



SHREWSBURY TOWN COUNCIL

Disclosure and Barring Policy

AIMS OF THE POLICY

To ensure Shrewsbury Town Council can continue to serve the community to the highest standard it is important that we strive to recruit and retain high calibre staff at no detriment to those more susceptible within our society.

In summary, jobs that require a Disclosure and Barring Service (DBS) check prior to appointing a candidate are those that have potential to have unsupervised contact with children or vulnerable adults in their job role.

Introduction

This policy supplements Shrewsbury Town Council's *Data Protection Policy*.

This document sets out Shrewsbury Town Council's policy on asking questions about a prospective (or existing) employee's criminal record and carrying out DBS checks.

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 all employees 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.

We are committed to complying with our Data Protection obligations and the DBS Code of Practice in relation to criminal records information, in particular:

- in relation to the circumstances in which we seek criminal records information;
- 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
- by ensuring the correct handling, use, storage, retention and disposal of DBS certificates and certificate information.

Policy statement

Having a criminal record will not necessarily bar an individual 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.

We will treat all applicants, employees and volunteers fairly but reserve the right to withdraw an offer of employment or take disciplinary action if they do not disclose relevant information, or if a DBS check reveals information which we reasonably believe would make you unsuitable for the role.

Scope and definitions

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.

Staff should refer to Shrewsbury Town Councils *Data Protection Policy* and, where appropriate, to its other relevant policies.

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 when it is adopted.

The definitions set out in Shrewsbury Town Councils *Data Protection Policy* apply to terms used in this policy.

Asking for criminal records information

Before recruiting for any post the HR team will advise:

- whether it is appropriate to limit the information sought to offences that have a direct bearing on suitability for the job in question; and
- whether the information should be verified with the DBS.

If an assessment has been carried out for the same or a similar post within the last 12 months, the HR team may rely on that assessment.

Shrewsbury Town Council will be justified in obtaining criminal records information for a particular post if it is necessary:

- for the performance of the employment contract for that post;
- in order for Shrewsbury Town Council to comply with a legal obligation to which it is subject;
- in order to protect the vital interests of vulnerable service users; and/or
- for the purposes of Shrewsbury Town Councils legitimate interests.

The level of criminal records information and DBS check that Shrewsbury Town Council 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.

We will only ask an individual to provide criminal records information in relation to convictions and cautions that the Town Council would be legally entitled to see in a DBS check for the relevant post.

If the information sought can be limited to offences that have a direct bearing on suitability for the job in question, the HR team will amend the criminal records information form accordingly.

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.

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.

Before an individual is asked to complete a criminal records information form, they will be provided with a copy of this policy.

If Shrewsbury Town Council is not justified in seeking criminal records information for the post, it will not ask an applicant for criminal records information.

If it is assessed that Shrewsbury Town Council should use the DBS to verify criminal records information, Shrewsbury Town Council will comply with the DBS Code of Practice.

Shrewsbury Town Council will not rely on a previously issued DBS certificate.

Once criminal records information has been verified through a DBS check, Shrewsbury Town Council will:

- if inconsistencies emerge between the information provided by the individual and the information in the DBS certificate, give the employee / prospective employee the opportunity to provide an explanation;
- record that a DBS check was completed and whether it yielded a satisfactory or unsatisfactory result; and
- delete the DBS certificate and any record of the information contained in it unless, in exceptional circumstances, the HR team assesses that it is clearly relevant to the ongoing employment relationship, eg to allow for consideration and resolution of any disputes or complaints].

If the HR team 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 three years.

The Town Council will not seek criminal records information from any source other than the individual concerned or the DBS.

Where an unprotected conviction or caution is disclosed

If Shrewsbury Town Council has concerns about the information that has been disclosed by the DBS, or the information is not as expected, Shrewsbury Town Council will discuss its concerns with the employee/prospective employee and carry out a risk assessment.

Shrewsbury Town Council 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 an employee/prospective employee's name does appear on the relevant barred list, it would be against the law for the individual to be employed to work or volunteer with the relevant group.

If an employee/prospective employee is not barred from working with the relevant group, but nevertheless has a criminal record, it is up to Shrewsbury Town Council to decide on their suitability for the role. Shrewsbury Town Council will not refuse a prospective employee employment simply on the basis that they have a criminal record. Before making a decision, the Town Council will:

- give the prospective employee the opportunity to address its concerns before making any decisions; and
- carry out a risk assessment.

In carrying out a risk assessment, Shrewsbury Town Council will take account of:

- the relevance of the conviction or other matter revealed to the position in question;
- the seriousness of the offence or other matter revealed;
- the circumstances of the offence;
- the age of the offence;
- whether there is a pattern of offending; and
- whether circumstances have changed since the offending took place.

Training

Shrewsbury Town Council will ensure that all those within the organisation who are involved in the recruitment process:

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

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

Filtering of protected convictions and cautions

Certain old and minor convictions and cautions are ‘protected’, which means:

- they are filtered out of a DBS check;
- they need not be disclosed by prospective employees to Shrewsbury Town Council; and
- they will not be taken into account by Shrewsbury Town Council in making decisions about continuing employing / prospective employee.

Certain ‘listed offences’ will never be filtered out. The list includes offences which are particularly serious, relate to sexual or violent offending or are relevant in the context of safeguarding.

A conviction will be a protected conviction (ie filtered) if:

- the offence was not a listed offence;
- it did not result in a custodial sentence (or sentence of service detention);
- it is the individual’s only conviction; and
- 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).

A caution will be a protected caution (ie filtered) if:

- the offence was not a listed offence; and
- 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).

As part of an ECRC, the police may also disclose information that they reasonably believe is relevant and ought to be included.

Approved by Personnel Committee	7 December 2023
Adopted by Council	
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