

Consideration of Criminal Convictions during the Recruitment Process

Managers Guidance

As part of the recruitment process all successful candidates will be asked to complete and return a criminal conviction declaration. This form must be completed and reviewed prior to an unconditional offer of appointment being made. The precise nature of the questions asked on the declaration form will vary depending on whether the candidate has applied for regulated or non-regulated work. Copies of these forms can be found in Appendix 1 but the key difference is that candidates for non-regulated work will only be asked to declare any unspent criminal convictions.

In all cases where a candidate discloses previous criminal convictions, this information must be considered carefully by the recruiting manager, with an emphasis on assessing the relevance of the conviction to the post that has been applied for.

When considering the relevance of a previous conviction the following factors should be considered

1. The central concern

The first stage in determining how to proceed in relation to information on criminal convictions is by identifying if there is a "central concern". In other words, what it is you are concerned the individual may do and why it is that you are concerned about this. When asking this question ensure that your focus is on how the conviction relates to the post the individual has applied for and not more general assumptions on what the conviction may or may not say about their character.

An example may be someone who has applied for a role as a support worker working with vulnerable clients in their own homes who declares a previous conviction for theft. In this case the central concern would be that they have committed theft in the past and therefore may steal from the homes of the vulnerable clients they would be working with.

Another example could be someone who has applied for a role as a road worker who declares a previous conviction for breach of the peace. In this case the central concern would be that the individual may behave inappropriately to members of the public they encounter in the course of their employment.

It should be noted that the examples given above are general examples and the concerns and/or appropriate action should be based on the particular circumstances of each individual.

2. Anticipated impact within employment

Where a central concern is identified the next stage is to consider how likely it is that the job the person has applied for will present an opportunity for them to repeat past behaviour. In assessing this you should consider how the behaviours you are concerned about (the central concern identified above) could affect the person carrying out their role. There are a number of things that should be considered when assessing this including

- The exact nature of the offence and the level of harm caused to others
- The length of time that has passed since the offence was committed

- The age of the individual at the time the offence was committed
- Whether there has been a pattern of repeated offending
- Whether the behaviour was specific to circumstances that do not occur in the course of the job, for example a driving offence where the post does not involve driving

In some cases, consideration of the central concern alongside anticipated impact within employment will be sufficient to allow a recruiting manager to decide to proceed with the appointment without the need to have any further discussion with the candidate. In these circumstances the criminal conviction declaration form should be securely destroyed and the offer of appointment progressed in the normal manner.

Where it is not possible to decide to proceed with an appointment on the basis of the information available, the recruiting manager should arrange to meet the candidate to discuss further, this is known as the “central conversation”

3. Central Conversation

In many cases the central conversation will be key to allowing a recruiting manager to determine whether or not it is appropriate to proceed with an offer of employment. This conversation is the chance to understand more detail around the nature of the offence itself and the individual’s circumstances at the time.

When conducting the central conversation, the focus should always be on assessing how the conviction(s) relate to the role the individual has applied for.

Where the central conversation leads to the conclusion that the risk of appointing the individual is sufficiently low, the criminal conviction declaration form and any supporting notes taken by the recruiting manager should be returned to Recruitment and the offer of employment processed in the normal manner.

Where the central conversation leads to the conclusion that the risk of appointing the individual is too high the recruiting manager should inform the candidate of this. They should also notify the recruitment team who will issue formal notification to the candidate that the offer has been withdrawn. All paperwork relating to the appointment should be retained for a 6-month period and then securely destroyed.

Where recruiting managers require additional advice or support in the assessment of information disclosed as part of this process they should contact the Senior HR Adviser for their area.

**HR Services
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