

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

Employment Conditions Committee: 23 April 2007

Report of the Chief Executive

**CRIMINAL RECORDS BUREAU – POLICY & PROCEDURE FOR
MANAGING DISCLOSURE IN RELATION TO EMPLOYMENT**

Background

1. The Criminal Records Bureau (CRB) is a national organisation that was set up in 2002 to facilitate safer and more informed recruitment decisions to help prevent unsuitable people from having access to a jobs and positions that provide opportunities to harm children under age 18 and vulnerable adults. It replaces the former police checks system and works alongside the Rehabilitation of Offenders Act. Disclosure is the process by which criminal records and other information is checked. This report proposes a policy and procedure for managing disclosures, based on the CRB Code of Practice .
2. From 2002, the priority for most organisations was the checking of new appointments. Consequently, the Council established checking arrangements for new starters to the authority and new internal appointments for jobs/posts that were designated as requiring a check . In addition to new appointments, a process for checking existing employees covered by CSIW arrangements was also established, There is now a need to agree a process for checking non-CSIW existing employees and to pull together existing processes into one policy with a clear procedure.
3. The CRB have advised that whilst employers should check existing staff on the basis of a managed and rolling programme so that they are able to deal with extra demand .The CSIW have also indicated support for a 3 yearly check for staff in these areas. Additionally, should disclosure checks on existing staff unearth previously undeclared convictions, the Council needs a clear process to ensure that such cases are dealt with appropriately and fairly .
4. Therefore, attached as Appendix A is the proposed Policy and Procedure which will apply to new appointments and existing staff in jobs/posts designated as requiring some level of disclosure.

Proposals

5. Key features of the proposed Policy and Procedure include:-
 - It will apply to “new appointments” (i.e. external appointments and internal staff who secure jobs which are designated as subject to disclosure) and “existing staff” on a 3 year rolling programme basis for those in regulated premises and 5 years for others.
 - Contract/agency workers engaged in provision of services involving access to children under 18 and vulnerable adults must have an up to date and

satisfactory disclosure. Managers involved in engaging such workers are responsible for ensuring appropriate risk assessments are undertaken and that such checks are in place.

- All posts that involve regular contact with children under the age of 18 and vulnerable adults will be subject to disclosure although the level will be determined by job content by the relevant Chief Officers, in consultation with service managers and Human Resources. In relation to schools, the Chief Officer will provide general whilst Head Teachers will determine level of disclosure required for all newly created posts.
 - There will be a new requirement for existing staff to advise the Council in writing of any convictions that occur whilst in the Council's employment (excluding traffic offences)
 - Other than newly qualified teachers, disclosures are not portable and will not be accepted from other organisations.
 - A criminal record will not necessarily bar an individual from being appointed or continuing employment with the Council. The relevance of the criminal records will be assessed in consultation with HR against the tasks of the post and nature/timing/level/ circumstances of the conviction .
 - Received disclosures will be confidentially managed, handled and stored/destroyed in accordance with relevant internal policies.
 - Recruitment information e.g. application pack, standard letters, will make it clear if/what level of disclosure is attached to a certain advertised post and the implications of withholding or falsifying information
 - Job offers will be subject to receipt of an up to date and satisfactory disclosure i.e. a disclosure that matches information provided by candidate throughout Disclosure information which contradicts that provided throughout by the candidate will be discussed with them and opportunity for explanation will be provided.
 - Reasons will provided to a candidate where an offer of employment is withdrawn.
6. The costs of checks are currently borne by the Service Area and fees fixed for 2007/08 are :
- Standard CRB check £31.00
 - Enhanced CRB check £36.00
7. The requirement to now check all existing employees in designated jobs will have financial implications and could have, in certain circumstances, implications for their continued employment. A rolling programme for checking existing staff either every 3 or 5 years will need to be established. The rolling programme nature of the checks required will enable the costs to be spread and managed appropriately. Precise costs will vary and will be dependant on numbers of staff affected and the level and frequency of the checks.

Investment for Reform/Benefit to service user

8. This Policy and Procedure is designed to help prevent unsuitable people from having access to jobs and positions that provide opportunities to harm children under aged 18 and vulnerable adults. This will lead to safer and better informed recruitment decisions which will thus improve the safety of children and vulnerable adults who receive a service from the Council.

Council Policies Supported

9. This report supports the Corporate Plan.

Advice

10. This report has been prepared in consultation with relevant Corporate Directors and reflects their advice. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the following advice.

Legal Implications

11. The Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales) Order 2007 provides that “Appointment and Dismissal of Staff” shall not be an Executive function. This is a narrowing of the provisions of the 2001 Order as amended. On the face of it this impacts on the terms of reference of this Committee in that it is arguable that these should now only cover the responsibilities within the quotation marks. The issue will be clarified with WAG and a report put to a forthcoming Constitution Committee with advice. In the interim the recommendations in this report may be considered by this Committee.

Financial Implications

12. The costs associated with undertaking these checks will vary depending upon the number of staff affected and the level and frequency of the checks. This will be based on a rolling programme with checks undertaken every 3 or 5 years. In 2005/06 a budget allocation of £50,000 was provided for this purpose and allocated to the service areas affected. Any additional costs will have to be met by service areas from within their existing resources.

Human Resource Implications

13. The proposed Policy and Procedure will ensure that appropriate decisions are made in relation to new appointments and existing employees who work with under 18's or vulnerable adults. This policy is based on best practice CRB guidelines and outlines key procedures to be followed in relation to jobs designated as requiring some level of check. A clear process with Human Resources advice will ensue an appropriate decision being implemented although recruitment Managers will have a responsibility to undertake relevant risk assessments. It is important to establish that inclusion of criminal offences in a received CRB disclosure does not automatically bar someone from being appointed to a post or continuing in the Council's employment if they are an existing employee. This policy and procedure provides guidance on how such disclosures should be dealt with in a fair and consistent way.

Trade Union Comments

14. The Trade Unions supported the Council's approach to try and facilitate safer and more informed recruitment decisions in relation to jobs which have regular access to children under the age of 18 and vulnerable adults. They recognised the need to extend checks to existing employees and acknowledged the clear process to manage appropriately any criminal records disclosed by this process. Further guidance was required in relation to assist in the increasing number of non-EU applicants for relevant posts.

15. A number of issues were raised specifically as to how this policy would apply to schools including issue of contractors/sub contractors working in schools and need to clarify respective responsibilities between School Governing Bodies and the Council. The need to ensure proper confidentiality in the process was reiterated. Whilst they recognised the need to have a policy for employees, they highlighted a requirement for a clear approach to checking of non-employees e.g. volunteers, Elected Members, etc to be also established. They also raised a number of resource implications in relating to the proposed rolling programme ie for Human Resources(for processing the checks) and Service Areas (costs).

RECOMMENDATIONS

16. It is recommended that the following be agreed:-
 - (i) The proposed Policy and Procedure for managing disclosure in relation to employment, as attached as Appendix A, be approved.
 - (ii) Subject to (i) above, arrangements are put in place to achieve a rolling programme of 3 or 5 yearly disclosure checks for existing Council employees in identified jobs.
 - (iii) Prospective applicants and existing employees in relevant job categories are made fully aware of details, arrangements, implications and requirements of this policy.

BYRON DAVIES
CHIEF EXECUTIVE

The following appendices are attached:

Appendix A: Criminal Records Bureau: Policy and Procedure for Managing Disclosure in Relation to Employment.



CARDIFF COUNCIL

POLICY AND PROCEDURE FOR MANAGING CRIMINAL RECORDS BUREAU DISCLOSURES

Appendix A

PART 1 : POLICY STATEMENT

- 1.1 Cardiff Council recognises the importance of pre-employment Disclosure Checks on newly appointed staff in accordance with the following legislation:
 - Criminal Justice and Court Services Act (*Part 2*) (2000)
 - Protection of Children Act (1999)
 - Police Act (*Part V*) (1997)
 - Rehabilitation of Offenders Act (1974)
 - Rehabilitation of Offenders (*Exceptions Order*) (1975)
 - Data Protection Act (1998)
 - Human Rights Act (1998)
 - Care Standards Act (2000)
- 1.2 The Council uses the disclosure service provided by the Criminal Records Bureau.
- 1.3 Disclosures are an important tool in ensuring that the Council makes safer recruitment decisions and to ensure the safety of people who receive services from the Council.
- 1.4 This policy and procedure comply with the Criminal Records Bureau's (CRB's) *Code of Practice*.
- 1.5 All posts that involve regular contact with children under the age of 18 and vulnerable adults will be subject to disclosure. The level of disclosure will be determined by the content of the job and the need for disclosure will be considered and reviewed as part of the recruitment process.
- 1.6 The suitability for employment of a person with a criminal record will vary, depending on the nature of the job and the details and circumstances of any convictions. Staff responsible for recruitment decisions will identify what risks might be involved.
- 1.7 For the purpose of this policy and procedure, any reference to the term "*criminal conviction*" is generic and applies to cautions, reprimands, binding overs or warnings in the UK or any other country. It also includes matters that are pending and have not been disposed of at the time of disclosure.

Appendix A

PART 2 : PURPOSE

2.1 This policy and procedure will ensure that the Council:

- Identifies and reviews, on a regular basis, posts that involve regular contact with children under the age of 18 and vulnerable adults
- Trains Service Area managers in the application of this policy and procedure
- Undertakes disclosures on both existing and prospective staff
- Ensures that agency / contract workers have an appropriate and up to date level of disclosure
- Complies with relevant legislation
- Makes safe and informed decisions
- Repeats disclosures on existing staff in regulated premises on a three year, rolling programme basis and on existing staff in other posts on a five year, rolling programme basis
- Deals appropriately with information provided in respect of convictions
- Manages, stores and disposes of disclosure information accordingly

PART 3 : SCOPE

3.1 This policy and procedure applies to :

- existing staff
- all new appointments
- staff promoted where the level of disclosure required for the new post is higher than their existing post
- positions that may provide privileged access to children or vulnerable adults even if contact is not a regular part of the position

There is an expectation that this policy and procedure will be adopted in its entirety by all School Governing Bodies as it is essential to the safeguarding of children and young people in schools,

3.2 Contractors /Agency Workers

3.2.1 The Council expects all contractors / agency workers engaged in the provision of services which involve access to children under the age of 18 and / or vulnerable adults to have an up to date and satisfactory disclosure.

3.2.2 All agencies and contractors used by the Council should be advised of their responsibility to ensure that disclosures have been obtained for work involving access to children under the age of 18 and / or vulnerable adults.

3.2.3 It is the responsibility of the Manager engaging agency workers / contractors to ensure that an appropriate risk assessment is undertaken and that all necessary checks have been carried out to ensure the safety of children under the age of 18 and / or vulnerable adults.

3.2.4 No agency or contract workers will be allowed to commence work without this process having been followed.

Appendix A

PART 4 :KEY PRINCIPLES

- 4.1 The aim of disclosure is to help prevent unsuitable people from having access to jobs and positions that provide opportunities to harm children under the age of 18 and / or vulnerable adults and to assist the Council in making safer recruitment decisions.
- 4.2 It is not always possible to issue precise guidance on eligibility. Therefore Chief Officers (or their nominated representative), in consultation with Managers and Human Resources, must consider each post individually when determining the need for disclosure and the level required by the post.
- 4.3 As part of the appointment process, applicants seeking disclosure will be asked to complete a pre-employment declaration indicating whether they are currently the subject of any investigation or proceedings by any body having regulatory functions in relation to health / social care professionals, including such regulatory bodies in another country. They will also be asked whether they are currently the subject of any police investigation inside or outside the United Kingdom.
- 4.4 Existing staff are required to advise the Council, in writing, of any criminal convictions that occur whilst they are employed by the Council. This does not include minor traffic offences which do not result in disqualification.
- 4.5 Disclosures will not be accepted from any other organisation (with the exception of those undertaken on newly qualified teachers by the General Teaching Council for Wales which are less than 12 months old at the time of appointment to the Council).
- 4.6 CRB disclosures are not a substitute for any of the full range of pre-employment checks, including checking previous employment history and taking up references. Disclosures are complementary to other pre-employment checks and will only be sought after a candidate has been offered a post with the Council.
- 4.7 People who have been convicted will be treated fairly and given every opportunity to establish their suitability for posts with the Council. A criminal record will not necessarily bar an individual from obtaining a post and the Council will not discriminate unfairly against an individual on the basis of convictions or other details revealed on the disclosure.
- 4.8 Appointing Officers will discuss any matters revealed in a disclosure with the person seeking appointment before any decision is made to withdraw an offer of appointment, following consultation with Human Resources.
- 4.9 The Council will ensure that disclosures and the information that they contain are only made available to those who need to have access to them during the course of their duties.
- 4.10 This policy and procedure will be implemented in conjunction with the **Policy Statement on the Recruitment of Ex-Offenders** (Appendix A) (Ref .

Appendix A

- 4.11 Disclosures will be securely stored in Human Resources at County Hall and will be destroyed within the required time limits in accordance with the ***Policy Statement on the Handling of Disclosure Information*** (Appendix B) (Ref .)
- 4.12 Any search for alternative employment, whether as an interim or longer term arrangement, should be considered in conjunction with the ***Guidance on Assessing the Relevance of Criminal Records*** in part X of the procedure accompanying this policy.
- 4.13 This policy and procedure will be reviewed in the light of legislative changes and operational experience.



**PROCEDURE FOR
OBTAINING AND MANAGING CRIMINAL
RECORDS BUREAU DISCLOSURES FOR
NEW APPOINTMENTS AND EXISTING
STAFF**

Appendix A

SUPPORTING DOCUMENTATION ON CIS

Document Title	CIS Reference	Schools CIS Reference
Policy Statement on the Recruitment of Ex-Offenders	1.CM.097	1.CM.097
Policy Statement on the Handling of Disclosure Information	1.CM.096	1.CM.096
Rehabilitation of Offenders Act 1974	5.HR.006	5.HR.006
Suspension Policy and Procedure	1.CM.039	1.CM.039
Disciplinary Investigations Policy and Procedure	1.CM.037	1.CM.037
Disciplinary Policy and Procedure		
Disciplinary Appeals Policy and Procedure	1.CM.036	1.CM.036

Appendix A

PART 1 : DETERMINING THE LEVEL OF DISCLOSURE

1.1 Chief Officers (or their nominated representatives) will assess all posts within their Service Areas and, in conjunction with Human Resources, make a decision on whether a disclosure will be required and if so, at what level. In the case of Schools, the Chief Schools and Lifelong Learning Officer will provide general guidance; however Headteachers will determine the level of disclosure required for all newly created posts.

1.2 TYPES OF DISCLOSURE

Standard Disclosure

1.2.1 These are primarily for posts that involve working with children under the age of 18 and / or vulnerable adults. The standard disclosure contains details of all convictions held on the Police National Computer, including current and 'spent' convictions, together with details of any cautions, reprimands or final warnings

1.2.2 If a position involves working with children under the age of 18 and / or vulnerable adults, the disclosure will indicate whether information is held on government department lists of those who are barred from working with such groups of people.

1.2.3 This disclosure provides the same information as enhanced disclosure **except relevant non conviction information.**

1.2.4 Enhanced Disclosure

1.2.5 These are for posts that involve a far greater degree of contact with children under the age of 18 and / or vulnerable adults. In general the type of work will involve regularly caring for, supervising, training or being in sole charge of such people.

1.2.6 This disclosure provides additional information held on local police records. Where these records contain additional information that may be relevant to the post the applicant is being considered for, the Police may release information for inclusion in an enhanced disclosure (this is normally referred to as "soft intelligence"). Exceptionally, and in a very small number of circumstances (typically to protect the integrity of current police investigations), additional information may be sent under separate cover to the Countersignatory and must not be revealed to the applicant.

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PART 2 : ASSESSING THE RELEVANCE OF CRIMINAL RECORDS

- 2.1 For posts that are “regulated positions” under the terms of the Protection of Children Act, 1999 (as amended by the Criminal Justice and Court Services Act 2000), checks will be carried out and if an individual is included on List 99 they are legally barred from working with children.
- 2.2 It is a criminal offence for such a person to knowingly apply for, offer to do, accept or do such work. It is also an offence to employ such a person in a childcare position.
- 2.3 The suitability for employment of an individual with a criminal record will vary according to the job and the details and circumstances of any convictions.
- 2.4 To ensure that fair decisions are made, the criminal record will be assessed in relation to the tasks required of the post and the circumstances in which they will be carried out. **This assessment should be discussed with Human Resources prior to any decision on the relevance of the criminal record being taken.**
- 2.5 The following are considerations that will apply in making the decision on offering or continuing with employment:
 - Does the post involve one to one contact with children under the age of 18 and / or other vulnerable groups such as employees, clients, customers?
 - What level of supervision will the post holder receive?
 - Does the post involve direct contact with the public?
 - Does the post involve direct responsibility for finance or items of value?
 - Will the nature of the post present any opportunity for the post holder to re-offend in the work place?
 - The seriousness of the offence(s) and relevance to the safety of others
 - The length of time since the offence(s) occurred
 - Any relevant information supplied about the circumstances that led to the offence being committed e.g. the influence of financial or domestic difficulties
 - Whether the offence was a one-off or part of a history of offending
 - Whether circumstances have changed since the offence was committed, making re-offending less likely
- 2.6 This list is not exhaustive and other matters may be taken in to consideration.

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PART 3 : NEW APPOINTMENTS

3.1 These procedures apply to existing staff who apply for a new post within the Council which requires disclosure and to all external applicants for posts within the Council.

3.2 Advertisement of Posts

3.2.1 Where a post requires the appointed candidate to obtain a disclosure, the advertisement will clearly state this and the level of disclosure required. A statement on the application form and guidance notes to candidates will also reinforce this requirement.

3.3 Application Packs

3.3.1 Standard or enhanced disclosures can only be sought in respect of posts that are exempted from the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders (Exceptions Order) Act 1975.

3.3.2 Application packs for posts requiring disclosure will include the following :

- copy of the ***“Policy Statement on the Recruitment of Ex-Offenders” (Appendix A) (Ref***
- covering letter indicating the level of disclosure required
- statement that a criminal record will not automatically debar an applicant from appointment
- Rehabilitation of Offenders form (***Appendix X***)
- Copy of the CRB's ***“Code of Practice”***

3.3.3 Applicants will be encouraged to disclose information about all previous convictions / offences including the sentences imposed whether these are spent or unspent.

3.3.4 They will also be made aware that if they have been charged with an offence in the period between applying for a post and being selected for interview, they must disclose this information in writing to the Council immediately.

3.3.5 Applicants will also be made aware that withholding or falsifying information will lead to them not being considered for employment or any conditional offer of appointment being withdrawn.

3.4 Short Listing

3.4.1 Criminal records, whether spent or unspent, will not normally be considered when shortlisting is undertaken. However, if a candidate is short listed and has declared that they have a conviction, this will need to be addressed with the candidate at interview by the Chairperson of the interview panel.

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3.5 Selection Interviews

- 3.5.1 The invitation to interview letter will confirm that disclosure will be required and the level of disclosure.
- 3.5.2 If a criminal record is declared prior to or during an interview then the selection panel will discuss this at the end of the interview in an open and measured way. Such discussion must be recorded as part of the interview notes as it forms part of the decision making process.
- 3.5.3 Guidance will be available to selection panels on the “**Rehabilitation of Offenders Act**” and **Exceptions Order (Appendix C)** and on assessing the relevance of criminal records (section X of this procedure).
- 3.5.4 If the Chairperson of the selection panel specifically considers that the conviction renders the person unsuitable for appointment, they will be required to record their reasons and consult with Human Resources.

3.6 Successful Candidates

- 3.6.1 The successful candidate will be sent an offer letter conditional on the receipt of an up to date and satisfactory disclosure.
- 3.6.2 The candidate will be provided with :
- Disclosure Application Form and Guidance Notes for Completion
 - Details of relevant documentation required and where to present it

3.7 Refusal to Undertake a Disclosure

- 3.7.1 If a candidate refuses to apply for a disclosure then the offer of appointment will be withdrawn immediately and this will be confirmed in writing.

3.8 Newly Qualified Teachers

- 3.8.1 The Council /Governing Body /Head Teacher, will accept the CRB disclosure undertaken by the General Teaching Council for Wales (GTCW) for newly qualified teachers coming into Wales provided that the disclosure is less than 12 months old at the time of appointment to a post with the Council.

3.9 Satisfactory Disclosure

- 3.9.1 A satisfactory disclosure is one that matches the information provided by the candidate at any stage of the recruitment and selection procedure and upon which the decision to appoint has already been made.
- 3.9.2 The successful candidate can be confirmed in post provided that all other conditions of employment have been satisfied.

Appendix A

PART 4 : DEALING WITH NON DISCLOSURE OF CRIMINAL CONVICTIONS IN THE RECRUITMENT PROCESS

- 4.1 There are various stages within the recruitment and selection process where candidates are informed of the requirement for, and provided with the opportunity of, disclosing information relating to any criminal convictions that they have, whether “spent” or “unspent”, including :
- Application form and supporting documentation
 - During the interview
 - Within the offer letter
 - Upon completion of the CRB disclosure form
- 4.2 If the information contained within a disclosure contradicts that provided by a candidate, this will be discussed with them. There may be valid reasons why the candidate was unaware that they had a criminal record, or it may be that the information contained in the disclosure is inaccurate or refers to someone else with the same name or similar details (e.g. date of birth).
- 4.3 In any event, candidates will be given the opportunity to explain the situation to the Chairperson of the appointing panel. The information provided will be discussed with Human Resources before a final decision is made.
- 4.4 Normally, the failure to declare a criminal record will disqualify the candidate from being appointed.
- 4.5 Following the discussion with the candidate, the **Record of Disclosure Decision Form** (Ref 4.C.155), must be completed and returned to Human Resources.
- 4.6 If an offer of employment is withdrawn then the candidate will be informed in writing of the reasons for the withdrawal.

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PART 5 : CHECKING OVERSEAS APPLICANTS

- 5.1 The CRB is currently not able to conduct overseas criminal record checks. Some countries, including most in the EU, have arrangements allowing their citizens to obtain “**Certificates of Good Conduct**” or extracts from the criminal record to show to prospective employers.
- 5.2 The level of information provided varies from country to country. The CRB has a “fax back” service which provides details about a particular country’s availability of criminal records information. Further details are available from Human Resources.
- 5.3 It is the responsibility of the appointed candidate to obtain a “**Certificate of Good Conduct**” and to provide this document to Human Resources.
- 5.4 The CRB advises employers seeking to make use of disclosure information to consider carefully before deciding whether to request a disclosure in respect of an applicant with a substantial record of overseas residence.
- 5.5 The Police National Computer contains a limited number of overseas convictions but this data is by no means comprehensive. Therefore, it may be of limited value to ask for a disclosure in respect of a person with very substantial gaps in their United Kingdom residence or of individuals with little or no previous residence in the United Kingdom.
- 5.6 However, if someone with a substantial record of overseas residence applies to work in the regulated childcare sector, then the **Protection of Children Act (POCA) List** must be checked, even though there may be little, if any, criminal record information revealed.
- 5.7 A substantial period of overseas residency should not preclude the Council from considering applicants with such backgrounds. Disclosure is only part of the overall recruitment process. In these situations, as for all other appointments, the Council will engage in a full range of pre-appointment checks.

Appendix A

PART 6 : EXISTING STAFF

6.1 Applying for Disclosure

- 6.1.1 Existing staff will be required to apply for disclosure every three years if their post requires it.
- 6.1.2 The process of requiring existing staff to obtain disclosure will be undertaken on a rolling programme basis, with those jobs requiring enhanced disclosures being undertaken first.
- 6.1.3 Human Resources will write to existing staff explaining what disclosure is, why it is required, the process involved and rights and responsibilities.

6.2 On Receipt of Disclosure

- 6.2.1 In cases where a criminal record is disclosed, or the disclosure indicates that the employee may be unsuitable to continue in their employment, the Chief Officer, in consultation with Human Resources, will make a preliminary assessment to determine whether the employee should be suspended from work or removed temporarily to another post whilst this is under investigation.
- 6.2.2 Staff should be aware that information disclosed from the CRB could affect their continuing employment with the Council.

6.3 Suspension from Duty

- 6.3.1 Where it is determined that the employee should be removed from their post pending the outcome of the investigation, and that the nature of the information provided prevents them from being transferred temporarily to an alternative post, they will be suspended from duty. Suspension will be carried out in accordance with the Council's ***Suspension Policy and Procedure (Ref 1.CM.039)***.

6.4 Inclusion on POCA, POVA or List 99

If the disclosure reveals that the employee is on the POCA List, POVA List, List 99 or the subject of a Disqualification Order, the Chief Officer, in consultation with Human Resources, shall decide whether the employee should be suspended from their duties or transferred temporarily to another post.

- 6.4.1 If the employee is suspended from duty, this will be carried out in accordance with Council's ***Suspension Policy and Procedure (Ref 1.CM.039)*** and consideration given whether the matter should be referred to the Police in line with the Council's ***Procedure for Dealing with Police Involvement in Staff Disciplinary Cases (Ref 1.CM.038)***.
- 6.4.2 The case should also be referred to the Child Protection Unit, in order that Child Protection Procedures may be instigated.

6.5 Investigations

- 6.5.1 All investigations will be conducted in accordance with the Council's ***Disciplinary Investigations Policy and Procedure (Ref 1.CM.037)***.

Appendix A

6.6 Appeals

- 6.6.1 Appeals against any disciplinary action taken will be conducted in accordance with the Council's ***Disciplinary Appeals Policy and Procedure*** (Ref 1.CM.036).

Appendix A

DEFINITIONS

Exceptions Order

The Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 sets out those occupations and positions exempt from the provisions of the ROA. These are generally positions of trust, where there is a valid need to see a person's full criminal history in order to assess their suitability for a position. This information is intended as general guidance only. It must not be regarded as a definitive interpretation of the Act. Anyone requesting further guidance should seek legal advice.

POCA List

Protection of Children Act List. This is a list, managed by the Department for Education and Skills (DfES) on behalf of the Department of Health (DH), of people barred from working with children.

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Rehabilitation Period

A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention the conviction when applying for a job or obtaining insurance, or when involved in criminal or civil proceedings.

Unspent Conviction

A conviction is described as unspent if the rehabilitation period associated with it has not yet lapsed. A rehabilitation period is a set length of time from the date of conviction, according to the sentence imposed.

List 99

List 99 is a confidential document, maintained by the Department for Education and Skills, which contains the details of people whose employment in the education sector has been barred or restricted by the Secretary of State. Teachers cannot be registered with the General Teaching Council if they are barred from teaching because they are on List 99.

Appendix A

REHABILITATION OF OFFENDERS

TYPE OF SENTENCE IMPOSED on adults ages 18 yrs and over at the time	NO. OF YRS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
Imprisonment or detention in a young offender institution (previously known as youth custody) between 6 months and 2 ½ years	10 years
Imprisonment or detention in a young offender institution (previously known as youth custody) of 6 months or less	7 years
A fine or any other sentence for which a different rehabilitation period is not provided (eg. A compensation or community service order, or a probation order received on or after 3 February 1995)	5 years
An absolute discharge	6 months

NOTES: Except an absolute discharge, all of the above periods are halved if the person convicted was **under 18** at the time. If you were under 18 and received a probation order on or after 3 February 1995, the rehabilitation period is 2 ½ yrs or until the order expires, whichever is longer.

In the past, there were sentences that could be imposed **only on young people**. The rehabilitation periods for sentences like this are as follows.

TYPE OF SENTENCE IMPOSED on young people aged under 18 years at the time	NO. OF YRS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
Borstal	7 years
Detention Centre	3 years
An order for custody in a Remand Home or an Approved School order	1 year after the order expires

Some sentences like this carry **variable rehabilitation periods**

TYPE OF SENTENCE IMPOSED on young people aged under 18 years at the time	NO. OF YRS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
A probation order received before 3 February 1995, a conditional discharge bind over	1 year, or until the order expires (whichever is longer)
A care order or supervision order	1 year, or until the order expires (whichever is longer)
An attendance Centre order	1 year after the order expires
A Hospital order (with or without a restriction order)	5 years, or 2 ½ yrs after the order expires (whichever is longer)

In Scotland, supervision requirements made by Children's Hearings have the same rehabilitation periods as care or supervision orders.