

APPENDIX 24 – REHABILITATION OF OFFENDERS POLICY

The St Helena Government recognises that in order to appoint on merit and to comply with our Equal Opportunities policy it should consider candidates for employment from the broadest range possible, which also includes ex-offenders.

It is recognised that a small but significant proportion of the working population will have been convicted of a criminal offence at some time. Obtaining a job is an essential part of successful rehabilitation. A number of offenders are in the younger age brackets and failure to obtain paid employment is a major reason for re-offending.

The St Helena Government will seek disclosure of criminal records for posts listed under Criminal Record (B) on its Job Application Form.

1 Scope

This policy relates to the recruitment and employment of all employees and will be brought to the attention of all managers and supervisors.

2 Legislation

The Rehabilitation of Offenders Act 1974, which applies to St Helena, makes it unlawful for employers, or prospective employers, to take into account offences in relation to which the individual concerned is deemed to be rehabilitated. This means that an individual who has had a conviction for an offence may, with certain exceptions, be allowed to treat the conviction as if it had never happened. Under the terms of this Act information on “spent” convictions can only be requested if the post is exempt under the Act – in which case, employers can ask for full disclosure of all convictions, formal cautions and, under some circumstances, information held by local Police Forces and Central Government Departments relating to the applicant.

3 Policy Standards

As part of the policy, the St Helena Government will ensure that recruitment is based on objective assessments as follows:

- It will focus on the candidate’s abilities, skills, experience and qualifications.
- It will consider the nature of the conviction, if not spent, and its relevance to the post in question.
- It will identify the risks to the St Helena Government’s business, customers and employees.
- It will recognise that having a criminal record does not imply a lack of skills, qualifications and experience.
- Note that training, leading to qualifications, is available to prisoners.

4 Recruitment Practice

As part of its recruitment practice the St Helena Government will seek vetting certificates from potential employees who will be working in posts as identified in Criminal Record (B) on the job application form.

With regard to recruitment of staff from overseas, the employee will require to be security cleared through disclosure of criminal records for posts in Criminal Record (B) on the job application form in Basic, Standard or Enhanced levels (UK candidates) depending on the specific nature of the post being recruited to. If the candidate does not reside in the UK, then the vetting form from the country of residence will be sought.

When a post becomes vacant the Director should evaluate the need for disclosure and at what level. Candidates should know of this at an early stage of the recruitment process. Once the preferred candidate has been selected, then disclosure and references must be sought before an offer of employment is made; such disclosure and references should be addressed to the Human Resources Department. A conditional offer of employment may be made in certain cases, but a formal offer cannot be made until satisfactory references, a medical check and disclosure information obtained (where appropriate). The Human Resources Department will confirm with the relevant/employing department whether a particular recruitment candidate can be employed.

As permission from the candidate is required for any disclosure the request for this information should encourage honesty.

Staff responsible for recruitment and selection should have an understanding of the Rehabilitation of Offenders Act 1974 and what is meant by a “spent” conviction. Under the Act, information on “spent” convictions can only be requested if the post is exempt under the Act.

5 Assessing the Offence

The suitability of a person with a criminal record to do the job will vary depending upon the circumstances and the details of the conviction. The information that is likely to help you assess the suitability of a person with a criminal record for a position is:

- the nature of the offence for which the person was convicted and the sentence or other order made by the Court
- the action taken by the individual to demonstrate a change in behaviour/circumstances which would make re-offending less likely

Assessing the relevance of convictions cannot be taken in isolation – it should be done in relation to particular tasks within the post. It is important to balance the nature of the job against the ‘risk’ of re-offending i.e. would the duties and responsibilities relating to the job create an opportunity for the individual to re-offend.

6 Fair Use of Information

Our recruitment information will indicate that a Disclosure will be required for any successful candidate where relevant. This will also state that a past conviction will not necessarily be a bar to obtaining a position.

The Human Resources Department will discuss any matters arising from a disclosure with the candidate prior to the decision being made.

All reasonable steps should be taken to verify the identity of candidates for whom disclosures are sought. Records of checks and relevant documents should be kept.

Information obtained through a disclosure should be held confidentially in the Human Resources Department and not disclosed to the employing Department except on a need to know basis.

7 Summary

The request and handling of criminal records should always be based on confidentiality and discretion. Applicants should be encouraged to be honest by stating that candidates will be considered on merit and ability. No disclosure should be sought for posts that are exempt under the ROA 1974.

GUIDANCE ON ASSESSING THE RELEVANCE OF CRIMINAL RECORDS

Assessing the relevance of criminal records

The suitability of employment of a person with a criminal record will vary, depending on the nature of the job and the details and circumstances of the conviction. This is not an exact science, so an assessment of an applicant's skills, experience and conviction circumstances should be weighed against the risk assessment criteria for the job. It should be remembered that employing people on the basis of an application form and a short interview, irrespective of whether they have a criminal record is never risk free. Staff responsible for recruitment need to identify what risks might be involved and what precautions put in place in order to provide satisfactory safeguards.

It is recommended that departments consider the following when deciding on the relevance of offences to particular posts:

- does the post involve one to one contact with children or other vulnerable groups as employees, customers and clients;
- what level of supervision will the post holder hold;
- does the post involve any direct responsibility for finances or items of value;
- does the post involve direct contact with the public;
- will the nature of the job create a temptation for the post holder to re-offend in the place of work.

Posts that are not available to ex-offenders

Teachers	-	For persons convicted of child abuse, sexual offences, serious drug offences and violent offences
Nursery Nurses	-	Ditto
Financial & Auditor posts	-	For persons convicted of fraud, theft & burglary
Posts that deal with unsupervised contact with the public	-	For persons convicted of violent offences
Nurses, Doctors & other clinical professionals and health service professions	-	For persons convicted of child abuse, sexual offences, violent offences, drug offences
Legal professions	-	For persons convicted of fraud, violent offences, serious drug offences, child abuse
Police	-	Convictions, cautions and fixed penalty notices (when introduced) will not necessarily preclude anyone from appointment with the St Helena Police as a new police constable, or employment as a member of the special constabulary, or work in a non-police personnel role (e.g. contractor, agency staff, volunteer, partnership working etc.). It will depend on the nature and circumstances of the offence.

Firemen & Rescue Services,
Ambulance men

- For persons convicted of child abuse, sexual offences, and serious drug offences

Customs Officers

- For persons convicted of drug offences, child abuse, fraud, burglary, theft, violent offences