

# Recruitment of Ex-Offenders Policy & Guidance

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**NOTE: This Policy is intended to be published externally to job applicants and volunteers as well as internally to staff and managers.**

**The Policy should also be publicised by organisations for which the Council provides an umbrella body function to their job applicants, staff, and volunteers.**

## 1. Introduction

- 1.1. The Rehabilitation of Offenders Act 1974 ensures that ex-offenders who have not re-offended for a period of time since their conviction are not discriminated against when applying for jobs. Unless a position is exempted from the Act, employers are not allowed to discriminate on the grounds of spent convictions.
- 1.2. The Rehabilitation of Offenders Act 1974 enables some criminal convictions to become 'spent', or ignored, after a 'rehabilitation period'.
- 1.3. A rehabilitation period is a set length of time from the date of conviction. <https://www.gov.uk/guidance/rehabilitation-periods>. After this period, with certain exceptions, an ex-offender is not normally obliged to mention their conviction when applying for a job.
- 1.4. All employees, casual workers, volunteers, contractors, agency workers will undergo some form of pre-employment vetting checks. The type and level of checks will vary dependent upon the role and the access to children or adults at risk.
- 1.5. Many positions within the Council qualify for Disclosure and Barring Service (DBS) checks which provide access to sensitive criminal record information about candidates.
- 1.6. Having a criminal record will not necessarily bar an individual from working with the Council. This will depend on the nature of the position and the circumstances and background of the offences.
- 1.7. A disclosure is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required, job adverts, job profiles and any other recruitment information provided about the post must contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
- 1.8. The Authority will only require applicants to disclose 'unspent' criminal convictions as part of their application form if the post involves working with children or vulnerable adults, or is based within a school, pupil referral unit, children's home or care home, or for certain financial and legal professional roles, or civil enforcement officer roles.

## 2. Types of DBS checks

2.1. There are 4 types of DBS checks which the Council may request:

- **Basic Disclosure** - Shows unspent convictions and conditional cautions only. Any post is eligible for this type of check if it is deemed proportionate and relevant for the role.
- Spent convictions and cautions will not be included in a Basic level criminal records check and do not need to be disclosed by applicants applying for a job role which requires a Basic DBS check.
- **Standard Disclosure** - Shows spent and unspent convictions, cautions, reprimands, and final warnings.
- **Enhanced Disclosure** - Shows the same as a standard check plus any information held by the police that is considered relevant to the role.
- **Enhanced Disclosure with barred lists** - Shows the same as an enhanced check plus whether the applicant is on the list of people barred from working with these service users.

2.2. For enhanced DBS checks with barring certificate:

- **Children's workforce** – provides access to a check of the Children's barred list
- **Adults' workforce** – provides access to a check of the Adults' barred list
- **Children's and Adults' workforce** - provides access to a check of the Children's and Adults' barred lists. These are for roles which work with both children and adults at risk.
- **Other workforce** - provides access to a check of the Children's and Adults' barred lists. These are roles which do not specifically relate to working with children and/or adults.

2.3. For job roles where a DBS certificate at either Standard or Enhanced level is requested, these checks will normally show spent and unspent convictions and cautions. However, certain old or minor offences may not be disclosed on DBS certificates. These are known as 'protected' offences. Protected convictions and cautions are removed by a process known as 'filtering' so that they are not disclosed on a DBS certificate.

2.4. The Council can only ask an individual about convictions and cautions that are not protected.

- 2.5. For further information, refer to: [DBS filtering guide - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- 2.6. There is a [list of offences](#) that will always be disclosed on a Standard or Enhanced DBS certificate (unless they relate to a youth caution). These are known as ‘specified offences’ and are usually of a serious violent or sexual nature or are relevant for safeguarding children and adults at risk.
- 2.7. All convictions resulting in a custodial sentence, whether or not suspended, will always be disclosed.
- 2.8. Youth cautions, warnings and reprimands will not be disclosed automatically on a Standard or Enhanced DBS certificate.
- 2.9. For those 18 or over at the time of the offence an adult conviction will be removed from a DBS certificate if:
- 11 years have elapsed since the date of conviction; and
  - it is the person’s only offence, and
  - it did not result in a custodial sentence
- 2.10. Even then, it will only be removed if it does not appear on the list of offences which will never be removed from a certificate. If a person has more than one offence, then details of all their convictions will always be included.
- 2.11. An adult caution will be removed after 6 years have elapsed since the date of the caution - and if it does not appear on the list of offences relevant to safeguarding.
- 2.12. convictions, except that the elapsed time period is 5.5 years. The same rules apply as for adult cautions, except that the elapsed time period is 2 years.
- 2.13. If applicants are barred from engaging in regulated activity with a vulnerable group, it is an offence if they seek, offer or engage in regulated activity with a group that they are barred from working or volunteering with. Any such attempts by barred individuals will be reported to the Police.
- 2.14. Successful applicants will be required to consent to subsequent criminal record checks during employment as deemed appropriate by the Council or regulatory bodies.

### 3. Scope

3.1. This Policy applies to all those who work or are applying to work in roles within the Authority and within organisations for which the Authority acts as an umbrella body, including:

- Job Applicants
- Existing employees
- Casual or temporary staff
- Volunteers and prospective volunteers

3.2. For Schools, it is recommended that the governing body should formally adopt this policy.

3.3. This Policy will be made available to all job applicants at the start of the recruitment process via the Council's Jobs and Careers web page and to all staff via the Council's Intranet. Prospective and existing volunteers will be directed to the Council's Jobs and Careers web page. For jobs advertised via Eteach.com, this policy should be provided to applicants within the set of recruitment documents.

3.4. This will enable any person who objects to the vetting process, for whatever reason, to withdraw their application early in the recruitment process.

3.5. Organisations for which the Council provides an umbrella function must also make this policy available to their job applicants, staff, and volunteers.

### 4. Policy statement

4.1. Safeguarding and protecting children and adults at risk is a high priority for Carmarthenshire County Council and ensuring that there are robust arrangements and procedures in place. This includes implementing safe recruitment procedures and practices.

4.2. Carmarthenshire County Council is committed to the fair treatment of its staff, potential staff, prospective and existing volunteers, regardless of their background, culture, race, colour, nationality, ethnic or national origins, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, pregnancy, or maternity, marital or civil partnership status or their offending background.

4.3. The Council actively promotes equality of opportunity for all and welcomes applications from a wide range of candidates, including those with criminal records. We will short-list all candidates for interview based on their skills, qualifications, and experience.

- 4.4. We undertake to treat all applicants for positions fairly and not to discriminate unfairly against any applicant based on a conviction or other information revealed in their Disclosure.
- 4.5. Managers who are involved in the recruitment process will be suitably trained to identify and assess the relevance and circumstances of offences, with appropriate support and guidance from People Services. Managers will also receive appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders.
- 4.6. Where a Disclosure is to form part of the recruitment process, we request that information on a criminal record is detailed on the application form (self-declaration). We guarantee that this information is only seen by those who need to see it as part of the recruitment process and is not taken into consideration in the shortlisting or interviewing process.
- 4.7. 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), the Council complies fully with the [code of practice](#).
- 4.8. We comply fully with our obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention, and disposal of certificate information.
- 4.9. The Council makes job applicants, employees and volunteers aware of the existence of the DBS [code of practice](#) through the publication of this policy on its website and will make a copy of the code of practice available on request.
- 4.10. We undertake to discuss any matter revealed on a DBS certificate with the individual seeking the position before a decision is made to withdraw a conditional offer of employment.
- 4.11. Disclosures containing previous convictions and/or cautions are not necessarily a bar to obtaining a position. However, failure to disclose such convictions where it is required will be discussed further with the individual regarding their reasons for not having disclosed this information. If it is thought that there was an attempt to obtain employment by deception, this would usually result in withdrawal of the offer of an employment, or disciplinary action or termination of employment, if the individual has already been appointed.
- 4.12. The Council reserves the right to withdraw access to this service where an organisation using the umbrella body service fails to comply with this policy.

## 5. Procedures

### 5.1. Declaration of convictions

For all job roles, the Council will ask applicants about their convictions and cautions. The declaration will be provided to Recruiting Manager immediately after the preferred candidate has been selected, to enable the manager to act promptly to undertake a risk assessment to determine if the recruitment can proceed, and if so to consider if safeguards in the workplace are appropriate. **See Appendix 1: Declaration of convictions**

### 5.2. Self-disclosure Form

Where a DBS check is to form part of the recruitment process, the preferred candidate will be asked to complete a self-disclosure form. This information is provided confidentially to the recruiting manager or chair of the interview panel. This information will only to be seen by those who need to see it as part of the recruitment process. Recruiting managers will hold an open and measured one-to-one discussion on the subject of any offences or other matters that might be relevant to the position. **See Appendix 2: Self Disclosure form.**

### 5.3. Disclosure and Barring Service certificates.

**Storage and access** - Certificate information, i.e., disclosure reference number is kept in a secure HR system and is only accessible by the system administrators.

**Handling** - In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

**Usage** - Certificate information is only used for the purposes of recruitment and continuous employment for which it was requested and for which the applicant's full consent has been given.

**Retention** - Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary.

In the case of unsuccessful recruitment, this is generally for a period of 18 months after recruitment has been completed, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer, we will consult the vetting body about this and consider the Data Protection and Human Rights of the individual before doing so.

In the case of successful recruitment, or re-checking of existing staff and volunteers, the information will remain on the employee file for 3 years after which a new check will be requested.



Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

**Disposal** - Once the retention period has elapsed, we will ensure that any certificate information is destroyed by secure means. While awaiting destruction, certificate information will be kept securely.

We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, we will keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken as part of the employee personal file.

**Acting as an umbrella body** - As an umbrella body (an umbrella body being a registered body which countersigns applications and receives certificate information on behalf of other employers or recruiting organisations), we will take all reasonable steps to satisfy ourselves that the employing organisation will handle, use, store, retain and dispose of certificate information in compliance with the code of practice and in accordance with this policy.

**Ensuring Equality of Treatment** - All employees are required to adopt a positive, open and fair approach and ensure the Authority's Equality and Diversity policy is adhered to and applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, pregnancy or maternity, marital or civil partnership status.

In addition, the Welsh Language Standards ask us to 'ensure that the Welsh language is treated no less favourably than the English language' and this principle should be adopted in the application of this policy. If you have any equality or diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR team who will, if necessary, ensure the policy / procedure is reviewed accordingly.

If you require this publication in an alternative format, please contact [CEDuty@carmarthenshire.gov.uk](mailto:CEDuty@carmarthenshire.gov.uk)

## 6. Appendices

### 6.1. Appendix 1: Declaration of convictions

Do you have any unspent conditional cautions or convictions under the Rehabilitation of Offenders Act 1974?

YES / NO

If yes, please give details including dates.

If the Job Profile has indicated that the post for which you are applying will be subject to a standard or enhanced DBS check, please answer the following question.

Do you have any adult cautions (simple or conditional) or spent convictions that are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020?

YES / NO

If yes, please give details including dates.

**A criminal record will not necessarily bar you from working for the Council. This will depend on the nature of the job and the circumstances and background of your offences.**

The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered 'protected'. This means that they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account.

Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website.

The Ministry of Justice's online disclosure checker is a new service being piloted and may be useful:

[Caution or conviction - Check when to disclose cautions or convictions - GOV.UK \(check-when-to-disclose-caution-conviction.service.gov.uk\)](https://www.gov.uk/check-when-to-disclose-caution-conviction.service.gov.uk)

Help is available from Unlock, a national independent advocacy charity that supports people with criminal records to move on positively in their lives.

[Disclosing criminal records to employers - Unlock](https://www.unlock.org.uk/)

**Warning:**

If you are barred from engaging in regulated activity with a vulnerable group, it is an offence if you seek, offer or engage in regulated activity with a group that you are barred from working or volunteering with.

Any such attempts by barred individuals will be reported to the Police.

## 6.2. Appendix 2: Self-disclosure form

Self-disclosure form for roles which are exempt from the Rehabilitation of Offenders Act 1974. For completion by the person applying for the role, in addition to the Declaration of Convictions.

Name of candidate/person:	
Previous name(s): <i>Please include date(s) each name was used</i>	
Address with postcode:	
Telephone/mobile number:	
Date of birth:	

All information you provide will be treated as confidential and managed in accordance with relevant data protection legislation and guidance.  
You have a legal right to access information held about you.

Have you ever been known to any Social Services department or the Police as being a risk or potential risk to children or adults at risk?	YES / NO
If yes, please provide further information:	
Have you been the subject of any investigation and/or sanction by any organisation or body due to concerns about your behaviour towards children or adults at risk?	YES / NO
If yes, please provide further information and include details of the outcome:	
Have you ever been the subject of disciplinary sanctions or been asked to leave employment or voluntary activity due to inappropriate behaviour towards children or adults at risk?	YES / NO
If yes, please provide further information:	

<p><b>If you are registered with the DBS Update service, please answer this question:</b></p> <p>Have you been cautioned, subject to a court order, bound over, received a reprimand or warning or found guilty of committing any offence since the date of your most recent enhanced DBS disclosure?</p> <p>If yes, please provide further information.</p>	<p>YES / NO</p>
<p>Do you have any overseas convictions?</p>	<p>YES / NO</p>
<p>If yes, please provide further information:</p>	
<p><b>Confirmation of declaration</b> (tick boxes below)</p>	
<p><input type="checkbox"/> I agree that the information provided here may be processed in connection with recruitment purposes and I understand that an offer of employment may be withdrawn, or disciplinary action may be taken if information is not disclosed by me and subsequently comes to the organisation's attention.</p>	
<p><input type="checkbox"/> In accordance with the organisation's procedures, if required I agree to provide a valid criminal record certificate and consent to the organisation clarifying any information provided on the disclosure with the agencies providing it.</p>	
<p><input type="checkbox"/> I agree to inform the organisation within 24 hours if I am subsequently investigated by any agency or organisation in relation to concerns about my behaviour towards children or adults at risk.</p>	
<p><input type="checkbox"/> I understand that the information contained on this form, the results of the DBS check and information supplied by third parties may be supplied by the organisation to other persons or organisations in circumstances where this is considered necessary to safeguard children or adults at risk.</p>	
<p><b>Signature of candidate:</b></p>	
<p><b>Print name:</b></p>	
<p><b>Date:</b></p>	