

Derby Homes

Employing People with a Criminal Record

1) Introduction

Derby Homes aims to promote equality of opportunity and welcomes job applications from all sectors of the community. We recognise that individuals with a criminal record should not be unfairly discriminated against because they have a criminal record.

However, some posts within Derby Homes involve access to children and vulnerable adults. These posts are considered to be covered by Rehabilitation of Offenders Act (Exemption Order) 1975 and enable us to ask candidates to disclose details of their criminal record. See Appendices A and B.

Checks will be undertaken through the Disclosure and Barring Service and are referred to as DBS checks.

Having a criminal record will not automatically prevent an individual from being employed. Individuals will be treated fairly and given every opportunity to establish their suitability for a post.

When assessing an individual's suitability for a post we will balance the applicants skills, experience and conviction circumstances against a risk assessment of the job. This assessment will include the tasks to be done and the circumstances in which the work is to be done.

2) Deciding if a post requires a DBS check

We have identified a list of posts, which will require candidates to agree to a DBS check. Consideration has been given to the level of access to children and vulnerable adults, whether the contact is unsupervised, regular, or sustained. The following criteria have been recommended by the Disclosure and Barring Service.

- Does the position involve one to one contact?
- Is the position unsupervised?
- Is the situation an isolated one?
- Is there regular contact?
- Are the adults or children particularly vulnerable?

We request either Standard or Enhanced Disclosures depending on the nature of the work. Enhanced Disclosures are requested for those posts that have significant unsupervised contact with children or vulnerable people. See Appendix one.

3) Information for Candidates

It is important that candidates are informed of any requirement to make a Disclosure as part of their application for employment. We will include information on our Jobs Site on the Derby Homes Internet, in job advertisements, application forms, and in letters inviting candidates for interview. Information and advice will also be included in the contract of employment. This Policy and other details will also be included on our website.

All applicants will be interviewed in accordance with our Recruitment and Selection Procedure. The recruitment panel will select their preferred candidate and pass their details to the Personnel Section.

The Personnel Section will arrange a number of pre-employment checks. These include references, medicals, eligibility to work in the UK, qualifications and the Disclosure. The preferred candidate is not informed of the outcome of this process until all checks have been completed.

4) Process for Obtaining a DBS Check

Personnel will write to the preferred candidate inviting them to a pre employment meeting and advising on what documentation to bring along with them. The Disclosure Application Form will be completed during this meeting together with all relevant identity checks

Candidates must be able to provide at least one item of photographic identification evidence, one address related piece of evidence such as a utility bill, and certificates that confirm name and name changes. Photocopies will not be accepted.

Personnel will check the Disclosure Application Form and take copies of identifying documents and return the originals to the candidate. Personnel will post the completed Disclosure Application Form to the Disclosure and Barring Service. Derby Homes will meet the cost of the Disclosure process on the condition that the candidate accepts the post if it is offered to them.

Disclosure results normally take about 2 weeks to be returned to us. However, they can take longer and depend upon the process taken by the Disclosure and Barring Service. We will chase all Disclosures that have not been returned within 4 weeks.

Candidates directly receive the Disclosure certificate and will need to provide the original to Personnel once received (although this is not retained). Applicants will have the opportunity to discuss the Disclosure information with Personnel before a decision is made about the appointment. Access to information provided will be limited to the Lead Signatory, Personnel and the relevant member of Executive. All decisions will be confirmed in writing.

5) Assessing the Relevance of Criminal Records

The sustainability of employing someone with a criminal record will vary depending on the type of job and the details and circumstances

of the convictions. When assessing suitability we will weigh the applicant's skills, experience and conviction circumstances against the risk assessment criteria for the job. To identify the risks and any precautions that could be taken we assess the applicant's criminal record in relation to the tasks they will be required to perform and the circumstances in which the work is to be done. Here are the guidelines provided by the Disclosure and Barring Service.

- Does the post involve one-to-one contact with children or other vulnerable groups?
- What level of supervision will the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve direct contact with the public?
- Will the nature of the job present any opportunities for the post holder to re-offend in the workplace?

A risk assessment should include:

- The seriousness of the offence and its relevance to the safety of others
- The length of time since the offence occurred
- Any relevant information offered by the applicant about the circumstances which led to the offence being committed
- Whether the offence was a one-off or if there was a history of offending
- Whether the applicant's circumstances have changed making it less likely they would re-offend
- The country in which the offence was committed
- Whether the offence has since been decriminalised
- The degree of remorse expressed by the applicant and their motivation to change.

Any decision not to appoint will only be made after we have spoken to the candidate and the Lead Signatory and a member of Executive has been consulted.

6) Existing Employees

Employees employed in posts, which have required them to submit a Disclosure, are contractually required to inform the Head of Personnel if they are arrested, cautioned, or convicted of any offence. Failure to do so would constitute a disciplinary offence. In addition we will check employees in posts which require a Disclosure on a three year rolling programme in accordance with the Police Act 1997.

Where additional criminal convictions or cautions have occurred the employee will be interviewed by the Head of Personnel and an Operational Manager. The employee may be accompanied by their trade union or a colleague. The Head of Personnel will consult with the relevant member of Executive in order to decide if there is evidence that the new offence affects the employee suitability to continue working in their post. All such cases will then be managed through our Disciplinary Procedure.

7) Information Management – Data Protection Act

All information received during the Disclosure information will be processed in accordance with the Data Protection Act 1998. We will follow these principles:

- We will only ask for a DBS check for posts that meet the definition for checking as defined by the Disclosure and Barring Service..
- Disclosures will be kept in a locked drawer and access will be restricted.
- Disclosures will only be retained until the decision whether to appoint has been made.
- Disclosures will be shredded immediately after a decision has been made unless the candidate disputes the information contained in the Disclosure or if the employee challenges the final decision.
- If the candidate is appointed they will receive a letter confirming the outcome of their Disclosure. This letter will be placed on their personal file.
- If the candidate is not appointed we will confirm this decision in writing. This letter will be retained for six months or until after any dispute about their appointment has been settled. The letter will then be shredded.
- Personnel need to complete a record of Disclosures requested and completed. This information is held on a computer and only includes an individuals name, job title, and the dates Disclosures are made and completed.
- Derby Homes has a Policy on Accessing Personal Files.

Further Advice

Head of Personnel

Derby Homes

Exempt posts under the Rehabilitation of Offenders Act (Exemption Order) 1975

The Exemptions Order of this Act overrules the employment rights an ex-offender would otherwise have for 'spent' convictions. Ex-offenders must disclose information about 'spent' as well as 'unspent' convictions provided Derby Homes informs them on application or interview that the post is exempt. Exempt posts are those in these categories...

- Work involving matters of national security, for example some civil service posts or defence contractors.
- Work that brings the person into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under the age of 18.
- Professions that have legal protection, for example nurses, doctors, dentists, chemists, accountants.
- Posts concerned with the administration of justice, for example, police officers, lawyers, probation officers, and traffic wardens.
- Health service appointments.

Non-exempt posts

If a post is not exempted under the Rehabilitation of Offenders Act then we will only consider criminal convictions when they are relevant to the post. Applicants do not have to disclosure convictions that are 'spent' under the Act.

Sentence	Rehabilitation periods	
	Age 18 or over when convicted	Under 18 when convicted
Prison and Young Offender Institution sentence of 6 months or less.	7 years	3 years
Prison and Young Offender Institution sentence of more than 6 months to 2½ years.	10 years	5 years
Fines, compensation order probation – for people convicted on or after 3 February 1995, community service, combination order, action plan, curfew order, drug treatment, reparation order.	5 years	2 years
Borstal – abolished 1983.	7 years	7 years
Detention centres – abolished 1988.	3 years	3 years
Absolute discharge.	6 months	6 months
Probation order – for people convicted prior to 3 February 1995 – conditional discharge, bind over, supervision order, care order.	Until the order expires – minimum period of one year.	
Attendance centre orders.	Length of the order plus one year.	
Hospital order.	Two years after the order expires – with a minimum of five years from the date of conviction.	

Suspended sentences – Treated as one that has taken effect and the rehabilitation period will be the same.

Consecutive and concurrent sentences – An offender who is sentenced at one time for several offences may have consecutive or concurrent sentences. For example, two terms of imprisonment of six months each to run concurrently results in a rehabilitation period of seven years. If they were consecutive, the period would be ten years.

Extension of rehabilitation periods – If someone receives further convictions while an original rehabilitation period is still running, the rehabilitation period can be extended depending on the seriousness of the second offence.

Posts for checking

Positions listed within Derby Homes that require a disclosure:

Enhanced
Family Intervention Team Intensive Housing Management Officers Tenancy Support Teams Milestone House – All Posts Community & Customer Engagement Team