, this information will be disregarded and will not form part of any decision making process on the suitability for employment.

Where a candidate discloses offences that we are entitled to know about, applicants will be treated fairly and not discriminated unfairly against because of a conviction or other information revealed.

The suitability for the individual’s employment will be assessed proportionally, through a risk assessment. This risk assessment can be found in our Safer Employment Procedure and is based on advice from Unlock.org.uk – a registered charity established to support people facing stigma and obstacles because of their criminal record.

At interview, or in a separate discussion, Cumbria County Council ensures that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position.

Withdrawal of Conditional Offer of Employment

Cumbria County Council undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

For candidates, failure to reveal any information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

DBS Code of Practice

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), Cumbria County Council complies fully with the [code of practice](https://www.gov.uk/government/publications/dbs-code-of-practice) and undertakes to treat all applicants for positions fairly.

The DBS code of Practice can be found here: <https://www.gov.uk/government/publications/dbs-code-of-practice>

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)

Cumbria County Council can only ask an individual about convictions and cautions that are not protected.

An application for a criminal record check is only submitted to DBS after a thorough eligibility 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 application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being conditionally offered the position.

Training

Cumbria County Council ensures that all those involved in the recruitment decision making process, where a criminal offence is involved, have been suitably trained to identify and assess the relevance and circumstances of offences.

Cumbria County Council also ensures that they 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

Should further clarification be required in relation to the consultation and / or implementation process please contact your Directorate HR Team/School HR provider/Diocesan Officer.

For Schools:

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| --- | --- |
| Name of School: |  |
| Date by which School have adopted procedure: |  |
| Signature of Chair of Governors |  |

**Date**