

Agenda No. 8

www.communityenterprisespl12.co.uk

4 Fore Street, Saltash PL12 6JL

Report to Saltash Town Council: August 2 2018

Our established enterprises continue to operate well, with good community responses to Hopper bus services, dementia groups, and our Hub and its markets. 18 Belle Vue Road is still progressing well after over two and a half years of our management.

We have recently taken on a part-time member of staff at the Hub to provide more continuity of cover in response to increased public contact.

AGM

Directors have decided that the AGM will be held this year on **Wednesday September 26 at 7pm**. Venue tbc. It will provide a great opportunity for councillors and public to hear a summary of our work in the last year, and to reflect on future prospects. Our Annual Accounts will be presented. Please put this in your diaries: we would be delighted to have your presence.

Very importantly, we hope to appoint four new Directors then. This represents a one third change in personnel, which is significant in terms of our future. We have some interest already but I am willing to speak informally to anyone who feels they would like to contribute to our governance as a company or to help run our Enterprises.

Scrapstore

Against the odds, we have actually found premises in Fore Street by doing a deal to take up the last 9 months of the unexpired lease of the vacant Field Leisure shop (the project would not be financially viable under a normal commercial tenancy). We therefore see this opportunity as a way of testing out the project before making a final decision on it. The location should be a great advantage in establishing the Enterprise and building a network of contributors and customers.

We are currently building the partnership team to run it and drawing down the s106 funding. There will have to be some financial adjustments due to the changed venue which will result in increased set-up costs and outgoings. I hope to be able to provide full details of the new Enterprise for the next meeting.

Health and Social Care

We continue to support the engagement of patients in NHS issues, and the two Patient Groups in the town are proving very resilient. Following a recent meeting of patients from both practices with the strategic manager of NHS Kernow (East) two projects will be coming soon to the town: one aimed at reducing waste through over-prescribing of medicines; and the other promoting community support alongside more conventional medical care, called “social prescribing”.

Whilst this is encouraging, we are still unable to get a response to requests for further engagement on the future of services that were withdrawn from St Barnabas Hospital more than 18 months ago.

Peter Thistlethwaite

Chair

July 28 2018

Agenda No. 16**SALTASH TOWN COUNCIL****DATA PROTECTION POLICY - EMPLOYEES**

You must read this policy because it gives important information about:

- the data protection principles with which Saltash Town Council must comply;
- what is meant by personal information (or data) and sensitive personal information (or data);
- how we gather, use and (ultimately) delete personal information and sensitive personal information in accordance with the data protection principles;
- where more detailed privacy information can be found, eg about the personal information we gather and use about you, how it is used, stored and transferred, for what purposes, the steps taken to keep that information secure and for how long it is kept;
- your rights and obligations in relation to data protection; and
- the consequences of failure to comply with this policy.

Once you have read and understood this policy, please confirm you that have done so by signing and returning the attached copy to [the data protection officer OR *[insert job title or department]*].

1 Introduction

- 1.1 Saltash Town Council obtains, keeps and uses personal information (also referred to as data) about job applicants and about current and former employees, temporary and agency workers, contractors, interns, volunteers and apprentices for a number specific lawful purposes, as set out in Saltash Town Council's *[data protection privacy notices relating to recruitment and employment]*.
- 1.2 This policy sets out how we comply with our data protection obligations and seek to protect personal information relating to our workforce. Its purpose is also to ensure that staff understand and comply with the rules governing the collection, use and deletion of personal information to which they may have access in the course of their work.
- 1.3 We are committed to complying with our data protection obligations, and to being concise, clear and transparent about how we obtain and use personal information relating to our workforce, and how (and when) we delete that information once it is no longer required.
- 1.4 [Saltash Town Council's data protection officer, *[insert name]*], is responsible for informing and advising Saltash Town Council and its staff on its data protection obligations, and for monitoring compliance with those obligations and with Saltash Town Council's policies. If you have any questions or comments about the content of this policy or if you need further information, you should contact the data protection

officer [set out details of how DPO can be contacted, eg email and telephone number].

OR

- 1.5 [Insert job title or department] is responsible for data protection compliance within Saltash Town Council. If you have any questions or comments about the content of this policy or if you need further information, you should contact [insert job title or department] [set out details of how individual/department can be contacted, eg email and telephone number].

2 Scope

- 2.1 This policy applies to the personal information of job applicants and current and former staff, including employees, temporary and agency workers, interns, volunteers and apprentices.
- 2.2 Staff should refer to Saltash Town Council's [data protection privacy notice] and, where appropriate, to its other relevant policies including in relation to [internet, email and communications, monitoring, social media, information security, data retention, bring your own device (BYOD) and criminal record information], which contain further information regarding the protection of personal information in those contexts.
- 2.3 [This policy has been drafted with the assistance of a representative group of employees to ensure that it is clear and easy to understand.]We will review and update this policy in accordance with our data protection obligations. It does not form part of any employee's contract of employment and we may amend, update or supplement it from time to time. We will circulate any new or modified policy to staff [before OR when] it is adopted.

3 Definitions

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| criminal records information | means personal information relating to criminal convictions and offences, allegations, proceedings, and related security measures; |
| data breach | means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal information; |
| data subject | means the individual to whom the personal information relates; |
| personal information | (sometimes known as personal data) means information relating to an individual who can be identified (directly or indirectly) from that information; |
| processing information | means obtaining, recording, organising, storing, amending, retrieving, disclosing and/or destroying information, or using or doing anything with it; |
| pseudonymised | means the process by which personal information is processed in such a way that it cannot be used to identify an individual without the use of additional information, which is kept separately and subject to technical and organisational measures to ensure that the |

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| | personal information cannot be attributed to an identifiable individual; |
| sensitive personal information | (sometimes known as 'special categories of personal data' or 'sensitive personal data') means personal information about an individual's race, ethnic origin, political opinions, religious or philosophical beliefs, trade union membership (or non-membership), genetics information, biometric information (where used to identify an individual) and information concerning an individual's health, sex life or sexual orientation. |

4 Data protection principles

4.1 Saltash Town Council will comply with the following data protection principles when processing personal information:

- 4.1.1 we will process personal information lawfully, fairly and in a transparent manner;
- 4.1.2 we will collect personal information for specified, explicit and legitimate purposes only, and will not process it in a way that is incompatible with those legitimate purposes;
- 4.1.3 we will only process the personal information that is adequate, relevant and necessary for the relevant purposes;
- 4.1.4 we will keep accurate and up to date personal information, and take reasonable steps to ensure that inaccurate personal information are deleted or corrected without delay;
- 4.1.5 we will keep personal information[in a form which permits identification of data subjects] for no longer than is necessary for the purposes for which the information is processed; and
- 4.1.6 we will take appropriate technical and organisational measures to ensure that personal information are kept secure and protected against unauthorised or unlawful processing, and against accidental loss, destruction or damage.

5 Basis for processing personal information

5.1 In relation to any processing activity we will, before the processing starts for the first time, and then regularly while it continues:

- 5.1.1 review the purposes of the particular processing activity, and select the most appropriate lawful basis (or bases) for that processing, ie:
 - (a) that the data subject has consented to the processing;
 - (b) that the processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
 - (c) that the processing is necessary for compliance with a legal obligation to which Saltash Town Council is subject;

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- (d) that the processing is necessary for the protection of the vital interests of the data subject or another natural person; [or]
 - (e) [that the processing is necessary for the performance of a task carried out in the public interest or exercise of official authority; or]
 - (f) that the processing is necessary for the purposes of legitimate interests of Saltash Town Council or a third party, except where those interests are overridden by the interests of fundamental rights and freedoms of the data subject—see clause 5.2 below.
- 5.1.2 except where the processing is based on consent, satisfy ourselves that the processing is necessary for the purpose of the relevant lawful basis (ie that there is no other reasonable way to achieve that purpose);
- 5.1.3 document our decision as to which lawful basis applies, to help demonstrate our compliance with the data protection principles;
- 5.1.4 include information about both the purposes of the processing and the lawful basis for it in our relevant privacy notice(s);
- 5.1.5 where sensitive personal information is processed, also identify a lawful special condition for processing that information (see paragraph 6.2.2 below), and document it; and
- 5.1.6 where criminal offence information is processed, also identify a lawful condition for processing that information, and document it.
- 5.2 When determining whether Saltash Town Council's legitimate interests are the most appropriate basis for lawful processing, we will:
 - 5.2.1 conduct a legitimate interests assessment (LIA) and keep a record of it, to ensure that we can justify our decision;
 - 5.2.2 if the LIA identifies a significant privacy impact, consider whether we also need to conduct a data protection impact assessment (DPIA);
 - 5.2.3 keep the LIA under review, and repeat it if circumstances change; and
 - 5.2.4 include information about our legitimate interests in our relevant privacy notice(s).

6 Sensitive personal information

- 6.1 Sensitive personal information is sometimes referred to as 'special categories of personal data' or 'sensitive personal data'.
- 6.2 Saltash Town Council may from time to time need to process sensitive personal information. We will only process sensitive personal information if:
 - 6.2.1 we have a lawful basis for doing so as set out in paragraph 5.1.1 above, eg it is necessary for the performance of the employment contract, to comply with Saltash Town Council's legal obligations or for the purposes of Saltash Town Council's legitimate interests; and
 - 6.2.2 one of the special conditions for processing sensitive personal information applies, eg:

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- (a) the data subject has given explicit consent;
 - (b) the processing is necessary for the purposes of exercising the employment law rights or obligations of Saltash Town Council or the data subject;
 - (c) the processing is necessary to protect the data subject's vital interests, and the data subject is physically incapable of giving consent;
 - (d) processing relates to personal data which are manifestly made public by the data subject;
 - (e) the processing is necessary for the establishment, exercise or defence of legal claims; or
 - (f) the processing is necessary for reasons of substantial public interest.
- 6.3 Before processing any sensitive personal information, staff must notify [the data protection officer OR *[insert job title or department]*] of the proposed processing, in order that [the data protection officer OR *[insert job title or department]*] may assess whether the processing complies with the criteria noted above.
- 6.4 Sensitive personal information will not be processed until:
- 6.4.1 the assessment referred to in paragraph 6.3 has taken place; and
 - 6.4.2 the individual has been properly informed (by way of a privacy notice or otherwise) of the nature of the processing, the purposes for which it is being carried out and the legal basis for it.
- 6.5 [Saltash Town Council will not carry out automated decision-making (including profiling) based on any individual's sensitive personal information.]
- 6.6 Saltash Town Council's **data protection privacy notice** sets out the types of sensitive personal information that Saltash Town Council processes, what it is used for and the lawful basis for the processing.
- 6.7 In relation to sensitive personal information, Saltash Town Council will comply with the procedures set out in paragraphs 6.8 and 6.9 below to make sure that it complies with the data protection principles set out in paragraph 4 above.
- 6.8 **During the recruitment process:** the HR department, with guidance from [the data protection officer OR *[insert job title or department]*], will ensure that (except where the law permits otherwise):
- 6.8.1 during the short-listing, interview and decision-making stages, no questions are asked relating to sensitive personal information, eg race or ethnic origin, trade union membership or health;
 - 6.8.2 if sensitive personal information is received, eg the applicant provides it without being asked for it within his or her CV or during the interview, no record is kept of it and any reference to it is immediately deleted or redacted;
 - 6.8.3 any completed equal opportunities monitoring form is kept separate from the individual's application form, and not be seen by the person shortlisting, interviewing or making the recruitment decision;

- 6.8.4 'right to work' checks are carried out before an offer of employment is made unconditional, and not during the earlier short-listing, interview or decision-making stages;
- 6.8.5 we will [not ask health questions in connection with recruitment OR only ask health questions once an offer of employment has been made].
- 6.9 **During employment:** the HR department, with guidance from the [data protection officer OR *[insert job title or department]*], will process:
 - 6.9.1 health information for the purposes of administering sick pay, keeping sickness absence records, monitoring staff attendance and facilitating employment-related health and sickness benefits;
 - 6.9.2 sensitive personal information for the purposes of equal opportunities monitoring and pay equality reporting[. Where possible, this information will be anonymised]; and
 - 6.9.3 trade union membership information for the purposes of staff administration and administering 'check off'.

7 Criminal records information

Criminal records information will be processed in accordance with Saltash Town Council's [*Criminal records information policy*].

8 Data protection impact assessments (DPIAs)

- 8.1 Where processing is likely to result in a high risk to an individual's data protection rights (eg where Saltash Town Council is planning to use a new form of technology), we will, before commencing the processing, carry out a DPIA to assess:
 - 8.1.1 whether the processing is necessary and proportionate in relation to its purpose;
 - 8.1.2 the risks to individuals; and
 - 8.1.3 what measures can be put in place to address those risks and protect personal information.
- 8.2 Before any new form of technology is introduced, the manager responsible should therefore contact [the data protection officer OR *[insert job title or department]*] in order that a DPIA can be carried out.
- 8.3 During the course of any DPIA, the employer will seek the advice of the [data protection officer OR *[insert job title or department]*] and the views of[a representative group of] employees and any other relevant stakeholders.

9 Documentation and records

- 9.1 We will keep written records of processing activities[which are high risk, ie which may result in a risk to individuals' rights and freedoms or involve sensitive personal information or criminal records information], including:
- 9.1.1 the name and details of the employer's organisation (and where applicable, of other controllers, the employer's representative and DPO);
 - 9.1.2 the purposes of the processing;
 - 9.1.3 a description of the categories of individuals and categories of personal data;
 - 9.1.4 categories of recipients of personal data;
 - 9.1.5 [where relevant, details of transfers to third countries, including documentation of the transfer mechanism safeguards in place;]
 - 9.1.6 where possible, retention schedules; and
 - 9.1.7 where possible, a description of technical and organisational security measures.
- 9.2 As part of our record of processing activities we document, or link to documentation, on:
- 9.2.1 information required for privacy notices;
 - 9.2.2 records of consent;
 - 9.2.3 controller-processor contracts;
 - 9.2.4 the location of personal information;
 - 9.2.5 DPIAs; and
 - 9.2.6 records of data breaches.
- 9.3 If we process sensitive personal information or criminal records information, we will keep written records of:
- 9.3.1 the relevant purpose(s) for which the processing takes place, including (where required) why it is necessary for that purpose;
 - 9.3.2 the lawful basis for our processing; and
 - 9.3.3 whether we retain and erase the personal information in accordance with our policy document and, if not, the reasons for not following our policy.
- 9.4 We will conduct regular reviews of the personal information we process and update our documentation accordingly.[This may include:]
- 9.4.1 [carrying out information audits to find out what personal information Saltash Town Council holds;
 - 9.4.2 distributing questionnaires and talking to staff across Saltash Town Council to get a more complete picture of our processing activities; and
 - 9.4.3 reviewing our policies, procedures, contracts and agreements to address areas such as retention, security and data sharing.]

- 9.5 [We document our processing activities in electronic form so we can add, remove and amend information easily.]

10 Privacy notice

- 10.1 Saltash Town Council will issue privacy notices from time to time, informing you about the personal information that we collect and hold relating to you, how you can expect your personal information to be used and for what purposes.
- 10.2 We will take appropriate measures to provide information in privacy notices in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

11 Individual rights

- 11.1 You (in common with other data subjects) have the following rights in relation to your personal information:
- 11.1.1 to be informed about how, why and on what basis that information is processed—see Saltash Town Council's [\[data protection privacy notice\]](#);
 - 11.1.2 to obtain confirmation that your information is being processed and to obtain access to it and certain other information, by making a subject access request—see Saltash Town Council's [subject access request policy](#);
 - 11.1.3 to have data corrected if it is inaccurate or incomplete;
 - 11.1.4 to have data erased if it is no longer necessary for the purpose for which it was originally collected/processed, or if there are no overriding legitimate grounds for the processing (this is sometimes known as 'the right to be forgotten');
 - 11.1.5 to restrict the processing of personal information where the accuracy of the information is contested, or the processing is unlawful (but you do not want the data to be erased), or where the employer no longer needs the personal information but you require the data to establish, exercise or defend a legal claim; and
 - 11.1.6 to restrict the processing of personal information temporarily where you do not think it is accurate (and the employer is verifying whether it is accurate), or where you have objected to the processing (and the employer is considering whether the organisation's legitimate grounds override your interests).
- 11.2 If you wish to exercise any of the rights in paragraphs 11.1.3 to 11.1.6, please contact [the data protection officer OR *[insert job title or department]*].

12 Individual obligations

- 12.1 Individuals are responsible for helping Saltash Town Council keep their personal information up to date. You should let *[the HR department]* know if the information

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you have provided to Saltash Town Council changes, for example if you move house or change details of the bank or building society account to which you are paid. [Alternatively, you can update your own personal information on a secure basis via Saltash Town Council's intranet.]

- 12.2 You may have access to the personal information of other members of staff, suppliers and [customers OR clients] of Saltash Town Council in the course of your employment or engagement. If so, Saltash Town Council expects you to help meet its data protection obligations to those individuals. For example, you should be aware that they may also enjoy the rights set out in paragraph 11.1 above.
- 12.3 If you have access to personal information, you must:
- 12.3.1 only access the personal information that you have authority to access, and only for authorised purposes;
 - 12.3.2 only allow other Company staff to access personal information if they have appropriate authorisation;
 - 12.3.3 only allow individuals who are not Company staff to access personal information if you have specific authority to do so from [the data protection officer OR *[insert job title or department]*];
 - 12.3.4 keep personal information secure (eg by complying with rules on access to premises, computer access, password protection and secure file storage and destruction and other precautions set out in Saltash Town Council's *[information security policy]*);
 - 12.3.5 not remove personal information, or devices containing personal information (or which can be used to access it), from Saltash Town Council's premises unless appropriate security measures are in place (such as pseudonymisation, encryption or password protection) to secure the information and the device; and
 - 12.3.6 not store personal information on local drives or on personal devices that are used for work purposes[, and comply with Saltash Town Council's *[BYOD policy]*].
- 12.4 You should contact [the data protection officer OR *[insert job title or department]*] if you are concerned or suspect that one of the following has taken place (or is taking place or likely to take place):
- 12.4.1 processing of personal data without a lawful basis for its processing or, in the case of sensitive personal information, without one of the conditions in paragraph 6.2.2 being met;
 - 12.4.2 any data breach as set out in paragraph 15.1 below;
 - 12.4.3 access to personal information without the proper authorisation;
 - 12.4.4 personal information not kept or deleted securely;
 - 12.4.5 removal of personal information, or devices containing personal information (or which can be used to access it), from Saltash Town Council's premises without appropriate security measures being in place;

12.4.6 any other breach of this Policy or of any of the data protection principles set out in paragraph 4.1 above.

13 Information security

13.1 Saltash Town Council will use appropriate technical and organisational measures[in accordance with Saltash Town Council's [policies OR information security policy]] to keep personal information secure, and in particular to protect against unauthorised or unlawful processing and against accidental loss, destruction or damage. These may include:

13.1.1 making sure that, where possible, personal information is pseudonymised or encrypted;

13.1.2 ensuring the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

13.1.3 ensuring that, in the event of a physical or technical incident, availability and access to personal information can be restored in a timely manner; and

13.1.4 a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

13.2 Where Saltash Town Council uses external organisations to process personal information on its behalf, additional security arrangements need to be implemented in contracts with those organisations to safeguard the security of personal information. In particular, contracts with external organisations must provide that:

13.2.1 the organisation may act only on the written instructions of Saltash Town Council;

13.2.2 those processing the data are subject to a duty of confidence;

13.2.3 appropriate measures are taken to ensure the security of processing;

13.2.4 sub-contractors are only engaged with the prior consent of Saltash Town Council and under a written contract;

13.2.5 the organisation will assist Saltash Town Council in providing subject access and allowing individuals to exercise their rights under the GDPR;

13.2.6 the organisation will assist Saltash Town Council in meeting its GDPR obligations in relation to the security of processing, the notification of data breaches and data protection impact assessments;

13.2.7 the organisation will delete or return all personal information to Saltash Town Council as requested at the end of the contract; and

13.2.8 the organisation will submit to audits and inspections, provide Saltash Town Council with whatever information it needs to ensure that they are both meeting their data protection obligations, and tell Saltash Town Council immediately if it is asked to do something infringing data protection law.

- 13.3 Before any new agreement involving the processing of personal information by an external organisation is entered into, or an existing agreement is altered, the relevant staff must seek approval of its terms by the [data protection officer OR *[insert job title or department]*].

14 Storage and retention of personal information

- 14.1 Personal information (and sensitive personal information) will be kept securely in accordance with Saltash Town Council's *[information security policy]*.
- 14.2 Personal information (and sensitive personal information) should not be retained for any longer than necessary. The length of time over which data should be retained will depend upon the circumstances, including the reasons why the personal information was obtained. [Staff should follow Saltash Town Council's *[records retention policy]* which set out the relevant retention period, or the criteria that should be used to determine the retention period.] Where there is any uncertainty, staff should consult [the data protection officer OR *[insert job title or department]*].
- 14.3 Personal information (and sensitive personal information) that is no longer required will be deleted permanently from our information systems and any hard copies will be destroyed securely.

15 Data breaches

- 15.1 A data breach may take many different forms, for example:
- 15.1.1 loss or theft of data or equipment on which personal information is stored;
 - 15.1.2 unauthorised access to or use of personal information either by a member of staff or third party;
 - 15.1.3 loss of data resulting from an equipment or systems (including hardware and software) failure;
 - 15.1.4 human error, such as accidental deletion or alteration of data;
 - 15.1.5 unforeseen circumstances, such as a fire or flood;
 - 15.1.6 deliberate attacks on IT systems, such as hacking, viruses or phishing scams; and
 - 15.1.7 'blagging' offences, where information is obtained by deceiving the organisation which holds it.
- 15.2 Saltash Town Council will:
- 15.2.1 make the required report of a data breach to the Information Commissioner's Office without undue delay and, where possible within 72 hours of becoming aware of it, if it is likely to result in a risk to the rights and freedoms of individuals; and
 - 15.2.2 notify the affected individuals, if a data breach is likely to result in a high risk to their rights and freedoms and notification is required by law.

16 International transfers

- 16.1 [Saltash Town Council will not transfer personal information outside the European Economic Area (EEA), which comprises the countries in the European Union and Iceland, Liechtenstein and Norway.

OR

- 16.2 Saltash Town Council may transfer personal information outside the European Economic Area (EEA) (which comprises the countries in the European Union and Iceland, Liechtenstein and Norway) to *[insert name of country]* on the basis [that that country, territory or organisation is designated as having an adequate level of protection OR that the organisation receiving the information has provided adequate safeguards by way of *[binding corporate rules OR standard data protection clauses OR of compliance with an approved code of conduct]*].

17 Training

Saltash Town Council will ensure that staff are adequately trained regarding their data protection responsibilities. Individuals whose roles require regular access to personal information, or who are responsible for implementing this policy or responding to subject access requests under this policy, will receive additional training to help them understand their duties and how to comply with them.

18 Consequences of failing to comply

- 18.1 Saltash Town Council takes compliance with this policy very seriously. Failure to comply with the policy:
- 18.1.1 puts at risk the individuals whose personal information is being processed; and
 - 18.1.2 carries the risk of significant civil and criminal sanctions for the individual and Saltash Town Council; and
 - 18.1.3 may, in some circumstances, amount to a criminal offence by the individual.
- 18.2 Because of the importance of this policy, an employee's failure to comply with any requirement of it may lead to disciplinary action under our procedures, and this action may result in dismissal for gross misconduct. If a non-employee breaches this policy, they may have their contract terminated with immediate effect.
- 18.3 If you have any questions or concerns about anything in this policy, do not hesitate to contact [the data protection officer OR *[insert job title or department]*].

I have read and understood this policy and agree to abide by its terms.

Signed.....

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DATA PROTECTION POLICY (EMPLOYEES)

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| Policy name | Data Protection Policy (Employees) |
| Type | Staffing Policy |
| Content source | Ellis Whittam |
| Required/Optional | Required |
| Review period | Annual |
| Options to consider | <ul style="list-style-type: none"> • 6.5: automated decision-making based on sensitive personal information • 6.8.5: health questions • 7: Criminal records information (please note that a separate policy is required here) • 9.4: consider whether to include options 9.4.1 to 9.1.3 • 9.5: consider whether to include this. |
| Summary | <p>This document highlights:</p> <ol style="list-style-type: none"> a. The rights of employees as data subjects. b. Responsibilities of the employer processing personal and sensitive data. c. Responsibilities of the individual keeping their information up-to-date d. Responsibilities of staff who have access to personal information |
| Recommendation | <p>Recommend adoption of policy after considering whether the highlighted sections are included.</p> <p>Rationale: the collection and processing of personal and sensitive data relating to staff is an area of data handling that needs particular care. Ellis Whittam recommended that there should be a separate policy that is in addition to the standard Information and Data Protection Policy.</p> <p>There should be a reference to this policy and the associated Privacy Notice inserted in the Employee Handbook.</p> |

Summary document
DPP (employees)
ajt 072018



CRIMINAL RECORDS POLICY (EMPLOYEES)

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| Policy name | Criminal Records Policy |
| Type | Staffing Policy |
| Content source | Ellis Whittam |
| Required/Optional | Optional |
| Review period | Annual or if legislation changes |
| Options to consider | <p>Is the policy necessary?</p> <p>Does the council employ personnel in a position or have plans for positions that may require DBS checks? Checks should be proportionate to the risks faced by the employer.</p> <p>Useful guidance can be found on the website run by Nacroⁱ and sample criminal record declaration forms which are attached to this document. It should also be considered if recruitment is likely for a position that is exempt from the Rehabilitation of Offenders Act.</p> <p>The ICO publishes an Employment Practices Codeⁱⁱ but this is currently based on the now repealed Data Protection Act 1998 and guidance on the new act is not yet finalised.</p> <p>It should be noted that the use of a media check is likely to breach the DPA 1998.</p> |
| Summary | <p>If the council is considering recruitment positions that may require a DBS certificate this policy needs to be adopted and made available to applicants at the start of the recruitment process.</p> |

CRIMINAL RECORDS POLICY (EMPLOYEES)

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| Recommendation | <p>The committee need to consider if the policy is currently needed or is likely to be needed in the future. Before adoption the policy will need to be tailored towards the council employment process and further advice may need to be sought from outside bodies to ensure compliance with both data protection and the DBS code of practice.</p> <p>If the council already undertakes DBS checks this policy should be adopted.</p> |
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ⁱ NACRO (previously National Association for the Care and Resettlement of Offenders

<https://www.nacro.org.uk/>

ⁱⁱ https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf

Criminal record declaration form

This form must be completed by all applicants. The information disclosed on this form will not be kept with your application form during the application process.

Policy statement on recruiting applicants with criminal records

We recognise the contribution that ex-offenders can make as employees and volunteers and welcome applications from them. A person's criminal record will not, in itself, debar that person from being appointed to this post. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

All cases will be examined on an individual basis and will take the following into consideration:

- Whether the conviction is relevant to the position applied for.
- The seriousness of any offence revealed.
- The age of the applicant at the time of the offence(s).
- The length of time since the offence(s) occurred.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offence(s) and the explanation(s) offered by the person concerned.
- Whether the applicant's circumstances have changed since the offending behaviour.

It is important that applicants understand that failure to disclose all unspent convictions could result in disciplinary proceedings or dismissal. Further advice and guidance on disclosing a criminal record can be obtained from [Nacro](#).

| | |
|---|------------------|
| Surname: | Forename: |
| <p>This post is not exempt from the Rehabilitation of Offenders Act 1974. We only ask applicants to disclose convictions which are not yet spent under the Rehabilitation of Offenders Act 1974. If you are not sure whether your convictions are spent, please contact Nacro for further advice.</p> | |
| <p>Do you have any unspent convictions? Yes <input type="checkbox"/> No <input type="checkbox"/></p> | |
| <p>If you have answered yes, you now have two options on how to disclose your criminal record.</p> | |
| <p>Option 1: Please provide details of your criminal record in the space below.</p> | |
| <p>Option 2: You can disclose your record under a separate cover provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked CONFIDENTIAL and state your name and the details of the post.</p> | |
| <p>I have attached details of my conviction separately_____ (Please mark with an X if appropriate.)</p> | |
| <p>DECLARATION</p> | |
| <p>I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at [insert name of organisation]</p> | |
| <p>Signed: _____ Date: _____</p> | |

Please return this form to: [insert name of approved HR representative]

| |
|--|
| Criminal record declaration form (exempt positions) |
|--|

This form must be completed by all applicants. The information disclosed on this form will not be kept with your application form during the application process.

Policy statement on recruiting applicants with criminal records

This post is exempt from the Rehabilitation of Offenders Act 1974 and therefore applicants are required to declare any convictions, cautions, reprimands and final warnings that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

For further information on filtering please refer to [Nacro guidance](#) and the [DBS website](#).

We recognise the contribution that ex-offenders can make as employees and volunteers and welcome applications from them. A person's criminal record will not, in itself, debar that person from being appointed to this post. Any information given will be treated in the strictest confidence. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

All cases will be examined on an individual basis and will take the following into consideration:

- Whether the conviction is relevant to the position applied for.
- The seriousness of any offence revealed.
- The age of the applicant at the time of the offence(s).
- The length of time since the offence(s) occurred.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offence(s), and the explanation(s) offered by the person concerned.
- Whether the applicant's circumstances have changed since the offending behaviour.

It is important that applicants understand that failure to disclose all convictions, cautions, reprimands or final warnings that are not protected could result in disciplinary proceedings or dismissal. Further advice and guidance on disclosing a criminal record can be obtained from [Nacro](#).



| | | | |
|-----------------|--|------------------|--|
| Surname: | | Forename: | |
|-----------------|--|------------------|--|

Do you have any convictions, cautions, reprimands or final warnings which are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)? Yes ☐ No ☐

If you have answered yes, you now have **two** options on how to disclose your criminal record.

Option 1: Please provide details of your criminal record in the space below.

Option 2: You can disclose your record under a separate cover provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked **CONFIDENTIAL** and state your name and the details of the post.

I have attached details of my conviction separately_____ (Please mark with an X if appropriate.)

DECLARATION

I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at **[insert name of organisation]**

Signed: _____ Date: _____

Please return this form to: **[insert name of approved HR representative]**

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Data Protection

Criminal Records Information Policy

1 Introduction

- 1.1 This policy supplements the Company's *[data protection policy (employment)]*.
- 1.2 This document sets out the Company's policy on asking questions about a prospective (or existing) employee's criminal record, and carrying out Disclosure and Barring Service (DBS) checks.
- 1.3 This policy sets out our commitment to comply with the DBS Code of Practice and our data protection obligations, to treat prospective employees fairly and not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed. Its purpose is to set out how we comply with our data protection obligations in respect of criminal records information and seek to protect such information, and to ensure that staff understand and comply with the rules governing the collection, use and deletion of criminal records information to which they may have access in the course of their work.
- 1.4 We are committed to complying with our data protection obligations and the DBS Code of Practice in relation to criminal records information, in particular:
- 1.4.1 in relation to the circumstances in which we seek criminal records information;
 - 1.4.2 by being concise, clear and transparent about how we obtain and use such information, and how (and when) we delete it once it is no longer required; and
 - 1.4.3 by ensuring the correct handling, use, storage, retention and disposal of DBS certificates and certificate information.
- 1.5 [The Company's data protection officer, *[insert name]*, is responsible for informing and advising the Company and its staff on its data protection obligations, including in relation to criminal records information, and for monitoring compliance with those obligations and with the Company's policies. If you have any questions or comments about the content of this policy or if you need further information, you should contact the data protection officer *[set out details of how DPO can be contacted, eg email and telephone number]*.
- OR
- 1.6 *[Insert job title or department]* is responsible for data protection compliance within the Company, including in relation to criminal records information. If you have any questions or comments about the content of this policy or if you need further information, you should contact *[insert job title or department]* *[set out details of how individual/department can be contacted, eg email and telephone number]*.

2 [Policy statement

- 2.1 Having a criminal record will not necessarily bar you from working with us. We will take into account the circumstances and background of any offences and whether they are relevant to the position in question, balancing the rights and interests of the individual, our employees, customers/clients, suppliers and the public.
- 2.2 We will treat all applicants, employees and volunteers fairly but reserve the right to withdraw an offer of employment, or take disciplinary action] if you do not disclose relevant information, or if a DBS check reveals information which we reasonably believe would make you unsuitable for the role.]

3 Scope and definitions

- 3.1 This policy applies to criminal records information relating to job applicants and current and former staff, including employees, temporary and agency workers, interns, volunteers and apprentices.
- 3.2 Staff should refer to the Company's [*data protection policy (employment)*] and [*data protection privacy notice*] and, where appropriate, to its other relevant policies.
- 3.3 [This policy has been drafted with the assistance of a representative group of employees to ensure that it is clear and easy to understand.]We will review and update this policy [*regularly*] in accordance with our data protection obligations. It does not form part of any employee's contract of employment and we may amend, update or supplement it from time to time. We will circulate any new or modified policy to staff [before OR when] it is adopted.
- 3.4 The definitions set out in the Company's [*data protection policy (employment)*] apply to terms used in this policy.

4 Asking for criminal records information

- 4.1 Before recruiting for any post the HR department will, with advice from [the data protection officer OR [*insert job title or department*]], [and in consideration of safer recruitment guidance in Keeping children safe in education], assess whether it is justified in seeking criminal records information for that particular post (see paragraph 4.3 below) and, if so:
- 4.1.1 whether it is appropriate to limit the information sought to offences that have a direct bearing on suitability for the job in question; and
- 4.1.2 whether the information should be verified with the DBS.
- 4.2 If an assessment under paragraph 4.1 has been carried out for the same or a similar post within the last [12] months, the HR department may rely on that assessment.
- 4.3 The Company will be justified in obtaining criminal records information for a particular post if it is necessary:
- 4.3.1 for the performance of the employment contract for that post;
- 4.3.2 in order for the Company to comply with a legal obligation to which it is subject;

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- 4.3.3 ~~in order to~~ protect the vital interests of *[insert relevant description eg vulnerable service users]*; and/or
- 4.3.4 for the purposes of the Company's legitimate interests.
- 4.4 The level of criminal records information and DBS check that the Company is entitled to request (~~ie~~ a criminal records certificate (CRC) or enhanced criminal records certificate (ECRC)) will depend on the post for which the prospective employee's suitability is being assessed. Further details are set out in Appendix 1.
- 4.5 We will only ask an individual to provide criminal records information in relation to convictions and cautions that the Company would be legally entitled to see in a DBS check for the relevant post (see paragraph 4.4 above), ~~ie~~:
 - 4.5.1 if the Company is justified in seeking criminal records information for the post, [and the post is not exempt from the Rehabilitation of Offenders Act 1974], we will ask applicants to complete the criminal records information form set out in *[insert description of document]*, which states that applicants are not required to disclose convictions that are spent under the Rehabilitation of Offenders Act 1974; and
 - 4.5.2 [if the Company is justified in seeking criminal records information for the post, [and the post is exempt from the Rehabilitation of Offenders Act 1974], we will ask applicants to complete the criminal records information form set out in *[insert description of document]*, which asks applicants if they have any convictions, cautions, reprimands or final warnings which are not filtered (or 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended)). For further information on filtering, see Appendix 1.]
- 4.6 If the information sought can be limited to offences that have a direct bearing on suitability for the job in question, the HR department will amend the criminal records information form accordingly.
- 4.7 Where a DBS check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.
- 4.8 Applicants will only be asked to complete a criminal records information form before an offer of employment is made unconditional; they will not be asked to do so during the earlier short-listing, interview or decision-making stages.
- 4.9 Before an individual is asked to complete a criminal records information form, they will be provided with a copy of this policy.
- 4.10 If the Company is not justified in seeking criminal records information for the post, it will not ask an applicant for criminal records information.
- 4.11 If it is assessed that the Company should use the DBS to verify criminal records information, the Company will:
 - 4.11.1 provide the individual concerned with a copy of the Company's data handling policy (set out in Appendix 2) before asking them to complete a DBS application form or asking for their consent to use their information to access the DBS update service;

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- 4.11.2 make every subject of a DBS check aware of the existence of the DBS Code of Practice and makes a copy available on request. A copy is available [here](#); and
 - 4.11.3 comply with the DBS Code of Practice.
 - 4.12 [The Company will not rely on a previously-issued DBS certificate.]
 - 4.13 Once criminal records information has been verified through a DBS check, the Company will:
 - 4.13.1 if inconsistencies emerge between the information provided by the individual and the information in the DBS certificate, give the applicant the opportunity to provide an explanation in accordance with paragraph 5;
 - 4.13.2 record that a DBS check was completed and whether it yielded a satisfactory or unsatisfactory result; and
 - 4.13.3 delete the DBS certificate and any record of the information contained in it unless, in exceptional circumstances, [the data protection officer OR *[insert job title or department]*] assesses that it is clearly relevant to the ongoing employment [relationship](#), *eg. to allow for consideration and resolution of any disputes or complaints*].
 - 4.14 If, in accordance with paragraph 4.13.3, [the data protection officer OR *[insert job title or department]*] assesses that the information in the DBS certificate is relevant to the ongoing employment relationship, it (and any record of the information contained in it) will be kept securely for no longer than is necessary, and no more than six months.
 - 4.15 The Company will not seek criminal records information from any source other than the individual concerned or the DBS.
 - 4.16 DBS certificate information will be handled and kept in accordance with the Company's policy on handling DBS certificate information set out in Appendix 2.
- 5 Where an unprotected conviction or caution is disclosed**
- 5.1 If the Company has concerns about the information that has been disclosed by the DBS, or the information is not as expected, the Company will discuss its concerns with the prospective employee and carry out a risk assessment.
 - 5.2 [The Company has a legal duty, when recruiting staff to work in regulated activity with children or vulnerable adults, to check whether they are on the relevant children's or adults' barred list. If a prospective employee's name does appear on the relevant barred list, it would be against the law for the Company to employ them to work or volunteer with the relevant group.]
 - 5.3 [If a prospective employee is not barred from working with the relevant group, but nevertheless has a criminal record, it is up to the Company to decide on their suitability for the role. The Company will not refuse a prospective employee employment simply on the basis that they have a criminal record. Before ~~making a decision~~, the Company will:
 - 5.3.1 give the prospective employee the opportunity to address its concerns before making any decisions; and

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5.3.2 carry out a risk assessment.]

5.4 In carrying out a risk assessment, the Company will take account of:

5.4.1 the relevance of the conviction or other matter revealed to the position in question;

5.4.2 the seriousness of the offence or other matter revealed;

5.4.3 the circumstances of the offence;

5.4.4 the age of the offence;

5.4.5 whether there is a pattern of offending; and

5.4.6 whether circumstances have changed since the offending took place.

6 Training

The Company will ensure that all those within the organisation who are involved in the recruitment process:

6.1 have been suitably trained to identify and assess the relevance and circumstances of offences; and

6.2 have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, eg the Rehabilitation of Offenders Act 1974.

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APPENDIX 1
LEVEL OF DBS CHECK AND FILTERING

1 Requesting a DBS certificate

- 1.1 The level of DBS check that the Company is entitled to request will depend on the position for which the prospective employee's suitability is being assessed. The Company may request:
- 1.1.1 a criminal record certificate (CRC) if the position is protected by the Rehabilitation of Offenders Act 1974;
 - 1.1.2 an enhanced criminal record certificate (ECRC) if the position is:
 - (a) excepted from the protections of the Rehabilitation of Offenders Act 1974 (ie included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended); and
 - (b) prescribed in the Police Act 1997 (Criminal Records) Regulations 2002[OR and]
 - 1.1.3 [in addition, a search of the [children's OR adults'] barred list if the position is:
 - (a) eligible for an ECRC; and
 - (b) prescribed in the Police Act 1997 (Criminal Records) Regulations 2009 as one for which the [children's OR adults'] barred list may be checked.]

2 Filtering of protected convictions and cautions

- 2.1 Certain old and minor convictions and cautions are 'protected', which means:
- 2.1.1 they are filtered out of a DBS check;
 - 2.1.2 they need not be disclosed by prospective employees to the Company; and
 - 2.1.3 they will not be taken into account by the Company in making decisions about employing a prospective employee.
- 2.2 Certain 'listed offences' will never be filtered out (see [here](#)). The list includes offences which are particularly serious, relate to sexual or violent offending or are relevant in the context of safeguarding.
- 2.3 A conviction will be a protected conviction (ie filtered) if:
- 2.3.1 the offence was not a listed offence;
 - 2.3.2 it did not result in a custodial sentence (or sentence of service detention);
 - 2.3.3 it is the individual's only conviction; and
 - 2.3.4 where the individual was an adult at the time of conviction, 11 years or more have passed since the date of the conviction (or five years six months or more have passed since the date of conviction if the individual was under 18 at the time of conviction).
- 2.4 A caution will be a protected caution (ie filtered) if:
- 2.4.1 the offence was not a listed offence; and

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- 2.4.2 where the individual was an adult at the time of the caution, six years or more have passed since the date of the caution (or two years or more have passed since the date of conviction if the individual was under 18 at the time of conviction).
- 2.5 As part of an ECRC, the police may also disclose information that they reasonably believe is relevant and ought to be included.
- 2.6 For further guidance on filtering, see [the DBS filtering guidance](#).

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APPENDIX 2
DATA HANDLING

1 Storage and access

The Company will ensure that DBS certificate information is kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

2 Handling

2.1 In accordance with section 124 of the Police Act 1997, the Company will ensure that certificate information is only passed to those who are authorised to receive it in the course of their duties. The Company maintains a record of all those to whom certificates or certificate information has been revealed. It is a criminal offence to pass this information to anyone who is not entitled to receive it.

2.2 Once the DBS certificate has been inspected, it will be destroyed in accordance with the code of practice.

3 Usage

Certificate information must only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

4 Retention

4.1 Once a recruitment (or other relevant) decision has been made, the Company does not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints.

4.2 If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, we will consult the DBS about this and will give full consideration to the data protection and human rights of the individual before doing so.

4.3 Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

5 Disposal

5.1 Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, eg by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (eg waste bin or confidential waste sack).

5.2 We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

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6 [Acting as an umbrella body]

- 6.1 Before acting as an umbrella body (an umbrella body being a registered body which countersigns applications and receives certificate information on behalf of other employers or recruiting organisations), we will take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of certificate information in full compliance with the code of practice and in full accordance with this policy.
- 6.2 We will also ensure that any body or individual, at whose request applications for DBS certificates are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.]

7 DBS logo

The Company will not copy or use the DBS logo without prior approval of the DBS.

THIS GUIDANCE APPLIES FROM 10 MARCH 2014**Guidance on the Rehabilitation of Offenders Act 1974****Contents:****(1) INTRODUCTION:**

- What is the Rehabilitation of Offenders Act 1974?
- Who benefits from the 1974 Act and how?
- Which parts of the UK does the 1974 Act apply to?
- Does the Act apply to Service personnel?
- Does the 1974 Act cover cautions, penalty notices for disorder or fixed penalty notices?

(2) REHABILITATION PERIODS:

- How long will it take before my caution or conviction becomes spent?
- Are there any sentences which are not covered by the 1974 Act?
- What are the rehabilitation periods for motoring offences?
- What happens if I get another caution or conviction before my first conviction becomes spent?
- What happens if I get another conditional caution or conviction before my first conditional caution becomes spent?
- I have been sentenced for more than one offence at the same time. Will the rehabilitation periods run concurrently or consecutively?

(3) EXCEPTIONS ORDER:

- Are there any occupations for which I will have to disclose both spent and unspent cautions and convictions?
- What occupations are listed on the Exceptions Order?
- Are there circumstances under which I do not have to disclose convictions under the Exceptions Order?
- What does 'filtering' mean?
- What information can be filtered from a Disclosure and Barring Service criminal record certificate?
- When can an employer ask an individual to declare details of all unprotected convictions and cautions?
- What are the differences between basic, standard and enhanced disclosure?
- How can I check whether my employer is eligible to ask for a standard or enhanced criminal records certificate from the Disclosure and Barring Service (formally known as a CRB check)?
- I am self-employed, how do I apply for a standard or an enhanced criminal record certificate from the Disclosure and Barring Service?
- Will my conviction be removed from my criminal record once it is spent? Will caution and conviction information be removed from my criminal record after a certain period of time?

(4) INFORMATION FOR EMPLOYERS

- How do I know if I am eligible to request a standard or enhanced criminal records certificate from prospective and/or current employees?
- What should I consider when employing ex-offenders?

(5) Jurisdiction

- Application of different rehabilitation periods and exceptions in England & Wales and Scotland

Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.

- What legislation to apply when the Disclosure and Barring Service and Disclosure Scotland issue criminal record certificates

(6) ADDITIONAL INFORMATION

Immigration and Nationality decisions.

- Does the 1974 Act apply to Immigration and Nationality decisions?

Visa Applications

- Do I have to disclose all my convictions for a visa application?

Criminal Injuries Compensation Scheme (CICS):

- I have an unspent conviction. Does this affect my eligibility for claiming compensation from the Criminal Injuries Compensation Scheme?

Notification and Disclosure Schemes

- Is the 1974 Act linked to the Violent and Sex Offenders Register?

ANNEX A: Examples of the types of occupations, posts and activities in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.

(1) INTRODUCTION:

This document should be considered a guide to the position in England and Wales only. You will find links to more detailed guidance on specific issues throughout, including references to guidance produced by the Disclosure and Barring Service (formerly the Criminal Records Bureau (CRB)) about eligibility for standard and enhanced criminal records certificates.

- **What is the Rehabilitation of Offenders Act 1974?**

The Rehabilitation of Offenders Act 1974 ("1974 Act") primarily exists to support the rehabilitation into employment of reformed offenders who have stayed on the right side of the law.

Under the 1974 Act, following a specified period of time which varies according to the disposal administered or sentence passed, cautions and convictions (except those resulting in prison sentences of over four years and all public protection sentences*) may become spent. As a result the offender is regarded as rehabilitated.

For most purposes the 1974 Act treats a rehabilitated person as if he or she had never committed, or been charged with charged or prosecuted for or convicted of or sentenced for the offence and, as such, they are not required to declare their spent caution(s) or conviction(s), for example, when applying for most jobs or insurance, some educational courses and housing applications.

*A public protection sentence, the provisions for which are set out in Part 12 of the Criminal Justice Act 2003 and Part 8 of the Armed Forces Act 2006, means a sentence of imprisonment or detention imposed for specified sexual and violent offences. These sentences include imprisonment or detention for public protection, extended sentences of imprisonment or detention for public protection, and extended determinate sentences.

- **Who benefits from the 1974 Act and how?**

All cautions and convictions may eventually become spent, with the exception of prison sentences, or sentences of detention for young offenders, of over four years and all public protection sentences regardless of the length of sentence.

Once a caution or conviction has become spent under the 1974 Act, a person does not have to reveal it or admit its existence in most circumstances. Unless an exception applies (see below), then spent cautions and convictions need not be disclosed when filling in a form, or at a job interview. An employer cannot refuse to employ someone (or dismiss someone) because he or she has a spent caution or conviction unless an exception applies.

The exceptions where you may have to declare spent cautions and convictions are listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (see **Section 3** of this guidance). An employer should be able to say if an exception applies and, if so, where it can be found on the Exceptions Order.

- **Which parts of the UK does the 1974 Act apply to?**

The 1974 Act applies in England, Wales and Scotland. However there are some differences in the way in which it, and related legislation, operates in Scotland. This document should therefore be considered a guide to England and Wales only.

For information on the 1974 Act in Scotland, please visit: www.scotland.gov.uk/Topics/Justice/public-safety/offender-management/publications/law/RehabofOffenders

The relevant Northern Irish legislation, the Rehabilitation of Offenders (Northern Ireland) Order 1978 and the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 can be found here: www.dojni.gov.uk/index/accessni/legal-issues/legislation.htm

Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.

- **Does the Act apply to Service personnel?**

The Act applies to everyone convicted of a criminal offence or a service disciplinary offence (for example absence without leave) by either a civilian court (in the cases of criminal offences) or a Service Court or the Commanding Officer (in the cases of criminal or Service disciplinary offences). The same rehabilitation periods apply to sentences which are imposed in the service justice system as are imposed by the civilian justice system (for example a fine imposed by a Magistrates' Court and a fine imposed by a Court Martial, would each have the same rehabilitation period of a year beginning with the date of conviction).

Additionally there are two sentences which attract a rehabilitation period and which can only be imposed by the service justice system;

- removal from the service (for example dismissal with disgrace from Her Majesty's service or dismissal from Her Majesty's service) which attracts a rehabilitation period of 1 year beginning with the date of conviction; and
- a sentence of service detention, the total rehabilitation period being the period of the sentence and an additional 'buffer' period of 1 year which applies from the end of the sentence (see the section below on rehabilitation periods).

These rehabilitation periods are halved if the offender was under 18 at the time of conviction.

All of the other sentences particular to the service justice system (for example a severe reprimand or a service supervision and punishment order) that are not listed elsewhere in the guidance are spent immediately.

- **Does the 1974 Act cover cautions, penalty notices for disorder or fixed penalty notices?**

The 1974 Act covers simple cautions (which become spent immediately) and conditional cautions (which become spent after three months).

Reprimands and warnings were abolished in April 2013 and a reprimand or warning given before that date is now to be treated as a youth caution which, as with adult cautions, is spent immediately.

Fixed Penalty Notices and Penalty Notices for Disorder do not constitute a conviction or caution (though they may be recorded on local police systems should the force consider it necessary to do so) and they therefore are not covered by the 1974 Act (but see below in relation to a FPN issued for certain road traffic offences and where an endorsement is imposed).

(2) REHABILITATION PERIODS:

- **How long will it take before my caution or conviction becomes spent?**

The rehabilitation period (the length of time before a caution or conviction becomes spent) 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 we have 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:

Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.

| 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</u> date 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</u> date of the sentence (including the licence period). |
|--|--|---|
| Custodial sentence* of over 4 years, or a public protection sentence | Never spent | Never spent |
| 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 following table sets out the rehabilitation period for sentences which do not have "buffer periods" and for which the rehabilitation period runs from the date of conviction:

| Sentence/disposal | Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered). | Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered). |
|--|---|---|
| Fine | 1 year | 6 months |
| Conditional discharge, | Period of the order | Period of the order |
| Absolute discharge | None | None |
| Conditional caution and youth conditional caution | 3 months or when the caution ceases to have effect if earlier | 3 months |
| Simple caution, youth caution | Spent immediately | Spent immediately |
| Compensation order* | On the discharge of the order (i.e. when it is paid in full) | On the discharge of the order (i.e. when it is paid in full) |
| Binding over order | Period of the order | Period of the order |
| Attendance centre order | Period of the order | Period of the order |
| Hospital order (with or without a restriction order) | Period of the order | Period of the order |
| Referral order | Not available for adults | Period of the order |
| Reparation order | Not available for adults | None |

Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.

Examples:

A 2 year custodial sentence given to an adult may become spent after 6 years: the rehabilitation period is the period of the sentence plus a further 'buffer period' of 4 years, giving a total of 6 years.

A 2 year custodial sentence suspended for 2 years is spent after 6 years; the rehabilitation period is the period of the custodial sentence plus a further buffer period of 4 years giving a total of 6 years. (A suspended sentence is a sentence of imprisonment and the rehabilitation period is therefore determined by the custodial sentence, regardless of the period for which it is suspended).

A 6 month sentence of detention given to a young person may become spent after 2 years: the rehabilitation period is the period of the sentence plus a further 'buffer period' of 18 months, giving a total of 2 years.

A 1 year community order given to an adult may become spent after 2 years: the rehabilitation period is the length of the order plus a further 'buffer period' of 1 year, giving a total of 2 years.

A 1 year youth rehabilitation order given to a young person may become spent after 18 months: the rehabilitation period is the length of the order plus a further 'buffer period' of 6 months, giving a total of 18 months.

An adult who is given a fine will have to declare this conviction for 1 year from the date of conviction before it is considered spent.

***Compensation Orders** – it is important that individuals obtain proof of payment from the court and keep this document to prove that the compensation order has been paid in full.

- **Are there any sentences which are not covered by the 1974 Act?**

The following sentences are exempt from the 1974 Act and can never become spent:

- a. Sentence of imprisonment for life;
- b. Sentence of imprisonment, youth custody, detention in a young offender institution or corrective training of over 4 years;
- c. Sentence of preventive detention;
- d. Sentence of detention during Her Majesty's pleasure or for life;
- e. Sentence of custody for life;
- f. Public protection sentences (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders).

- **What are the rehabilitation periods for motoring offences?**

An endorsement for a road traffic offence listed in Schedule 2 to the Road Traffic Offenders Act 1988, imposed either by the court or by means of a fixed penalty notice (FPN) is a sentence for the purposes of the 1974 Act and may become spent after 5 years (or two and half years where the offender is under 18). Road traffic legislation specifically provides for a FPN in these circumstances to be treated as a conviction and dealt with as such under the 1974 Act. Penalty points and a driving disqualification imposed by the court on conviction may become spent when they cease to have effect (penalty points have effect for three years as set out in road traffic legislation). Where the court imposes more than one sentence or penalty for the offence then the longest rehabilitation period determines when the conviction may become spent.

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A fixed penalty notice (FPN) can be used to deal with minor road traffic offences, but it is not a criminal conviction or a caution and the 1974 Act does not apply.

Examples

An adult is convicted of a road traffic offence, and the court imposes a fine (rehabilitation period 1 year), an endorsement (rehabilitation period 5 years), penalty points (rehabilitation period 3 years) and driving disqualification for 1 year (rehabilitation period 1 year); the rehabilitation period for this conviction will be 5 years because the endorsement carries the longest rehabilitation period.

If the offender was under 18 and received the above sentence, the conviction may become spent after 3 years because the longest rehabilitation period applicable would then be three years for the penalty points (the endorsement would become spent after two and half years).

Once the conviction becomes spent, the person is not required to declare it when applying for most jobs, or (motor) insurance

It is the case for all convictions (not only road traffic convictions) that where more than one sentence or penalty is imposed then the conviction may only become spent once the longest rehabilitation period which applies has ended.

For more information on the rehabilitation periods for particular driving offences, please consult: www.direct.gov.uk/en/motoring/driverlicensing/endorsementsanddisqualifications/dq_10022425

- **What happens if I get another caution or conviction before my first conviction becomes spent?**

If you already have an unspent conviction and you get a further caution or conviction before the earlier conviction has become spent, one of the following will apply:

- a. If your later outcome is a caution (either a simple caution or a conditional caution), neither rehabilitation period will be affected. The conviction for the earlier offence will become spent at the time originally fixed, and the caution for the later offence will become spent after the normal period (immediately for a simple caution or three months for a conditional caution).
- b. If your later outcome is a conviction, then *neither* conviction will become spent until the rehabilitation periods for *both* offences are over. This applies to summary offences (offences that can only be tried in a magistrates' court) as well as either way offences (triable in either the magistrates' court or the Crown Court) and indictable only offences (offences that can only be tried in the Crown Court). Please note that there are very limited exceptions to this under section 6(5) of the 1974 Act.
- c. If your later outcome is a conviction that results in a custodial sentence of more than four years, or a public protection sentence of any length, then neither the second nor the first conviction will ever become spent.

Once a conviction becomes spent, it remains spent, even if a person is convicted of other offences later.

- **What happens if I get another conditional caution or conviction before my first conditional caution becomes spent?**

If the later conditional caution or conviction is separate to the earlier conditional caution (i.e. not for the offence in respect of which you were cautioned), then neither rehabilitation period will be affected. The conditional caution for the earlier offence will become spent at the end of 3 months from when it is given, and the caution or conviction for the later offence will become spent after the normal period.

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For example: A person receives a conditional caution for shoplifting. A month later he receives a conviction for a separate offence. The conditional caution will become spent in the normal way (three months from the date of issue) and, in relation to the conviction for the separate offence the rehabilitation period will apply for the sentence imposed by the court

However, if you fail to comply with a conditional caution, and you are subsequently prosecuted the conditional caution will cease to have effect. Any subsequent conviction will then attract the relevant rehabilitation period for the sentence imposed by the court.

For example: A person receives a conditional caution for shoplifting. He fails to comply with the conditions and as a result is prosecuted for, and convicted of, the shoplifting offence for which he receives a fine. The conditional caution ceased to have effect when he was prosecuted and he now has a conviction with a 12 month rehabilitation period because, in this example, he was sentenced to a fine.

- **I have been sentenced for more than one offence at the same time. Will the rehabilitation periods run concurrently or consecutively?**

If you receive more than one sentence at the same time, the total rehabilitation period will depend on whether the sentences run concurrently (at the same time) or consecutively (one after the other).

If concurrent sentences are imposed, then the longest applicable rehabilitation period will apply to all the sentences.

For example, a four month and six month prison sentence ordered to run concurrently will count as a single term of six months (carrying a "buffer period" of two years from the end of the sentence, giving a total rehabilitation period of two years and 6 months before both convictions can be considered spent).

If consecutive sentences are imposed, then the sentences will be added together to calculate the rehabilitation period.

For example, a four month and six month prison sentence running consecutively will count as a ten month sentence (carrying a "buffer period" of four years from the end of the sentence, giving a total rehabilitation period of four years and ten months before the convictions can be considered spent).

(3) EXCEPTIONS ORDER

- **Are there any jobs or other activities for which I will have to disclose both spent and unspent cautions and convictions?**

Yes. There are certain exceptions where you may be asked to disclose your caution or conviction even if it is spent. These are set out in the Rehabilitation of Offenders Act (Exceptions) Order 1975 (the "Exceptions Order") which lists exceptions to the 1974 Act in recognition that there are certain activities for which fuller disclosure of a person's criminal record history is relevant.

Inclusions in the Exceptions Order are made following careful consideration of the risks associated with a particular job or activity. There must be compelling evidence that there exists a particular opportunity for employees or people involved within that activity to cause harm to the public, for example through the abuse of trust, or that there is a real risk to children, other people in vulnerable circumstances or some other particularly sensitive area of work.

Where an exception to 1974 Act exists and you are asked to disclose your cautions and convictions then you must list all cautions and convictions, even if they are spent, other than

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protected cautions and convictions (see further below). Where an exception exists, the employer or licensing body will be eligible for a standard and in some cases an enhanced criminal records disclosure certificate from the Disclosure and Barring Service ("DBS") (formerly the Criminal Records Bureau (CRB)) containing details of all your unprotected cautions and convictions.

- **What occupations are listed on the Exceptions Order?**

The positions listed in the Exceptions Order mainly relate to particularly sensitive areas such as work with children or other people in vulnerable circumstances, work in law enforcement and the legal system, and high level financial positions. Exceptions also apply to certain licences (such as a Security Industry Authority licence) and to certain proceedings.

Annex A provides a summary of the main occupations, posts and activities that are included in the Exceptions Order. It is important to be aware that the Exceptions Order is kept under review and amendments are made periodically to ensure that the criminal disclosure regime meets the changing requirements of public protection.

- **Are there circumstances under which I do not have to disclose all my cautions and convictions under the Exceptions Order?**

On 29 May 2013, amendments were made to the Exceptions Order so that certain old and minor cautions and spent convictions are 'protected' and are not subject to disclosure under the Exceptions Order, nor will they appear on a standard or enhanced disclosure certificate issued by the DBS. In addition employers will not be able to take these protected cautions and convictions into account when making decisions about any individual.

There are a small number of circumstances in which protected cautions and convictions do still need to be disclosed and can be taken into account, for example in relation to national security related positions. Further information on this is set out below.

- **What does 'filtering' mean?**

Filtering is the term that the DBS uses to describe the process which will identify protected convictions and cautions and ensure that they are not disclosed on DBS certificates.

- **What information can be filtered from a Disclosure and Barring Service criminal record certificate?**

The rules as to when a conviction or caution will be filtered are set out in legislation. This states that a standard or enhanced disclosure certificate must include the following:

- All cautions given for a specified list of offences– see below
- Cautions given less than 6 years ago (where the person was 18 or over at the time of caution)
- Cautions given less than 2 years ago (where the person was under 18 at the time of caution)
- All convictions for a specified list of offences - see below
- All convictions that result in a custodial sentence
- Convictions given less than 11 years ago (where the person was 18 or over at the time of conviction)
- Convictions given less than 5½ years ago (where the person was under 18 at the time of conviction)

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- Where the person has more than one conviction then all convictions will be included on the certificate (no conviction will be filtered)
- Where a person is convicted of multiple offences, then the conviction will be included on the certificate, as each offence is treated as if it were a separate conviction

The specified list of offences includes a range of offences which are serious and which relate to sexual offending, violent offending and/or are relevant to safeguarding people in vulnerable circumstances. Cautions and convictions given for these offences will always be subject to disclosure.

The specified list of offences which will never be filtered from a criminal record certificate is available on the DBS website.

Examples:

An adult is given a community order of 1 year for an offence which is not on the specified list:

- *The conviction will become spent 1 year after the end date of the order (i.e. 2 years from conviction). This means that, unless the Exceptions Order applies, the person will not then need to disclose the conviction once it has become spent. If the Exceptions Order does apply, the person will need to disclose the conviction.*
- *The conviction will become "protected" 11 years after the date of conviction (provided it is the only conviction on the person's record). This means that, even if the Exceptions Order applies, the person will not have to disclose the conviction after this time.*

A young person is given a youth rehabilitation order of 1 year for an offence which is not on the specified list:

- *The conviction will be spent 6 months after the end date of the order (i.e. 1 year and 6 months after conviction). This means that, unless the Exceptions Order applies, the person will not then need to disclose the conviction once it has become spent. If the Exceptions Order does apply, the person will need to disclose the conviction*
- *The conviction will become "protected" 5 ½ years after the date of conviction (provided it is the only conviction on the person's record). This means that, even if the Exceptions Order applies, the person will not have to disclose the conviction after this time*

A person receives a simple caution as an adult for an offence which is not on the specified list:

- *The caution will be spent immediately. This means that, unless the Exceptions Order applies, the person will not need to disclose the caution. If the Exceptions Order does apply, the person will need to disclose the caution*
- *The caution will become "protected" after a period of 6 years. This means that, even if the Exceptions Order applies, the person will not have to disclose the caution after this time*

A person receives a caution, or equivalent, as a young person for an offence which is not on the specified list:

- *The caution will be spent immediately. This means that, unless the Exceptions Order applies, the person will not need to disclose the caution. If the Exceptions Order does apply, the person will need to disclose the caution*
- *The caution will become "protected" after a period of 2 years. This means that, even if the Exceptions Order applies, the person will not have to disclose the caution after this time*

Full guidance can be found on the DBS website at:

www.gov.uk/government/collections/dbs-filtering-guidance

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- **Can an employer ask an individual to declare details of all convictions and cautions?**

The 1974 Act places limits on what convictions and cautions an employer can ask an individual about and what they can take into account. Any employer can ask a person to disclose unspent convictions and take these into account. Where the job or activity is listed in the Exceptions Order, a standard or (where the role is listed in Regulations made under the Police Act 1997) an enhanced disclosure certificate can be requested, and an employer can ask a person about any unprotected spent convictions and cautions - that means those spent convictions and cautions which are not protected and would be disclosed on a DBS certificate (under the rules described above).

If an employer takes into account a conviction or caution which they are not entitled to ask about they are acting unlawfully under the 1974 Act.

If the employer asks you whether you have any cautions and convictions and the Exceptions Order does not apply to the job or activity, you need only disclose those that are unspent.

If the employer asks you whether you have any cautions and convictions and the Exceptions Order does apply, you should disclose any cautions and convictions which are not protected (which will mean disclosing certain spent cautions and convictions as set out above).

There are a small number of defined positions where details of all convictions and cautions, including otherwise protected cautions and convictions, may be taken into account. These positions include national security and police posts, where disclosure of criminal records is not provided by the Disclosure and Barring Service.

- **What are the differences between basic, standard and enhanced disclosure?**

Basic disclosures (criminal conviction certificates) contain details of unspent convictions and conditional cautions only. They are available from Disclosure Scotland. An individual can apply for a certificate directly. Alternatively, an application can be made through an employer but only if they have formal written consent of the subject of the application.

Standard disclosures (Criminal Record Certificates) are available from the Disclosure and Barring Service and contain details of all unprotected convictions and cautions, both unspent and spent. These certificates are available for jobs and activities listed on the Exceptions Order.

Enhanced disclosures (Enhanced Criminal Record Certificates) are also available from the Disclosure and Barring Service and contain details of all unprotected convictions and cautions, both unspent and spent, and also any intelligence information which a chief officer of police reasonably believes to be relevant to the application. These certificates are only available for certain jobs and activities listed on the Exceptions Order, usually involving regular contact with children and other people in vulnerable circumstances.

The Police Act 1997, under which the Disclosure and Barring Service operates, sets out whether standard or enhanced disclosure applies. Applications for standard and enhanced criminal record certificates have to be made by the recruiting organisation either directly if they are a Registered Body or through a Registered Body providing an umbrella service (sometimes known as an Umbrella Body).

The certificate is sent to the individual who must then hand it to the employer.

For more detailed guidance about how to apply for standard and enhanced criminal record certificates and how to complete the required application forms, please visit:

www.direct.gov.uk/en/Employment/Startinganewjob/DG_195813

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- **How can I check whether my employer is eligible to ask for a standard or enhanced criminal records certificate from the Disclosure and Barring Service (formerly known as a CRB check)?**

Your employer should be able to tell you which level of certificate you will apply for and the reasons for this. If you are unsure that the level of certificate is the correct level, the Disclosure and Barring Service has developed and implemented a process whereby an applicant, following submission of a Disclosure and Barring Service application, can contact the Disclosure and Barring Service and ask for an application to be placed on hold whilst the Disclosure and Barring Service contacts the Registered Body to ask them to confirm that the position is one which is eligible for a standard or enhanced disclosure certificate. The applicant is advised that they can, at any point during this process withdraw the application.

Details of this process can be found at:

www.direct.gov.uk/en/Employment/Startinganewjob/DG_195809

- **I am self-employed, how do I apply for a standard or an enhanced criminal record certificate from the Disclosure and Barring Service?**

If you are self-employed you are not able to apply for a standard or an enhanced criminal record check from the Disclosure and Barring Service as an individual cannot ask an exempted question of themselves. It is for the recruiting organisation asking the exempted question to assess an applicant's suitability.

However the following options are available:

- a. As a self-employed person, you can apply for a Disclosure and Barring Service disclosure certificate by registering with an agency but only if you intend to undertake work through the agency which is eligible for a DBS certificate and that the agency is making a suitability decision in relation to this;
- b. You are able to obtain a basic disclosure certificate from Disclosure Scotland. This will provide you with details of any unspent convictions. You can find the online application form for Disclosure Scotland here: www.disclosurescotland.co.uk/apply-online/;

You are also able to make a 'subject access request' to your local police force under the provisions of the Data Protection Act 1998, which will provide up-to-date details of your criminal record.

More detail, including the contact details of each constabulary, is provided on the Home Office website:

www.homeoffice.gov.uk/publications/agencies-public-bodies/CRB/about-the-crb/subject-access-police-contacts.

- **Will my conviction be removed from my criminal record once it is spent? Will caution and conviction information be removed from my criminal record after a certain period of time?**

Current police policy is to retain all caution and conviction information until the subject reaches 100 years of age, for police operational reasons and in the interest of the prevention and detection of crime.

The disclosure of information about spent convictions and cautions on a standard or enhanced disclosure certificate is justified in order to mitigate risks in the workplace, which are present for particularly sensitive purposes and positions, and to inform criminal and other tribunal proceedings. If the information is not relevant, it should not count against the individual concerned. The Disclosure and Barring Service Code of Practice requires registered bodies

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have a fair and clear policy towards ex-offenders and not to discriminate automatically on the basis of a conviction or caution.

Chief officers of police are responsible, as data controllers, for information stored on police systems by their force and, in exceptional circumstances, may agree to remove information from an individual's record. However this is only where compelling reasons exist and it is a matter for the individual to raise directly with the chief officer of police concerned.

(4) INFORMATION FOR EMPLOYERS

- **How do I know if I am eligible to request a standard or enhanced criminal records certificate from prospective and/or current employees?**

You are only eligible to request a standard or enhanced disclosure certificate, containing information on both unprotected spent and unspent convictions, from an employee or prospective employee if that individual is engaged in an activity listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (see **Section 3** above) and in the case of enhanced criminal record certificates the activity or position is also included in the Regulations made under the Police Act 1997. If you are unsure whether such a certificate can be requested, you can contact the Disclosure and Barring Service at www.gov.uk/government/organisations/disclosure-and-barring-service.

- **What should I consider when employing ex-offenders?**

Each employer is best placed to consider whether a person's convictions (either before they have become spent, or, in the case of activities listed on the Exceptions Order, when they are spent) make him or her unsuitable for a particular job. But it is important that you should reach a balanced judgement, having regard to such factors as:

- a. the person's age at the time of the offence;
- b. how long ago the offence took place;
- c. whether it was an isolated offence or part of a pattern of offending;
- d. the nature of the offence;
- e. its relevance to the post or position in question; and
- f. what else is known about the person's conduct before and since the offence.

The Disclosure and Barring Service Code of Practice requires registered employers to have a fair and clear policy towards ex-offenders and not to discriminate automatically on the basis of an unprotected conviction or caution.

More information for employers about recruiting ex-offenders is provided on Business Link: www.businesslink.gov.uk/bdof/action/laver?r.i=1097472733&r.l1=1073858787&r.l2=1084822723&r.l3=1097470700&r.s=sc&r.t=RESOURCES&topicId=1097470700

(5) Jurisdiction

- **Application of different rehabilitation periods in England & Wales and Scotland**

Rehabilitation periods should be determined with reference to the law of the jurisdiction to which the inquiry relates, for example, where the position or job is located.

- **What legislation will apply when the Disclosure and Barring Service and Disclosure Scotland issue criminal record certificates.**

DBS will apply the relevant legislation as it applies in England and Wales and Disclosure Scotland will apply the relevant legislation as it applies in Scotland. However, in cases where the DBS has asked Disclosure Scotland to carry out its functions in respect of England and Wales, Disclosure Scotland should apply the law relating to England and Wales.

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This means that basic disclosure certificates issued by Disclosure Scotland for the purpose of a job or activity in England and Wales will show unspent convictions in accordance with the rehabilitation periods which apply under the law in England and Wales.

(6) ADDITIONAL INFORMATION

Immigration and Nationality decisions

- **Does the 1974 Act apply to Immigration and Nationality decisions?**

Immigration and nationality decisions are exempt from the 1974 Act. This means that both spent and unspent convictions can be considered by the UK Border Agency when making these assessments.

Visa Applications

- **Do I have to disclose all my convictions for a visa application?**

The eligibility requirements for a visa to travel to another country are a matter for the country concerned and you should contact the embassy of the relevant country if you require further advice.

Criminal Injuries Compensation Scheme 2012 (CICS)

- **I have an unspent conviction. Does this affect my eligibility for claiming compensation from the Criminal Injuries Compensation Scheme?**

The Criminal Injuries Compensation Authority may refuse or reduce a payment if you have an unspent criminal conviction. The CICS uses the same definition of 'conviction' and the same determination of whether a conviction is spent, or a sentence is excluded from rehabilitation, as the 1974 Act.

A payment will not be made if you have an unspent conviction at the date of application, or are convicted before a final decision is made, for an offence which resulted in:

- a sentence excluded from rehabilitation;
- a custodial sentence;
- a sentence of service detention
- removal from Her Majesty's Service
- a community order;
- a youth rehabilitation order; or
- a sentence equivalent to a sentence under sub-paragraphs (a) to (f) imposed under the law of Northern Ireland or a member state of the European Union, or such a sentence properly imposed in a country outside the European Union.

If on the date of your application you have an unspent conviction which resulted in a sentence not included in the list above, an award under the CICS will be withheld or reduced unless there are exceptional reasons not to do so.

This does not apply to a conviction for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988.

The CICS will apply the law of England and Wales to applications from applicants with unspent convictions who have been injured in England and Wales i.e. rehabilitation periods in England and Wales will apply regardless of where the applicant committed the offence and when it was committed.

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For more information about the CICS 2012, or previous Criminal Injuries Compensation Schemes, please visit: www.gov.uk.

Notification and Disclosure Schemes

- **Is the 1974 Act linked to the Violent and Sex Offenders Register?**

The 1974 Act is concerned with the disclosure of cautions and convictions and managing risk in the workplace. It is not the way in which the wider risks posed by ex-offenders are managed in the community.

For example, those convicted of violent or sexual offences may be subject to other requirements on release, such as the notification requirement to register with the police under the Sexual Offences Act 2003 for inclusion on the 'Violent and Sex Offenders Register'. The notification requirement periods are linked to the sentence received and they are set out in the Sexual Offences Act 2003.

In addition, the Child Sex Offender Disclosure Scheme set up in 2008 allows parents, carers and guardians to formally ask the police to tell them if someone has a record for child sexual offences.

For more information on this scheme, please consult: www.homeoffice.gov.uk/crime/child-sex-offender-disclosure/

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Annex A

Examples of the types of occupations, posts and activities in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

Please be aware that this is not a comprehensive list and merely gives an indication of the general types of employment that are included in the Exceptions Order.

1. Regulated activity with children and other activities which involve working closely with children such as caring for, training, supervising or being solely in charge of children under 18 (including adoption, fostering, day care and childminding)
2. Regulated activity and other activities which involve caring for, training, supervising or being solely in charge of other people in vulnerable circumstances (including social work and advocacy services)
3. Employment in healthcare professions (including medical practitioners, dentists, nurses, midwives, optometrists, registered pharmacists and osteopaths)
4. Employment concerned with national security (including the provision of air traffic services and employment by the UK Atomic Energy Authority)
5. Employment in the legal profession (including barristers, solicitors, legal executives, the Crown Prosecution Service and judicial appointments)
6. Offices and positions in HM Courts and Tribunals Service and the Judicial Office (including Justices' and sheriff's, court and tribunal security officers and contractors with unsupervised access to court-houses, tribunal buildings, offices and other accommodation used in relation to the court or tribunal)
7. Employment in law enforcement (including police constables and cadets, the naval, military and air force police, traffic wardens and employment in the Serious Fraud Office (SFO) and the Serious Organised Crime Agency (SOCA))
8. Offices responsible for the enforcement of warrants and writs (including Court officers who execute county court warrants, High Court enforcement officers, sheriffs and Civilian enforcement officers)
9. Employment in the Prison and Probation Services (including prison and probation officers, members of boards of visitors etc.)
10. Employment in the financial sector (including chartered and certified accountants, actuaries and all positions for which the Financial Conduct Authority or the competent authority for listings are entitled to ask exempted questions to fulfil their obligations under the Financial Services and Markets Act 2000)
11. For licensing purposes (including the National Lottery, gambling, firearms and drugs licensing purposes, Security Industry Authority licences, and licensing hackney carriages or private hire vehicle drivers)

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EQUALITY OF OPPORTUNITY POLICY



| | |
|----------------------------|--|
| Policy | Equality of Opportunity Policy |
| Type | Staffing |
| Content source | Sample policy-source Cornwall Council |
| Required/Optional | The statement in the sample policy says: <i>"Cornwall Council recognises its statutory equality duties under legislation in terms of service provision and employment and is committed to meet them by complying with this policy."</i> |
| Review period | Annual or if legislation changes |
| Options to consider | <p>It should be noted that the council is already bound by the legal responsibilities within the Equality Act (2010)</p> <p>Recruitment: Advice from Ellis Whittam is that during recruitment Equal Opportunities Monitoring is not mandatory. However, if undertaken data can be used to support any potential discrimination complaint. A sample form is attached to this document. Equality monitoring data is subject to the Data Protection Act.</p> <p>Scope of sample policy:</p> <ul style="list-style-type: none"> • equality in the delivery of services • equality in employment • employee monitoring • procurement and contractors <p>Employment/service delivery: The sample policy attached is part of the pack that was provided as part of the library transfer documents. As these are in place my understanding is that they will all need to be adopted.</p> |
| Summary | There is an Equality and Diversity Policy in place which was adopted in January 2012. |
| Recommendation | The council should adopt a more comprehensive policy modelled on the sample policy attached. |



Summary document
EOF
ajt072018



EQUALITY OF OPPORTUNITY POLICY

Updated April 2016
Version 2.1



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1. Introduction or Background

1.1. Purpose and aim of policy

This Equality of Opportunity Policy is a statement of how Cornwall Council intends to promote equality, and tackle discrimination and harassment. It is necessary for the Council to have an Equality of Opportunity Policy for the following reasons:

- Oppression, disadvantage and discrimination exists in society;
- Some people are unfairly denied equal access to services or employment (or both);
- Discrimination and disadvantage have undermined the quality of life for many people in Cornwall; and
- People often experience multiple-discrimination.

This Equality of Opportunity Policy demonstrates our commitment to put this imbalance right. It will help us to make sure that everyone has equal access to services and employment and to raise the quality of life of everyone who lives and works in Cornwall.

Cornwall Council will ensure that it meets its legal duties and will assess how its policies, procedures and services can meet the needs of disadvantaged groups in the community.

Councillors, managers and employees will help to change the way we work so that equality is at the heart of all our activities. We will improve equality practice at a corporate and service level and will meet our legal obligations and statutory duties to promote Equality of Opportunity.

1.2. Scope

This Equality of Opportunity Policy is a statement of how we intend to promote equality and tackle discrimination and harassment. We will work towards ending discrimination, including stopping victimisation and harassment on the grounds of someone's

- Age
- Sex (formally known as gender)
- Sexual Orientation
- Disability
- Race
- Ethnic Background (including Cornish)
- Colour
- Religion or Belief (and those with none)
- Economic or Social Background
- Political Belief
- Gender Reassignment Status
- Marital or Civil Partnership Status
- Pregnancy and Maternity Status
- Trade Union Activities
- Caring responsibilities for children or someone who is disabled or elderly

This policy applies to all employees and Councillors of the Council and adheres to their Codes of Conduct. We will also be working with our stakeholders, contractors and partners, to influence their policies and ensure their practices reflect the objectives set out in this policy.

2. Policy Statement

Cornwall Council is committed to promoting equality and diversity and tackling social exclusion in all operations of the organisation and the services it provides.

Cornwall Council recognises its statutory equality duties under legislation in terms of service provision and employment and is committed to meet them by complying with this policy.

2.1. Equality in the delivery of services

Cornwall Council is committed to equality of opportunity in the provision of services and aims to create the best possible quality of life for people who live or work in Cornwall.

We will achieve this by:

- recognising and accepting that particular individuals or groups are denied equality through intentional and unintentional discrimination;
- providing regular mandatory training for all employees and training for Councillors on customer care and equalities, so that they have a good understanding of the diverse needs of different people;
- ensuring that people have the opportunity to engage with and participate in the planning and delivery of services;
- delivering services which are relevant, of the highest possible quality and accessible;
- providing clear information about our services and where necessary, in a variety of formats;
- supporting the Voluntary and Community Sector (VCS) and equality groups to enable them to meet their objectives;
- ensuring that our complaints and feedback procedures are accessible and effective;
- assessing the impact of and monitoring our services to ensure that they do not discriminate and identify where improvements can be made;
- ensuring that all employees understand what their roles and responsibilities are in relation to equality in service provision and in the workplace;
- encouraging our partnership agencies and commissioned service providers to contribute to the implementation of this policy.

2.2. Equality in Employment

Cornwall Council is committed to ensuring that we provide equality of opportunity to all in employment. We need a workforce which reflects the community we serve to make sure that we provide appropriate services to all our diverse communities. We will work to ensure that we do not unfairly discriminate against any job applicant or employee for any reason. The Council will use positive action to put right past inequalities in the workplace and in how we provide services. All managers who will be recruiting employees must go on to the recruitment and selection training.

We will achieve this by:

- ensuring that our recruitment and selection policies and procedures are equitable and fair so that the best people are appointed to deliver our services
- only considering applicants for jobs on the basis of their relevant experience, skills and abilities unless a 'Genuine Occupational Requirement' (GOR) exists for specific posts
- considering disabled applicants for employment within the 'Two Ticks – Positive about Disabled people' commitment
- offering an interview to a disabled applicant who has "partially demonstrated" all the required behaviours, competencies or qualifications/ training (and any other requirements) at the application form stage
- ensuring that disabled people are provided with all reasonable support, equipment and facilities in their employment
- making reasonable adjustments to working arrangements and/or physical features of premises where they cause a disadvantage to an employee with a disability
- ensuring that disability or any other protected characteristic is not used as a criterion for redundancy
- annually reviewing the duties and working conditions of disabled employees under the Personal Development Scheme (PDS)
- using appropriate lawful methods, including positive action, to address the under-representation of any group which the council identifies as being under-represented in particular types of jobs;
- supporting the development and running of employee forums and networks for protected characteristic groups (e.g. disability, race, carers, lesbian/gay/bisexual and transgender)
- ensuring that all employees receive fair and equal treatment in relation to their employment, regardless of whether they are part-time, full-time or employed on a temporary basis;
- ensuring that employment policies and opportunities are of the highest possible quality, therefore equality, equity and consistency are embedded in practices, pay and conditions;
- making sure that we give equal consideration to people's needs and develop flexible and responsive employment opportunities to tackle those needs;
- encouraging and supporting employees to reach their full potential within the resources we have available to us;

- taking appropriate action against incidents of harassment, bullying or discrimination, and offering support and advice to victims or witnesses to incidents; and
- taking disciplinary action against employees who discriminate against people who work for the council or who seek employment with the council – we will take action (including legal action if appropriate) against employees who are found guilty of harassment.

2.3. Employee Monitoring

The Council has recognised that equality monitoring is an important way of assessing our services. Monitoring is an essential part of tackling inequality and discrimination and, if done effectively, will help us check whether our policies, services and organisational culture are meeting the needs of our employees and community.

Any data collected will be analysed and reported on and can be used within the Council for:

- setting targets
- reviewing our service delivery by comparing our performance over time
- developing services and assisting with making changes

The Council will monitor employees on the basis of their age, sex, gender identity, sexual orientation, disability, caring status, religion and belief and race, Cornish identity in the following areas:

- training and development
- promotion and career development
- outcome of performance and competency assessments
- disciplinary procedures and grievances
- those leaving the council's employment

Equality monitoring data is subject to the Data Protection Act.

2.4. Procurement and Contractors

The Equality & Diversity Procurement Guide commits us to making sure that contractors, suppliers and funded service providers promote Equality and Diversity. We will ensure that our commissioners and contractors specify that our services must be delivered so as to provide an effective and appropriate service to all communities. We will ensure that:

- contractors and providers have Equality & Diversity policy, procedures and practices that do not discriminate;
- we or those acting on our behalf will develop and deliver services, goods and facilities that are appropriate and accessible;
- we will provide opportunities for people from diverse groups to be in a position to bid for and win council contracts from an equal basis; and
- we will monitor whether contracts and commissioning arrangements do meet these Equality & Diversity commitments.

3. Policy Details

3.1. Relationships with other corporate strategies and policies.

The Equality of Opportunity Policy is one of the Council's most important policies. It underpins all other corporate policies, procedures and strategies therefore providing a strong foundation for Equality of Opportunity in the Council and the services it provides.

The implementation of this policy links to the following corporate policies:

- Comments and Complaints Policy and Procedures
- Grievance Policy
- Code of Conduct for Councillors
- Disciplinary Procedures
- Disability Employment Policy
- Interpreting and Translation Policy and Procedures
- Whistle Blowing Policy
- Flexible Working Policies and procedures
- Corporate Equality and Diversity Framework

3.2. Management and Supervision of this Policy

Strong leadership is essential to ensure that this policy is embedded at strategic and service levels of the Council. The Leader of Council has cabinet responsibility for Equality and Diversity and is Member Equality Champion. A senior management member has responsibility as Officer Equality Champion.

Corporate Leadership Team

The Chief Executive with the Corporate Directors are responsible for providing leadership in the implementation of this policy and for ensuring that service planning and performance management systems incorporate the specific equality objectives in terms of employment and service provision

Councillors

All Councillors have overall responsibility for the direction and scrutiny of this policy and will ensure that the principles of fairness and equality guide the decision making process. Each year, the Executive of the Council will identify which Portfolio Holder has responsibility for Equality.

Corporate Equality and Diversity Steering Group

The Corporate Equality and Diversity Steering Group have responsibility for monitoring performance against all the key priorities of the Council and receive regular performance reports. The Group is chaired by the Equality Officer Champion and membership includes the Member Equality Champion, Directorate Equality Action Group Chairs together with Human Resources and Trade Union representation

Directorate Equality Action Groups (DEAGs)

DEAGs have responsibility for ensuring that the policy is adopted, communicated and monitored at a Directorate level

3.3. Implementation

All employees have a responsibility to implement this policy in service provision and employment. Heads of Service will determine what resources will be required to co-ordinate and support departmental activities which contribute to promoting this policy and delivering on equality priorities and objectives.

All employees will receive a summary of this Equality of Opportunity Policy when they start working for the Council. Managers have a duty to pass on information on Equality of Opportunity, equality training and complaints procedures to employees and to include equality in all employee induction and appraisal processes.

The Council will ensure that employees and Councillors have appropriate training and awareness of equality and diversity, ensuring that individual behaviours and performance are appropriate and don't adversely impact on individuals or groups.

To comply with this policy, all employees and Councillors must:

- co-operate with any measures introduced to ensure equal opportunity;
- report any suspected discriminatory incidents or behaviours
- not influence or attempt to persuade others to practice unlawful discrimination or harassment;
- not victimise or harass anyone as a result of them having reported or provided evidence of discrimination, harassment or bullying;
- not harass, abuse or intimidate others on account of any of the characteristics detailed in section 1.2.
- not lobby job applicants in an attempt to discourage them from applying or taking up a post; and
- when developing new or changing existing plans, policies or procedures, must carry out Comprehensive Impact Assessments (CIA). The outcomes of these CIA's must be published.

4. Consultation and Engagement

Consultation and engagement enables an assessment to be made of the views of those who are affected by this policy. It does not mean just a general advertising of intended changes and a request for comments, but includes positive efforts to identify and engage in dialogue with those people/groups within the "Protected Characteristics" who are potentially affected. It helps the Council to become aware of issues and problems that various groups face (both in the community and our internal staff) which the organisation might not otherwise discover. Consultation and engagement with communities and staff provides an important means of enabling those who may be adversely affected by the policy to participate in the process.

The Equality Act (2010) requires:

- Consultation on the impact of policies. The public authority must engage in consultation about the likely impact (on the promotion of equality of opportunity) of its existing and proposed policies, and in making decisions about such policies, it must take the consultation into account.

Minor revisions have been made to this policy from April 2009. The following stakeholders were consulted during the original development of this policy and have been consulted with again regarding the minor changes made:

- The Diversity Network for Cornwall (DNfC)
- Corporate Equality and Diversity Steering Group and all DEAG members
- Disability Cornwall and Cornwall Council's internal employee forums following minor additions made in August 2012

5. Responsibilities

All employees are responsible for the Equality of Opportunity Policy. All Council Members are individually and personally bound by the Policy. This means that employees and Council Members must not discriminate, harass or intimidate people because of any of the characteristics set out in section 1.2.

Every employee is required to assist the Council to meet its commitment to provide Equality of Opportunity in employment and avoid unlawful discrimination. Employees can be held personally liable as well as, or instead of, the Council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence. Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the Council's disciplinary procedures. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

6. Monitoring arrangements

The Council will establish appropriate information and monitoring systems to assist the effective implementation of our Equality of Opportunity policy. The effectiveness of our Equality of Opportunity policy will be reviewed regularly in consultation with stakeholders including employees (via employee forums for example) and the recognised trade union(s) if appropriate. Action will be taken as necessary. For example, where monitoring identifies an under-representation of a particular group or groups, we shall develop an action plan to address the imbalance.

7. Breaches of Policy

Breaches of this Policy will be handled through the Council's Complaint Policy and Employee Disciplinary Procedures depending on the nature of breach. Legal action may be taken forward where appropriate.

8. Information and training

Employees will be provided with appropriate training regardless of sex, race, Cornish identity, marital status, disability, age, part-time or fixed term contract status, sexual orientation, religion or belief, gender reassignment status, pregnancy or maternity.

The council will:

- Seek to ensure that all employees are developed by the provision of appropriate and accessible learning opportunities in line with organisational needs.
- Provide training that complies with the Councils Equalities Policies.
- Include equalities training as part of its induction programme.
- Include equalities training as part of its management development programme.
- Provide equalities awareness training as part of its corporate learning and organisational development programme.
- Include equalities as part of its Member development programme.

9. Equality Impact Assessment (EIA)

This Policy has undergone an Equality Impact Assessment (EIA) in line with the council's requirements to EIA all new or revised policies. Details of the EIA can be obtained from the Corporate Equality and Diversity Team by e-mailing equality@cornwall.gov.uk. A Comprehensive Impact Assessment will be completed if major changes to this policy are required.

10. Sustainability Implications

In line with the Council's Sustainable Community Strategy, it is envisaged that this policy will not have any impact or affect on the Councils activities and objectives for sustainable development.

11. Legal requirements

Over and above the provisions set out in its own policy and procedures, the Council is also bound by the legal responsibilities as detailed within the Equality Act (2010)

12. Authorisation, Approval and Review dates

This Policy will be subject to review every three years.

This Policy will also be reviewed in the instance of significant changes to equality legislation, local circumstances or national equality policy to ensure that it is current and compliant.

13. Alternative Formats

We want to ensure that your needs are met.
If you need this information in any other format or translated into a language other than English, please contact:

Cornwall Council
County Hall
Treyew Road
Truro
TR1 3AY
Tel: 0300 1234 100
enquiries@cornwall.gov.uk
www.cornwall.gov.uk

Appendix 1

| Glossary of Terms | |
|--------------------------|--|
| Race | Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins. |
| Disability | A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities. |
| Sex | A man or a woman. |
| Age | Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds). |
| Religion & Belief | Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. |
| Sexual Orientation | Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes. |
| Gender Reassignment | The process of transitioning or proposing to transition or having undergone a process of transition from one gender to another (e.g. from a man to a woman or woman to man). A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment under the Equality Act 2010. |

| | |
|--|--|
| Pregnancy and Maternity | Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding. |
| Marriage and Civil Partnership | A person is legally married if the union is recognised as a marriage under UK law. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. |
| Comprehensive Impact Assessment (CIA) | <p>We have a legal responsibility to assess all of our existing and new policies, procedures, strategies, functions, services and decisions, to ensure they are fair and offer everyone an equal opportunity.</p> <p>Comprehensive Impact Assessments (CIAs) is the process we use for carrying out these assessments covering the specific themes of Equality and Diversity, Safeguarding, Information Management, Community Safety and Health, Safety and Wellbeing. CIAs assess and record the actual, potential and likely impacts of policies, procedures, strategies, functions, services and decisions on our internal and external customers.</p> <p>Any consequences on particular groups, such as older people, those with physical disabilities, or anyone in the nine protected characteristics, are analysed and anticipated. This means, as far as possible, any negative consequences can be eliminated or minimised and opportunities for ensuring equality can be maximised</p> |
| Genuine Occupational Qualification (GOQ) | A GOQ applies where there is an exception under the relevant legislation, and can specify the recruitment, training, promotion or transfer of a person of a particular gender, race, |

| | |
|-------------------------|--|
| | ethnic group or religion by claiming that it amounts to a GOQ for the post in question. |
| Equality | Equality is about respect and not treating an individual or group of people unfairly. It is about giving people an equality of opportunity to goods and services and to fulfil their potential. Equality is therefore based on fairness while recognising that everyone is different. |
| Diversity | Diversity is about all the ways that people differ and recognising that those differences are a natural part of society. Diversity is about treating people as individuals and making them feel respected and valued. |
| Direct discrimination: | A person who has, or is associated with someone who has, or believed to have, a protected characteristic is treated less favourably than someone who does not. |
| Indirect discrimination | A policy applied in the same way for everyone that particularly disadvantages people with a protected characteristic. |
| Victimisation | <p>Victimisation is when a person is treated badly because they have made a complaint about discrimination or have given evidence in a discrimination case.</p> <p>This could include:</p> <ul style="list-style-type: none"> labelling the person a 'troublemaker' denying them opportunities or services they would normally have (such as a promotion at work) ignoring them. |

Agenda No. 16**SALTASH TOWN CHRISTMAS LIGHTS IMPROVEMENT 2018****BACKGROUND**

Last year (2017) the Christmas Lights in Fore Street were subject to a partial improvement phase, which resulted in a brighter look to the street for the festive period particularly by the addition of some "column motifs".

This was intended to be followed up this year with further updates, focussing mainly on the catenary "river of light" which has been deteriorating significantly in recent years (although was revived somewhat last year).

Therefore this year the focus has been on replacing the catenary lighting, and as the lights remain permanently installed, the catenary itself (although it might have a year or two of life remaining) as it would be uneconomic and disruptive to dismantle relatively new lighting to replace it in a year or two.

PROCESS

Three companies who were prepared and able to undertake the work were identified to visit and provide quotes, which are available to view in hard copy.

Each visited and after discussion of various options provides quotes, which were evaluated and summarised below. The components of work identified were as follows:

1. Supply and install replacement catenary wire and lighting, with associated fittings/power supplies
2. Install/remove/store the 10 existing column motifs owned by the town.
3. Supply and install appropriate lighting in the 3 large trees half way up the street, and the 7 small trees at the bottom.
4. Install/remove/store 3 x existing cross street elements



| | Xmas Decs | Lite | Encore* |
|---|------------|------------------------------------|---------|
| Catenary Supply & Installation | £11,000.00 | £5,000 (+£5k install) Xfms £500 | |
| Install column motifs, remove and store | £1,000/yr | £1,300/yr | |
| Supply tree lighting, install, remove | £2,700/yr | £8,900.00 £1,500/yr | |
| Cross-street banners: install, remove and store | £750/yr | £1,300/yr | |

| | | | |
|-----------------------|------------|------------|-------------|
| Purchase | £11,000.00 | £14,400.00 | |
| Annual rental/install | £4,450.00 | £5,750.00 | £7,425.00* |
| TOTALS Year 1 | £15,450.00 | £20,150.00 | £7,425/year |
| 3 year TOTAL | £24,350.00 | £31,650.00 | £22,275.00* |

NB Apologies for table overspacing!

The lighting suggested by Christmas Decorators has 3 lamps/metre, whereas the one from Lite has a spacing of 1 lamp/metre.

CONCLUSIONS

*Encore quoted for installation/removal and storage only, for a three year plan. This totalled over £20k, so any further enquiries were deemed nugatory.

Lite provided costs for supply, with installation etc. payable over a three year cycle. This totalled over £30k, and costs would be payable over a 3 year contract. A benefit is that the tree lights would be permanently owned for their whole life, but their maintenance would be additional.

Christmas Decorators is an annual contract with the tree illuminations on hire, therefore updates could be made over time with no commitment to any subsequent payments, so changes could be made unilaterally next year if desired.

RECOMMENDATION

Contract to be placed with Christmas Decorators, who are a local company and have proved to be quickly reactive and accommodating to issues.

Additional funding for a tree in Victoria Gardens, uplighting to feature tree and garlands for Guildhall/Heritage may be considered.

Draft 2 – 13 July – Steve Miller

Agenda No. 27**To be noted by members.****(PRESS RELEASE) AND 2ND UPDATE FOR SALTASH TOWN COUNCIL
FROM THE GREAT WAR COMMEMORATIVE EVENTS COMMITTEE**

A group of Saltash residents have formed a Great War 1914-1918 Commemorative Events Committee with the aim of commemorating and honouring the World War One dead including 140 men, who came from or were associated with Saltash. It has also been discovered that 44 names of those who died during WW1 are not inscribed on the town's War Memorials. The committee have been fundraising to provide a scroll with the missing names on. It will be framed and put on display. Next year the Committee have pledged to tackle highlighting and displaying the missing names of WW2 Memorials in the same way.

The commemorations will also include a 5'6 metal "Silent Soldier" on permanent display in the Memorial Peace Garden in Alexandra Square, Saltash. This will be unveiled by the Mayor of Saltash, Councillor John Brady in a ceremony, with around 130 invited guests, on Saturday, 4th August at 12 noon. Featuring a Piper and Bugler and eleven year old Lerryn Willcox reading Rupert Brooke's "The Soldier". Around six Saltash Centenarians have accepted invitations to attend the Ceremony. There will also be Military personnel in attendance and Standards. Blessings will be given by local Clerics.

On display at that time, in the grounds of St Nicholas and St Faith Church, will be significant sections of the carpets of poppies being created within the Saltash community. This project is on-going and will form part of a touring exhibition in Saltash, culminating on Remembrance Sunday, 11th November at St Nicholas and St Faith Church.

Large pictorial display boards depicting those troops and Memorial plaques at Saltash Railway Station and Saltash Ferry slipway will remind and inform people where Saltash men and Troops from Cornwall and elsewhere left for the Western Front.

Other aspects of the Committee's commemorations include inviting children and members of the community to write prose and poetry relating to the First World War. It is our intention to compile a publication that will contain their works.

Children's workshops are being held in a local Fore Street shop to create poppies from plastic water bottles. (The "offcuts" will also be put to good use by another organisation in making fashion garments out of recycled materials.)

Children's poetry workshops are also ongoing in the same Fore Street shop.

The Committee have also invited the local children and community to paint 140 Cornish pebbles for the men that died from or associated with Saltash. Some most touching examples are currently circulating around the town in hidden places, but it is hoped that they will finally all be reunited in the Saltash Memorial Peace Garden and form a permanent structure.

Our local shops will have window displays and during November we also hope to have a WW1 themed festival at Saltash Waterside abutting the old Ferry Slip where many of the Troops embarked on their perilous journey. Events will also include World War One related, films, sing-a-longs, poetry readings, and re-enactments, and a few surprises!!

The Committee are ever grateful for the funding given thus far fromSaltash Town Council, China Fleet Country Club, Saltash RBL, Saltash RNA, Saltash Rotary, Cornwall Councillors (Saltash).
