

Criminal Convictions Policy



1 Introduction

The Criminal Convictions Policy applies to both job applicants and existing employees and details our approach to employing people who have a criminal record. Casual workers are not covered by this policy however guidance related to this policy is contained in the casual worker contract. If any issues were to arise, they would be dealt with in a fair manner in line with the ACAS code of practice

As an inclusive employer, Chelmsford City Council ensures all applicants and employees are treated equally. The importance of equality of opportunity for all is recognised, as are the benefits of having diversity of talent, skills, and potential.

When recruiting for roles, the Council welcomes applications from as wide a range of applicants as possible. We are committed to equality of opportunity for all applicants and aim to select those for employment based on their experience, knowledge and, where needed, qualifications and training.

The Council will not automatically refuse to employ someone just because they have a previous criminal conviction.

For existing employees who gain a criminal record, details of any criminal records will be reviewed, and if necessary, risk assessed against the role(s) that they are in to determine if any further action is required.

Failure to reveal information that is relevant to the role may lead to the immediate withdrawal of any offer of employment or disciplinary action for existing employees.

2 Rehabilitation of Offenders Act

Whether we can employ an individual who has a criminal record depends on the role, and whether it is covered by (non-exempt) or exempt from the Rehabilitation of Offenders Act (ROA) 1974 .

The differences between these are explained below

Non-exempt Roles

Non-exempt roles are roles that are covered by The Rehabilitation of Offenders Act. This is in place to protect the rights of those with convictions that are deemed to have been spent after a specified rehabilitation period.

Anyone applying for, or already in roles which are covered by the Rehabilitation of Offenders Act will not be treated unfairly on the presence of a conviction which is deemed as spent under the act.

Exempt Roles

Exempt roles are those that are listed in the Rehabilitation of Offenders Act Exceptions order. These are not covered by the Rehabilitation of Offenders Act and usually involve regulated activity (i.e. working with children, vulnerable adults) or are roles within a specific profession, these are detailed in the Rehabilitation of Offenders Act (Exemptions Order).

Anyone applying for, or already in roles which are not covered by the Rehabilitation of Offenders Act can have any convictions taken into consideration when assessing their suitability to start or remain in the role.

When the caution or conviction is motoring related, it could also be considered under the disciplinary and or capability procedure if driving is a requirement of the role.

3 Obtaining Criminal Record Information

There are several different methods that The Council can use to obtain information on an individual's criminal record, as detailed below. This would depend on if the role were exempt or non-exempt (as detailed above) and if the individual were an applicant or existing employee.

Recruitment Criminal Convictions Form

As part of the job application process, applicants are asked to declare information on criminal convictions depending on if the role is non-exempt or exempt from the Rehabilitation of Offenders Act (ROA) 1974, as described above.

For roles that are **non-exempt** from the ROA act, applicants are asked to declare only unspent criminal convictions.

For roles that are **exempt** from the ROA act, applicants are asked to declare all convictions, cautions, reprimands, and final warnings. This includes spent convictions.

Applicants must also declare details of any pending criminal prosecutions or police investigations. If the role requires having and maintaining professional membership or fitness to practice, determined by a professional body, they will also be asked to declare any investigations and/or formal action by a regulatory or licencing body.

Existing employees can also declare details of any pending criminal prosecutions or police investigations through the recruitment criminal convictions form when applying for an internal role, however the expectation is that this would be done at the earliest opportunity as explained in the 'declaration during employment' method as described below.

Guidance on declaring criminal record information is provided to applicants through links on the job application form. These can also be viewed below for reference.

Disclosure and Barring Service (DBS) Checks

If a role is exempt from the Rehabilitation of Offenders Act (ROA), a Standard or Enhanced DBS check will be required. For job applicants (including internal applicants), this will be requested prior to starting in the role during pre-employment vetting.

For existing employees who have already undertaken a DBS check, a renewal check will be required every 3 years. There may also be circumstances in which the duties of an existing role changes and, as a result, requires a DBS check.

There are other roles in the Council which are non-exempt from the ROA Act that require a Basic DBS check due to access to the DWP Platform (Searchlight), Capita (Academy) or Revenues and Benefits folders / group trays within Civica.

Guidance on DBS checking is given in recruitment job packs. Further information can also be found in the Council's Disclosure and Barring Service (DBS) Policy.

Overseas Criminal Record Checks

For roles which require a DBS check, an Overseas Check may also be required if the applicant/employee has spent a significant amount of time outside the United Kingdom in the 5 years prior to the date of the check request.

Information derived from these checks will vary from country to country. In some circumstances, where a check is not available for a certain county, a global check will be requested.

Further information on Overseas checks is also detailed in the Council's Disclosure and Barring Service (DBS) Policy.

Declaration during employment

As per the Council Code of Conduct for Employees, employees who are convicted or cautioned for any offence during their employment with the Council (this includes outside of working hours) are required to declare this information at the earliest opportunity.

Employees can declare any criminal record information to either a Senior HR Business Partner, the HR Services Manager or their service manager.

If information becomes known that suggests that an individual has not disclosed relevant information regarding criminal record information, this may lead to further investigation and if appropriate, disciplinary action.

4 Risk Assessment

The presence of a criminal record will not necessarily exclude an individual from employment with Chelmsford City Council nor necessitate disciplinary action for an existing employee. Any criminal record will be assessed by reference to the circumstances and nature of the offences and how these relate to the position they have applied for/are employed in.

Any criminal record information revealed from any of the sources, as mentioned in section 2 of this policy above, will be subject to a risk assessment undertaken by a Senior HR Business Partner. There are 2 parts of the risk assessment (Appendix A) that can be completed to determine an outcome, as explained below.

Part 1 – This is where an assessment will be made by the Senior HR Business Partner alongside the recruiting manager (or line manager, if for an existing employee). This will support assessing any risk to the Council against the specifics of the role.

At this point, it may be determined that enough information has been provided to come to an outcome of the risk assessment, which could include:

- No further action, proceed with recruitment to role/employment.
- Withdrawing an offer of employment
- Formal action (e.g. in line with the Council's Disciplinary policy)

It may also be decided that a discussion with the applicant or employee is necessary before a decision can be reached. If this is the case part 2 will be completed.

Part 2 – It may be necessary to establish further details of the criminal record with input from the applicant/employee. If this is the case, they will be invited to meet with the Senior HR Business Partner and recruiting/line manager to support the completion of the risk assessment and determine an outcome.

5 Further Information

CCC Criminal convictions declaration guidance for job applicants (non-exempt roles)	www.chelmsford.gov.uk/convictions-guidance-non-exempt-role
CCC Criminal convictions declaration guidance for job applicants (exempt roles)	www.chelmsford.gov.uk/convictions-guidance-exempt-role
Guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975	https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974
Unlock – An organisation that provides information and advice for individuals with a criminal record.	https://www.unlock.org.uk/
Narco – An organisation that provides practical help and support through education, housing, justice and health and wellbeing services. This includes advice on criminal record related issues.	https://www.nacro.org.uk/

Appendix A Disclosure of criminal records Risk Assessment

To be used to assess the suitability of the applicant for the role they have applied for. This form should be completed by the Senior HR Business Partner, where criminal convictions are revealed. This will then be reviewed, and a decision made in conjunction with the Service Manager, as appropriate. Please note, that the information obtained from this risk assessment process, will form the main basis to decide the following:

- a) If an existing employee, can continue to work in the role.
- b) If you can proceed to a formal offer of employment for an applicant (subject to completion of other checks as required)

Part 1 – For completion by the Senior HR Business Partner with the line or recruiting manager

Employee / Applicant Name:

Job Title / Position applied for:

Service / Department / Location:

Disclosure details

Source of conviction information

(Tick all that apply)

Criminal Conviction Form

DBS Check

Self-declaration

Details of conviction(s) please detail the nature of and date(s) of the offence/s. Also include, if applicable, DBS number, country of conviction (If not UK)

If the source of conviction is DBS, has the individual already declared themselves or through a criminal conviction form?

Yes No Not applicable

For a DBS recheck, has the conviction(s) already been subject to this type of risk assessment?

Yes No Not applicable

If yes above, are the role or duties the same as when the last risk assessment was conducted?

Yes No Not applicable

Is the conviction either:

Yes No

Low risk due to nature and or relevance to the role (i.e. a driving conviction for a non-driving role) or **Deemed as spent** and the role is not exempt from the Rehabilitation of Offenders Act?

More information on if a conviction is spent can be found on <http://www.unlock.org.uk/>

Are there any mitigating circumstances? (E.g. age at time of the offence, how long ago the offence took place)

Yes No

If 'Yes,' please provide details:

Does the role involve regular contact with children / vulnerable adults?

Yes No

If 'Yes,' please provide details:

Can any measures be implemented to reduce/remove any risk? E.g. duties, type of supervision etc.

Yes No

If 'Yes,' please provide details:

Will the nature of the position present any realistic opportunities for re-offending?

Yes No

If 'Yes,' please provide details:

Do the matters disclosed form any pattern? E.g. is there a cycle or history, reoccurrence, repeat offences Yes No

If 'Yes,' please provide details:

Does the employee have access to financial systems or handle Council funds? Yes No

If 'Yes,' please provide details:

Outcome	
<input type="checkbox"/> No further action - continue with employment / recruitment	<input type="checkbox"/> Formal action required (employee)
<input type="checkbox"/> Withdraw Employment Offer (applicant)	<input type="checkbox"/> Discuss further with employee / applicant (proceed to part 2 of the form)

Please detail the reason for the outcome (along with any other persons who were consulted with). Please also provide an assessment of the relevance, nature, and seriousness of the offence in relation to the role.

Sign off

Name _____

Name _____

Signature _____

Signature _____

(HRBP)

(Manager)

Date: _____

Part 2 – For completion by the Senior HR Business Partner with the line or recruiting manager, through discussion with the employee / applicant (individual).

Date of risk assessment (part 2):

Does the individual regret the matter(s), show remorse or what is their attitude towards the matters now? Yes No

Please provide details:

Has the individual's circumstances changed since the conviction? (E.g. location, friends, partner, education) Yes No

Please provide details:

Can the individual demonstrate any mitigating circumstances? (E.g. peer pressure, financial need, or lack of judgement) Yes No

If 'Yes,' please provide details:

Can the individual demonstrate any efforts not to re-offend? I.e. Rehabilitation Course or other community activity Yes No

If 'Yes,' please provide details:

Are there any additional comments from the individual in support of their employment/application? Yes No

If 'Yes,' please provide details:

Outcome

No further action - continue with employment / recruitment

Withdraw Employment Offer (applicant)

Formal action required (employee)

Please detail the reason for the outcome (along with any other persons who were consulted with). Please also provide an assessment of the relevance, nature, and seriousness of the offence in relation to the role.

Sign off

Name _____

Name _____

Signature _____

Signature _____

(HRBP)

(Manager)

Date: _____