



## **CRIMINAL RECORDS DISCLOSURE POLICY**

## **1. Introduction**

This policy sets out how Merseyside Fire and Rescue Service ('the Service') will verify both current and prospective employees Criminal Record to ensure that all Service personnel are of good character demonstrating the highest levels of honesty and integrity.

## **2. Legislation governing Disclosure information.**

Disclosure of Information is largely governed by the following legislation:

Rehabilitation of Offenders Act 1974  
The Protection of Children Act 1999  
The Police Act 1997  
Data Protection Act 1998  
The Criminal Justice and Court Services Act 2000  
Education Reform Act 1988

## **3. Recruitment, Selection and Retention**

It is Merseyside Fire and Rescue Services' policy to recruit, select and retain employees who can demonstrate the highest standards of honesty, integrity and competence; relevant to the position they hold. Validation of information is an important feature of the recruitment policy, and all prospective employees (for all posts) will be required to provide information, at the outset, on whether or not they have a current criminal record, i.e. hold convictions which are not 'spent', under the Rehabilitations of Offenders Act 1974.

### **3.1 Rehabilitation of Offenders Act 1974.**

The rehabilitation of offenders Act 1974 sets out the timescales for different types of convictions that are current or no longer current, i.e. spent or are not spent. Some organisations are exempt from this Act and therefore have the right to request all Criminal Records, i.e. spent and unspent convictions and take appropriate action regardless, e.g. Police, however the Service does not currently hold an exemption.

## **4. Criminal Records Bureau (CRB)**

The Criminal Records Bureau (CRB), an executive agency of the Home Office, was set up to help organisations make safer recruitment decisions. By providing access to criminal record information, the CRB helps organisations in the public, private, voluntary sectors and educational institutions identify candidates who may be unsuitable for certain work, especially that involving contact with children or other vulnerable members of society.

The CRB will carry out a criminal record check for an individual drawing on four primary sources of information:

- Police National Computer (PNC)
- Local Police Force Records
- Department of Health
- Department for Education and Skills

According to the nature of the employment or the course and its placement requirements information will be drawn from the PNC alone or from every source. This defines "Disclosure" and constitutes a national standard throughout England and Wales.

#### **4.1 Levels of Disclosures.**

Disclosures can be used to describe both the core service and the range of products provided by the CRB. These products provide different levels of information about prospective job candidates or volunteers

The CRB currently issues two types of 'disclosures', Standard and Enhanced.

Standard and Enhanced disclosures contain details of all convictions on the PNC (Police National Computer) – including 'spent' convictions. These 'spent' convictions are ones that happened some time ago and normally do not need to be revealed as specified in the Rehabilitation of Offenders Act 1974. (See Section 3.1)

Both levels also contain details of any police cautions, reprimands or warnings. Also for posts involving contact with children they contain any relevant information contained on the government department lists held by the Department of Health and the Department for Education and Skills.

The essential difference between Standard and Enhanced is that Enhanced Disclosures are for positions that involve greater (often unsupervised) contact with either children or vulnerable adults. For example, the type of work might involve regularly caring for, training, supervising or being in charge of such people.

The level of disclosure applied for is dependant on the occupation within MF&RS and the type of work it involves. Some positions naturally require more in-depth and more confidential information about an applicant than other positions.

The CRB is due to introduce a third type of disclosure to be recognised as a 'Basic disclosure'. This level of disclosure is to be sought by individuals and not by the Service. Once issued they can be used for any number of job applications.

Basic Disclosures will contain only details of convictions, which are not 'spent' under the Rehabilitation of Offenders Act 1974. It is the individual's choice whether or not to present a Basic Disclosure to the Service.

#### **4.2 Registered body**

The Service is a Registered Body with the CRB. Information provided on any Disclosure is both sensitive and confidential. It is obviously important that anyone within the Service who is party to that information should handle it in an appropriately sensitive and confidential fashion. In becoming a Registered Body the Service must adhere to the CRB Policy. The Service has nominated members of staff who will be responsible for handling the Disclosure process. They are:

**Lead Signatory:** The Director of Human Resources, Human Resources, Personnel Team.

**Counter Signatories:** Personnel Manager (Policy and Recruitment), Human Resources, Personnel Team

The above named individuals have also been subject to Disclosure and have been approved by the CRB.

#### **5. Processing of CRB Applications**

At the time an offer of employment is made or contemplated, the prospective employee will be required to participate in the Disclosure process administered by the Criminal Records Bureau (CRB) if the role is one which requires validation of criminal records, i.e. one in which

the employee may come in contact with children and/or vulnerable adults. Example of which are listed below.

- Community Firefighter
- Other relevant Operational roles
- Prince's Trust roles
- FREE Team roles
- Advocate roles

Existing employees who are occupying roles, which are considered appropriate for a validation of criminal records, will also be required to participate in the disclosure process. In exceptional circumstances and where there is sufficient cause to do so, the Service may also request that an employee submits a disclosure application.

A complete database of roles that require a current CRB Disclosure to be obtained and retained will be maintained by the Personnel Team (Policy and Recruitment).

Disclosure applications will be required at the point of application for entry, application for promotion or transfer of role within the Service.

The level of disclosure will be appropriate to the duties and responsibilities of the position and whether it falls within those for which a Standard or Enhanced disclosure is available from the CRB. All applicants will be advised of which level of disclosure will be sought in advertisement, at interview or offer of appointment. (Please refer to policy guidance document)

## **6. Handling Disclosure information**

Should new information come to light, following receipt of Disclosure information from the CRB, and then the Applicant will be invited to respond. The possession of a Criminal Record is not an automatic bar to employment with Merseyside Fire and Rescue Service and each case will be dealt with according to its own circumstances and on their own merits. However, deliberate failure to disclose unspent criminal convictions upon application for appointment to MF&RS or to disclose convictions that occur whilst in employment with MF&RS could lead to the withdrawal of the offer of appointment or dismissal from MF&RS.

Although the Service does not hold any exemptions from the Rehabilitation of Offenders Act, the CRB Disclosures show spent and unspent convictions.

Unspent convictions will be considered as part of the selection process. Spent convictions will only be considered where the law allows this.

## **7. Currency of Criminal Record Certificates.**

The Service's policy is that disclosures have a currency of 2 years. Therefore the Service will accept an existing disclosure from an applicant entering the service that has been issued less than 18 months prior to the date of application, to allow for time that will elapse during the recruitment process.

This policy also applies to internal applicants for promotion or transfer where a CRB Disclosure certificate is required.

### **7.1 Renewal of Disclosures**

The Service will take responsibility for obtaining a disclosure at the point of entry for all members of personnel who are appointed to a position that warrants a Disclosure.

The Service will also retain the responsibility for renewal of disclosures for personnel who are in a role within the Service where it is necessary to have an up to date Disclosure of the appropriate level.

It is however the responsibility for all personnel to inform the Service should there be a change in their criminal record immediately following conviction

## **8. Requests for Disclosures.**

Managers should formally request all CRB Disclosure applications at either of the following stages-

1. Prior to the recruitment process
2. Prior to the promotion of a current member of personnel
3. Prior to the transfer between posts of a current member of personnel

Please refer to the Disclosure procedure for guidance.

## **9. Payment**

Costs of Disclosures for Operational personnel entering into the service will be met from the HR CRB recruitment budget as will forecasted recruitment of non-operational appointments. All other payments will be made from the budget line for the department where posts are situated.

## **10. Employment of Ex-Offenders**

As the Service is an equal opportunities employer it is committed to the fair treatment of its current and potential employees and embraces the principles that all people shall be treated equally regardless of their gender, ethnic origin, nationality, colour, religion, marital status, sexual orientation, disability or offending background, unless unequal, or different treatment can be shown to be justified and is appropriate.

All candidates will be selected on the basis of their skills, qualifications and experience in relation to the needs of our employment vacancies.

Having a Criminal record will not automatically bar applicants from working within the Service. Appointment decisions will take into account the nature of the position and the circumstances and background of the offence(s). In particular matters to be taken into account could include:

- The position applied for
- The seriousness of the offence and its relevance to the safety of other employees and property.
- 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, e.g. the influence of domestic or financial difficulties
- Whether the offence was a one-off, or part of a history of offending.
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely.
- The country in which the offence was committed; (some activities are offences in Scotland and not in England and Wales, and vice versa).
- Whether the offence has since been decriminalised by Parliament.
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change.

The above list is neither exclusive nor exhaustive, and there may be other considerations that are deemed appropriate dependant on the personal circumstances of the offence(s).

### **11. Confidentiality agreement.**

Merseyside Fire and Rescue Service recognises that such information is highly sensitive personal data, and as such will ensure that any information obtained will be protected in accordance with the principles of the Codes of Practice published by the Information Commissioner, the CRB and the Data Protection Act 1998 and will therefore seek to ensure that any information regarding the criminal records is kept totally confidential, and adequately protected. Any deliberate and inappropriate disclosure of information will be treated as a disciplinary offence, which could lead to dismissal.

#### **Contacts:**

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For more information on the CRB visit: **[www.disclosure.gov.uk](http://www.disclosure.gov.uk)**