

Policy Statement on the Recruitment of Ex-Offenders

This policy and attached Code of Practice on the Use of Disclosure Information constitute an amendment to the Brighton & Hove City Council's current Equalities & Inclusion Policy and Recruitment and Selection Policy.

1 General Policy Statement

- 1.1 Brighton & Hove City Council welcomes applications from a wide range of candidates including those with an offending background and undertakes not to discriminate unfairly against any applicant. Possession of a criminal record is not an automatic bar to obtaining employment or voluntary work. Criminal records will be taken into account for recruitment purposes only when the conviction is relevant. Sensitive personal information will be handled and stored securely.

2 Disclosure & Barring Service (CRB) Checks

- 2.1 Brighton & Hove City Council uses the Disclosure & Barring service to check applicants' suitability for certain posts and complies with the DBS Code of Practice. A Disclosure & Barring Service check (a disclosure) is only requested where it is relevant to the position and a statement to this effect will be included in the job advertisement and job application pack. The disclosure will be requested when a conditional offer of employment has been made.
- 2.2 Unless the application is for a post which allows the council to ask about your entire criminal record we will only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974, as amended by the Legal Aid, Sentencing and Punishment Act 2012. Some convictions are regarded as "spent" after a certain rehabilitation period but under the 'exempt' provisions of the Rehabilitation of Offenders Act 1974 the council is allowed to ask about your entire criminal record.
- 2.3 There are three levels of disclosure – basic, standard and enhanced.
- 2.4 **Basic Disclosures** - Basic Disclosure Certificates (obtained from Disclosure Scotland) verify any **unspent convictions** under the Rehabilitation of Offenders Act 1974.
- 2.5 **Standard Disclosures** - The Rehabilitation of Offenders Act 1974 (ROA), (Exceptions) Order 1975 acts as the gateway for access to the DBS checking service and lists those occupations, professions and positions considered to be exempt from the ROA provisions designed to protect individuals from unnecessary

disclosure of their spent conviction history and can be checked at a standard level. These are posts that do not have regular contact with children or vulnerable adults.

- 2.6 **Enhanced Disclosures** - To qualify for the higher level of DBS check (enhanced), the post must also meet one of the criteria set out in The Police Act 1997 (Criminal Records) Regulations as updated by the Protection of Freedoms Act and will involve regular contact with children or vulnerable adults. In general the type of work will involve regularly caring for, supervising, training or being in sole charge of such people. Examples include a teacher or social worker. It can also include work in particular settings e.g. Schools or Hospitals. Enhanced Disclosures contain the same information as Standard Disclosures, with the addition of local police force information considered relevant by Chief Police Officer(s). Where Regulated Activity (as defined by the Protection of Freedoms Act 2012) is undertaken the DBS barred lists for children or adults may be consulted in addition. Refer to the DBS website for full up-to-date information.

3 **Code of Practice on Use of Disclosure Information**

- 3.1 The Code of Practice on the Use of Disclosure Information specifies the responsibilities of Brighton & Hove City Council as a Registered Body and the provisions the council has in place to ensure that Disclosure information is used fairly, sensibly and confidentially.
- 3.2 A summary of the Council's policy on the recruitment of ex-offenders will be available to all applicants where a disclosure is requested.

4 **Roles and Responsibilities**

- 4.1 It is the responsibility of:-
- the **Chief Executive** to ensure the dissemination and consistency of application of the Policy and Code of Practice throughout the organisation
 - **Directors and Senior Managers** to identify and allocate resources as far as necessary within their Department / Section to ensure compliance with the Policy and Code of Practice and to identify posts where a disclosure is required and the level of that disclosure.
- 4.2 **Recruiting managers** (within their respective areas of work) are required to:-
- understand and comply with the provisions within the Recruitment & Selection Policy and the Code of Practice on the Use of Disclosure Information

- to ensure that criminal conviction checks are undertaken prior to confirming any offer of appointment to a post identified as requiring a disclosure including TUPE transfers, redeployments, staff transfers and secondments.
- seek and act on advice from Human Resources where appropriate
- ensure that the reporting, recording and monitoring procedures contained within the Recruitment & Selection Policy and Code of Practice are adhered to
- ensure equality of opportunity for ex-offenders by assessing candidates on individual merit for the post before an assessment is made of any previous convictions
- ensure that ex-offenders are not discriminated against on the grounds of spent convictions where they apply for posts that are not exempt from the Rehabilitation of Offenders Act 1974
- discuss with applicants the details provided on the disclosure before the decision is made regarding the possible withdrawal of the offer of appointment and to provide relevant feedback related to their convictions to all unsuccessful applicants. N.B. Final decisions regarding positive disclosures and employment will be made by the Director of Children's Services/Director of Adults Services or relevant Head of Legal/Section 151 Officer as appropriate to the work area.

4.3 It is the responsibility of **candidates** to:-

- declare any unspent convictions at the point of application for all posts
- declare all previous convictions, spent or unspent, for posts that qualify as exempt under the Rehabilitation of Offenders Act
- co-operate fully with the Council in the process of obtaining disclosure information where applicable.
- ensure that applications are not made in cases where previous convictions fall within the categories specified under the Protection of Children Act 1999, Criminal Justice and Court Services Act 2000, Safeguarding Vulnerable People Act 2006 and Protection of Freedoms Act 2012 that ban individuals from working with children. (Such an application would result in the Council reporting the individual to the police.)

4.4 It is the responsibility of **Human Resources** to:-

- effectively implement the corporate strategy for the recruitment of ex-offenders, ensuring communication of the Code of Practice and Recruitment & Selection Policy and ensure consistency of practice,
- provide advice and support to recruiting managers relating to the employment of ex-offenders and the provisions of the relevant legislation
- obtain disclosure information from the Disclosure & Barring Service on candidates who have been made a conditional offer of employment for a post or appointment to a voluntary position that qualifies as exempt from the provisions of the Rehabilitation of Offenders Act 1974
- ensure that appropriate documentation is maintained during the recruitment process to enable the identification of relevant convictions and to ensure such information is dealt with in accordance with the Code of Practice on Use of Disclosure Information.
- assist and advise recruiting managers in the recruitment and selection process for posts where disclosure is required.
- incorporate information on this policy and code of practice in recruitment and selection training.

5 Review

- 5.1 The council will endeavour to ensure that the policy and its implementation keeps pace with legislative and other developments through the provision of information, instruction, training and professional support.