

Guidance for Managers

Employing ex-offenders as Members of University staff or Volunteers

Background

1. The Rehabilitation of Offenders Act (1974) was introduced to ensure that ex-offenders who have not reoffended for a period of time since the date of their conviction are not discriminated against when applying for jobs. The Rehabilitation of Offenders Act makes it illegal to discriminate against an ex-offender on the grounds of a 'spent' conviction. Custodial sentences of more than two and a half years can never become 'spent'.
2. In order to protect certain vulnerable groups there are a significant number of positions and professions that are exempted from the Rehabilitation of Offenders Act. These include positions involving access to children, young people, the elderly, disabled people, alcohol and drug misusers and the chronically sick.
3. Organisations are legally entitled to ask applicants of exempted jobs for details of all their convictions, irrespective of whether they are 'spent' or 'unspent' under the Rehabilitation of Offenders Act.
4. Swansea University, as a body is registered with the Disclosure and Barring Service (DBS). The Disclosure and Barring Service has a key role to play in, for example, barring unsuitable individuals from working or volunteering with vulnerable groups including children, and in ensuring that organisations can access criminal record information on individuals when the role justifies it.
5. This procedure applies to all employees of the University, including students who are employed and students or others who are engaged by the University as volunteers - and should be used to check and support all appointment decisions that involve consideration of criminal record or other information, whether provided by the applicant or from the Disclosure & Barring Service (DBS).
6. Guidance should be sought from the Human Resources Department (HR) before any recruitment exercise is contemplated, where a disclosure is likely to be required.

Assessment Process

7. All applicants for employment or voluntary work are asked to declare any unspent criminal convictions or other relevant information at the point of application. Applicants for positions which will require a DBS Standard or Enhanced check are asked to declare any spent or unspent criminal convictions or other relevant information at the point of application.
8. Such information should not form part of the shortlisting or selection process. Occasionally interviewers will be aware of information about convictions during the selection process – for example as a result of a disclosure from the candidate. It is reasonable to discuss the matter and explore any possible concerns in this situation, but no action should be taken based on this discussion. If the Chair of the panel has any concerns s/he should raise these with the Human Resources Department (HR). All applicants should be judged on merit.

9. If a position requires a DBS check, this must be stated at the earliest opportunity in the information provided to potential applicants – this will usually be at the advertising stage. The Human Resources Department will advise on the need to include information in the recruitment advert and further particulars of the post.
10. Application for Disclosure (criminal and other record check) will only be made once the recruiting panel has identified the successful applicant(s). At this stage an offer of employment can be made by the HR Department, subject to a satisfactory DBS check. Volunteers will be offered voluntary work subject to a satisfactory DBS check from the College or Professional Services Department.

Deciding Suitability for Employment

11. If it is the case that the information provided in the Disclosure about a conviction contradicts that provided by the applicant, this will be discussed with the applicant by HR. In the case of volunteers this will be done by the Department organising the voluntary work. There may be a number of reasons for the discrepancy, including not understanding the sentence or rehabilitation period, or simply concern that providing information about convictions will damage their chances of appointment. It is also possible that the information contained in the Disclosure is inaccurate. While providing false information at application is potentially a very serious matter which might lead to the withdrawal of a job offer or termination of the appointment or voluntary position. Applicants should always be given the opportunity to explain the situation before a final decision is made.
12. The suitability for appointment of a person with a criminal record will vary, depending on the nature of the position and the details and circumstances of any convictions. An assessment of an applicant's qualifications, skills, and experience and conviction circumstances should be weighed against the risk assessment criteria for the job). See **Further Guidance on Disclosure** at (<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>). When deciding the relevance of offences to particular positions, the following should be considered:
 - does the position involve one-to-one contact with children or other vulnerable groups, as employees, customers or clients?
 - what level of supervision will the post holder receive?
 - does the position involve any direct responsibility for finance or items of value?
 - does the position involve direct contact with the public?
 - will the nature of the position/course present any opportunities for the post holder to re-offend in the work place/study environment?

For example, paedophile or child pornography offences would almost certainly disqualify any person required to work with children or wishing to gain a qualification in this area of work; some violence offences would be relevant to positions involving unsupervised contact with the public; fraud and theft should be considered in relation to positions involving handling of money or stock. In the latter cases, 'consideration' should not be taken to mean that an individual is automatically unsuitable for employment or study.

13. In some cases the relationship between the offence and the position will be clear enough to decide easily on the suitability of the applicant. In other cases the decision may not be so clear-cut. In these circumstances, the Manager, in consultation with HR or those coordinating volunteer work will make the assessment, taking into account the following:

- the seriousness of the offence and its relevance to other employees, students, customers, clients and property
- the length of time since the offence occurred
- whether the offence was a 'one-off', or part of a history of offending
- any other information which is considered to be relevant

There is no right of appeal against the outcome of the assessment.

