

DRAFT VERSION 2

Wiltshire Council Human Resources

Recruitment of Ex-offenders policy and procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy outlines the council's procedure for the employment of ex-offenders.

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There is also a [toolkit of documents](#) including guidance notes to use when following this policy.

Who does it apply to?

This policy applies to all Wiltshire Council employees (with the exception of teaching and non-teaching staff employed in locally managed schools).

This is a harmonised policy and applies to both Wiltshire Council and ex-district TUPE employees.

When does it apply?

This policy applies to applicants and currently employees when a criminal records bureau check or a recheck are carried out for the role they are to undertake or currently undertake.

What are the main points?

1. This policy follows the [CRB code of practice](#) on the employment of ex-offenders.
2. As an organisation using the [criminal records bureau](#) (CRB) checking service assessing applicants' suitability for positions of trust, Wiltshire Council complies fully with the CRB code of practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a CRB check on the basis of a conviction or other information revealed.
3. The council is 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.
4. The council has a written policy on the recruitment of ex-offenders, which is made available to all CRB applicants at the outset of the recruitment process.
5. The council actively promotes equality of opportunity for all applicants with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates, including those with criminal records. Managers select candidates for interview based on their skills, qualifications and experience.
6. A CRB check 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 CRB check is required, all application forms, job adverts and recruitment briefs will contain a statement that a CRB check will be requested in the event of the individual being offered the position.
7. Where a CRB check is to form part of the recruitment process, managers encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within Wiltshire Council and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

8. Unless the nature of the position allows Wiltshire Council to ask questions about your entire criminal record, managers will only ask about 'unspent' convictions as defined in the [rehabilitation of offenders act 1974](#).
9. Managers ensure that all those in Wiltshire Council who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. Managers also ensure 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.
10. At interview, or in a separate discussion, managers 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.
11. The council make every subject of a CRB check aware of the existence of the [CRB code of practice](#) and make a copy available on request.
12. The council undertakes to discuss any matter revealed in a CRB check with the person seeking the position before withdrawing a conditional offer of employment.
13. 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 offence(s).

Job descriptions

14. Your manager will confirm on the [job description and person specification](#) if a CRB check is required for the role.

Disqualification orders

15. There are some offences which may result in a person being subject to a disqualification order (DO).
16. It is an offence for such a person to apply for a post that is restricted under the DO. The council will report any such applicant to the police.

Spent convictions

17. Certain convictions are considered 'spent' after the following periods of time.

18. The period of rehabilitation applies to the original conviction, not to how long you may have spent in prison.

Sentence	Rehabilitation period
A sentence of imprisonment or corrective training for a term exceeding 6 months but not exceeding 30 months.	10 years*
A sentence of youth custody for a term exceeding six months but not exceeding 30 months.	10 years*
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service.	10 years
A sentence of imprisonment or detention in a youth offending institution or youth custody for 6 months or less.	7 years*
A sentence of imprisonment for a term not exceeding six months.	7 years
A sentence of dismissal from Her Majesty's Service	7 years*
Any sentence of detention in respect of a conviction in service disciplinary proceedings	5 years*
Absolute discharge	6 months
Conditional discharge	1 year
Probation order or community order (age 18 or more)	5 years
A fine or any other sentence subject to rehabilitation under the rehabilitation of offenders act.	5 years

19. *These sentences are halved if the offender was under 18 years of age at the date of conviction.

Convictions which are never spent

20. Sentences of imprisonment of more than 2.5 years are never spent and must be declared.

Cautions, reprimands and warnings

21. If you have accepted a police caution as an alternative to prosecution, this information is entered onto the police national computer and will therefore appear when a criminal records bureau check is carried out.

New convictions

22. It is essential that you inform your manager (and where required by regulation to be a member also any relevant professional registered

bodies) of any police investigation, charge, caution, reprimand, fine or conviction, immediately.

23. All such disclosures will be handled in confidence but if you are employed in a 'notifiable occupation', a 'regulated activity' or a 'specified setting', this may result in your suspension from duties while an investigation takes place. Refer to the [disciplinary policy](#).

Police information

24. From time to time the police may divulge information to Wiltshire Council about a current investigation being undertaken about an applicant or new employee. The council will not divulge such information to the applicant or new employee as to do so would be a criminal offence.

Roles and responsibilities

Applicant and employee responsibilities

25. To complete the application form honestly, declaring any prior unspent convictions.
26. If you have been made the subject of a disqualification order, you must not apply for roles for which you are not permitted to apply.
27. To declare when an unspent conviction becomes spent.

Line manager responsibilities

28. To keep confidential any information disclosed to you by applicants regarding unspent criminal convictions. Such information only to be discussed with the recruitment team.
29. To update the job description for any role working with children or vulnerable adults to clearly show that a CRB check is required.
30. Never to employ any candidate into a role unless all checks have been carried out and confirmed as complete and satisfactory by the recruitment team.
31. To adhere to this policy and apply in all circumstances.
32. To seek advice from HR or from the CRB team where you do not understand any aspect of this policy.

HR responsibilities

33. To provide advice and guidance on the interpretation of this policy.
34. The recruitment team will carry out all criminal record bureau disclosures and confirm the outcome to the manager.
35. To support the manager where the result of a criminal record bureau disclosure means that the applicant may no longer be suitable for the role.

Frequently asked questions

36. **I have an unspent criminal conviction. May I apply for a role with Wiltshire Council?**

Yes you may apply for a role with the council, unless you are the subject of a disqualification order, barring you from applying for specific roles. You may not apply for those specific roles but you may be able to apply for others. You should contact the [recruitment team](#) for further advice.

37. **I have been newly employed by Wiltshire Council and have subsequently been convicted of a crime. Do I need to declare this conviction to the council?**

Yes you do need to declare any subsequent convictions in order that the council may make an assessment as to whether you may continue to be employed in the particular role you currently do. It may be that the conviction does not affect the role you do or that you may be able to transfer to a different role.

38. **I was convicted of a crime with a prison sentence of 4 years. I only served 2 years of this sentence. Am I obliged to declare this spent conviction?**

Yes, as any conviction of longer than 2.5 years is always considered unspent, irrespective of how many years or months of the sentence you actually served.

Definitions

Spent conviction	A criminal conviction for which a punishment has been served and so the crime is considered to be redeemed and at an end.
Unspent conviction	A criminal conviction which can never be redeemed.

Criminal records bureau

A government agency tasked with carrying out checks into applicants and employees' backgrounds when applying for or carrying out certain roles.

Equal Opportunities

This policy has been Equality Impact Assessed ([link to EIA for policy](#)) to identify opportunities to promote equality and mitigate any negative or adverse impacts on particular groups.

Managers will make any necessary adjustments to ensure that all employees are treated fairly. For further information see the guidance on [equal opportunities in the recruitment of ex-offenders](#).

Legislation

- [rehabilitation of offenders act 1974](#)
- [CRB code of practice](#)
- [safeguarding vulnerable groups act 2006](#)

This policy has been reviewed by an external legal organisation to ensure compliance with (the above legislation and) our statutory duties.

Further advice and information

If you require help in accessing or understanding this policy or completing any of the associated forms you should contact your line manager or trade union representative if you are a member.

If, due to the nature of your query, it is not appropriate to contact your line manager you should contact your head of service who will nominate an appropriate manager or colleague to help you.

Toolkit

There are a number of related policies and procedures that you should be aware of including:

- [disciplinary](#)
- [CRB disclosures](#)
- [storage of disclosure information](#)
- [recruitment](#)

For further information please speak to your supervisor, manager, service director or contact an [HR advisor](#).

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