



RECRUITMENT OF EX-OFFENDERS

Policy and Procedure

1. Introduction

South Tyneside Council promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from all sections of the community. Candidates are selected for interview solely on the basis of their skills, qualifications, experience and ability to do the job.

This Policy applies to all school-based employees where the Governing Board of individual schools have adopted the Policy.

South Tyneside Council complies fully with the Disclosure and Barring Service Code of Practice and undertakes to treat all applicants for positions fairly, not discriminating unfairly against any subject of a disclosure on the basis of a conviction or other information revealed.

2. The Rehabilitation of Offenders Act (1974) and 'filtered' convictions

The Rehabilitation of Offenders Act (ROA) (1974) was introduced to help restore the reputation of a person who has been convicted of an offence but has since stayed on the right side of the law. It also makes it illegal for an organisation to discriminate against an ex-offender on the grounds of a 'filtered' conviction.

A criminal record arises from a conviction. Under the ROA, once a conviction is regarded as 'filtered' the rehabilitated person does not have to disclose the conviction unless they are applying for a post, which is 'exempt' under the act. Exempt posts include those involving access to children, young people, the elderly, disabled people, alcohol and drug misusers or the chronically sick. In such cases, organisations are legally entitled to ask applicants for details of all convictions, irrespective of whether they are filtered or not.

The length of time required for an ex-offender to become 'rehabilitated' depends on the sentence received and the age when convicted, not the offence committed. Once a conviction becomes filtered, it remains this way, even if a person is convicted of other offences later. More guidance and information is available from:

www.gov.uk/guidance/rehabilitation-periods

The rehabilitation period (the length of time before a caution or conviction becomes filtered) is determined by the type of disposal administered or the length of the sentence imposed. Rehabilitation periods that run beyond the end of a sentence are made up of the total sentence length plus an additional period that runs from the end of the sentence, which is called the 'buffer period'. Other rehabilitation periods start from the date of conviction or the date the penalty was imposed.

The 'buffer periods' are halved for those who are under 18 at date of conviction (save for custodial sentences of six months or less where the 'buffer period' is 18 months).

The rehabilitation periods for sentences with additional “buffer periods” which run from the end date of the sentence are shown in the table below:

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the <u>end date</u> of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the <u>end date</u> of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never filtered	Never filtered
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order**	1 year	6 months

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

**In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The rehabilitation period is halved if you were under 18 when convicted (except for sentences of up to 6 months where it's the sentence period plus 18 months).

Cautions - Simple cautions become filtered immediately. Conditional cautions become filtered after 3 months.

3. Protection of Children Act (1999) and the Criminal Justice and Court Services Act (2000)

Under the Protection of Children Act (1999) and the Criminal Justice and Court Services Act (2000) it is an offence for any organisation to offer employment that involves regular contact with young people under the age of 18 to anyone who has been convicted of certain specified offences, or included on lists of people considered unsuitable for such work held by the Department for Education and Employment and the Department of Health. Specified offences include murder or manslaughter, rape, grievous bodily harm and a number of sexual offences involving children. Managers therefore **must not** confirm an

offer of employment and employment **must not** commence until necessary clearance from the Disclosure and Barring Service (DBS) has been obtained.

4. Disclosure and Barring Service

The Disclosure and Barring Service allows organisations to obtain criminal record information about prospective employees and volunteers from a centralised source. The Council complies fully with the DBS Code of Practice. For further information, please refer to the managers guidelines on the [Disclosure and Barring Checks Policy](#).

5. Considering the relevance of criminal records

Risk assessment should be based on:

- An examination of circumstances leading up to the offence
- Repeat offences
- The length of time since the offence took place
- The nature of the job, workplace environment, exposure to money, property and vulnerable people
- The extent of job supervision
- The change in individuals circumstances since the offending behaviour and an individuals attempt to 'go straight'

When a candidate with a criminal record applies for a post, which is exempt under the ROA (1974), an objective assessment should be made as to their suitability for the post. The Council undertakes to discuss any matter revealed in a disclosure with the applicant prior to withdrawing a conditional offer of employment, ensuring a decision is made as soon as possible. Recruiting managers should:

- Focus on the person's abilities, experience and qualifications
- Consider the nature of the conviction and its relevance to the job in question
- Identify the risks to the Council, the public, customers, clients and employees
- Recognise that having a criminal record does not always mean a lack of skills, qualifications and experience
- Note that high-quality training, leading to qualifications, is available in prisons
- Contact HR Services if further information, advice or guidance is required.

6. Rechecks

Rechecks of employees who are in posts which require a DBS Disclosure should occur every three years. In between this time employees are responsible for informing their manager if, during the course of their employment they obtain a new criminal conviction. Depending on the nature of the conviction, the Council's [Disciplinary Policy](#) may be instigated.

7. Equality and Diversity Statement

South Tyneside Council is committed to promoting equality and valuing diversity. An equality check for this policy was carried out in 2021 and no equality check implications were identified.

Policy agreed by:	Policy Review Group
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