

Disclosure & Barring Service (DBS)

Policy on the Rehabilitation of
Offenders and on
Self Disclosure



It's not

just
the
bricks

about

bricks



September 2013

CONTENTS

Introduction to Rehabilitation of Offenders Act 1974	3
Exceptions to the Act.....	3
Policy.....	3
Job Applicants	4
Protection of a Rehabilitated Person	4
Self Disclosure.....	4
Broadacres Employees.....	5
Appendix 1: Rehabilitation Periods	5
Useful Contacts	Error! Bookmark not defined.
Further Relevant Policies	Error! Bookmark not defined.

INTRODUCTION TO REHABILITATION OF OFFENDERS ACT 1974

The Rehabilitation of Offenders Act (ROA) 1974 ensures those people who have been convicted of a criminal offence in the past are not discriminated against when seeking appropriate employment. A person convicted of a criminal offence and who receives a sentence of no more than 2.5 years in prison, whether suspended or not, is protected by the Act if they are not convicted again during a specified period referred to as the "Rehabilitation Period". Generally the more severe the penalty the longer the rehabilitation period. Please refer to Appendix 1: Rehabilitation Periods for further information.

Once a rehabilitation period has expired and no further offending has taken place, a conviction is considered to be "spent". Once a conviction has been spent, the convicted person does not have to reveal it or admit its existence. However there are exceptions.

EXCEPTIONS TO THE ACT

Broadacres has a duty of care to protect the well-being of the public and service users and in particular children and adults in its care who are considered to be especially vulnerable or at risk. The Exceptions Order overrules the employment rights an ex-offender would otherwise have in respect of spent convictions. Ex-offenders have to disclose information about spent, as well as unspent convictions, provided the employer states clearly on the application form or at the interview that the job applied for is exempted.

Exempted occupations fall into the following categories:

- Work that brings the person into contact with groups such as the infirm, elderly, mentally ill and young people under the age of 18.
- Professionals that have legal protection, for example, nurses, doctors, dentists, chemists, accountants.
- Posts concerned with the administration of justice, for example, police officers, lawyers, probation officers, and traffic wardens.
- Health service appointments.

Pre-employment checks and other safe recruitment practices are a requirement to ensure that people who may pose a threat to children and adults are not given positions of trust where they could exploit those entrusted to their care in most circumstances, including when applying for a job. In most circumstances, an employer cannot refuse to employ someone, or dismiss them, on the basis of a spent conviction.

POLICY

This Policy applies to job applicants and Broadacres employees.

JOB APPLICANTS

Broadacres is committed to the fair treatment of its staff, potential staff and users of its services regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.

As an organisation using the DBS disclosures to assess applicants' suitability for positions of trust, we comply fully with the DBS Code of Practice and undertake to treat all applicants for positions fairly.

A disclosure is only requested when it is legal to do so. The parameters are set out in the Broadacres' Disclosure & Barring Service (DBS) Policy. For those positions where a disclosure is required all job adverts, application forms, and recruitment material will contain a statement that a disclosure will be requested before an appointment is made.

Unless the nature of the position allows Broadacres to ask questions about a person's entire criminal record we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act (1974).

We ensure that all those in Broadacres who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We 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).

Having a criminal record will not bar you from working at Broadacres. This will depend on the nature of the position and the circumstances and background of your offences. We do not discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.

PROTECTION OF A REHABILITATED PERSON

The unauthorised disclosure of information about a spent conviction is illegal. Unauthorised disclosure is where an official with access to information about the person's criminal record discloses this information other than in the course of official duties. Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1,000, or both.

SELF DISCLOSURE

Where a disclosure is to form part of the recruitment process, we ask all applicants to voluntarily provide details of their criminal record at an early stage in the application process. We guarantee that this information will only be seen by those

who need to see it as part of the recruitment process. This information will be treated in strict confidence, will be securely stored and kept for only as long as is necessary. Failure to disclose convictions on an application form that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

BROADACRES EMPLOYEES

Following appointment, employees have a responsibility to report any relevant changes of circumstance to their employer. This is contained within Broadacres Code of Conduct. These include any criminal investigations, convictions or warnings they may become the subject of, or any other relevant information which a reasonable employer might consider to impact on the employment of that individual. Employees should always discuss with their line manager any difficulties or problems that may impact on their suitability to work with children and adults so that appropriate support can be provided or action taken. Failure to disclose convictions with the line manager may result in disciplinary action.

Any existing employee may be asked to undertake a DBS re-check in line with Broadacres policy. Refusing to comply with such a request may result in the employee being subject to formal disciplinary action for deliberate and/or unreasonable refusal to carry out lawful and safe instructions issued by an appropriate manager/supervisor, and/or to comply with a contractual agreement.

Confidentiality cannot be guaranteed where concerns arise about the welfare or safety of children or adults but any information sharing will be in accordance with relevant legislation and policy and only as is necessary in the circumstances.

APPENDIX 1: REHABILITATION PERIODS

Sentence	Rehabilitation Periods	
	AGE 18 OR OVER WHEN CONVICTED	UNDER 18 WHEN CONVICTED
Convictions resulting in terms in imprisonment in excess of 2 ½ years are never spent.		
Prison and Young Offender Institution – sentence of more than 6 months – 2 ½ years	10 years	5 years
Prison and Young Offender Institution – sentence 6 months or less	7 years	3 years
Fines, compensation order, probation (for people convicted on or after 3 February 1995), community service, combination order, action plan, curfew order, drug treatment, reparation order.	5 years	2 ½ years or until the order expires (whichever is the longer)
Borstal (abolished 1983)	7 years	7 years
Detention Centres (abolished 1988)	3 years	3 years
Absolute Discharge	6 months	6 months

Sentences for which the rehabilitation period varies

Probation order (for people convicted prior to 3 February 1995), conditional discharge, bind over, supervision order, care order	Until the order expires (minimum period of 1 year)
Attendance Centre Orders	Length of the order plus 1 year
Hospital Order	2 years after the order expires (with a minimum of 5 years from the date of conviction)

Suspended sentences

A suspended prison sentence is treated as one that has taken effect and the rehabilitation period is the same as for the full sentence.

Consecutive and concurrent sentences

An offender may be sentenced at one time for several offences. If the court decides that imprisonment is the right penalty for more than one offence, it can order that these run concurrently or consecutively. If a person is sentenced to two terms of imprisonment of six months each, to run concurrently, the person will be subject to a rehabilitation period of seven years. If they were ordered to run consecutively, they would be subject to a rehabilitation period of ten years.

Extension of rehabilitation periods

Rehabilitation periods may be extended if a person receives further convictions while an original rehabilitation period is still running. If the second conviction is for a summary offence, i.e. an offence that can be tried only in a Magistrates Court, then the first rehabilitation period is not affected and both rehabilitation periods will run their separate course. If, however, the second conviction is more serious and could be tried in a Crown Court, then neither conviction will become spent until the longer rehabilitation period has expired.

Where the original sentence resulted in a disqualification, probation or other penalty, the rehabilitation period will not be affected if the person is convicted of a further offence.

Updated September 2013