

**SOUTHPORT COLLEGE**

**POLICY ON RECRUITMENT OF EX-OFFENDERS**

**(AS AT JANUARY 2010)**

## **SOUTHPORT COLLEGE**

### **POLICY ON RECRUITMENT OF EX-OFFENDERS**

#### **1. Policy Statement**

- 1.1. Southport College is a further education establishment that includes working with children under 18 and as such is an organisation that is entitled to ask exempted questions under the Rehabilitation of Offenders Act 1974 as set out in the Rehabilitation of Offenders (Exceptions) Order 1975.
- 1.2. As an organisation using the Criminal Records Bureau (CRB) Disclosure service to assess applicants' suitability for positions of trust, Southport College complies fully with the CRB Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information received.
- 1.3. Southport College is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
- 1.4. This policy on the recruitment of ex-offenders is made available to all applicants at the outset of the recruitment/placement process.
- 1.5. We actively promote equality of opportunity for all with the right mix of talent, skills, and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview in accordance with the College's Recruitment and Selection Policy and Procedures.
- 1.6. All posts within Southport College and work placements for students are offered subject to the successful applicant obtaining an Enhanced Disclosure. All application forms, job adverts, recruitment and enrolment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered either the position or a place on the course.
- 1.7. Applicants are invited to disclose details of their criminal record at an early stage in the application process. Any such information is requested to be sent under separate, confidential cover, to a designated person within Southport College and we guarantee that this information will only be seen by those who need to see it as part of the recruitment/placement process.
- 1.8. We ensure that those who are involved in the recruitment/placement process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders eg the Rehabilitation of Offenders Act 1974.
- 1.9. At interview, or in a separate discussion, we will ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment/placement.
- 1.10. Southport College will make every subject of a CRB Disclosure aware of the existence of the CRB Code of Practice and make a copy available on request.

- 1.11. We undertake to discuss any matter revealed in a Disclosure with the person seeking the position as part of a risk assessment procedure relevant to the duties of the post offered.
- 1.12. Having a criminal record will not necessarily bar anyone from working at Southport College or attending a student work placement, if appropriate. This will depend on the nature of the position and the circumstances of the offences.

## **2. *Employing/Placing Ex-Offenders***

- 2.1. A Standard or Enhanced Disclosure will show details of convictions, cautions, reprimands, final warnings or non-conviction information. It will also show whether, under Schedule Four of the Criminal Justice and Courts Services Act 2000 (see Appendix 1) whether the person is banned from working or seeking work with young people under the age of 18.
  - It is an offence for a person banned from working with young people to apply for such work and also for an employer to knowingly employ a banned person in such a capacity.
- 2.2. All applicants for posts within Southport College are required to complete a declaration of criminal record. Students enrolling on courses that require a work placement involving contact with children/vulnerable adults are informed in enrolment literature of the requirement to complete a Disclosure. The applicant then has the opportunity to provide more information, in complete confidence, on a separate sheet of paper, which will be seen only by the College's Head of Personnel & Payroll.
- 2.3. If the applicant is offered the appointment, at this stage, a full risk assessment will be undertaken to determine the relevance of the criminal record to the post applied for. During this, the applicant will fully participate in the process and guidance from the Rehabilitation of Offenders Act 1974 (see Appendix 2) will be used. Only if the criminal record is a Schedule Four offence will the offer of employment be automatically withdrawn.
- 2.4. Where the applicant is still under probation or youth justice supervision, the College reserves the right, with the applicant's consent, to seek advice from a relevant probation officer or youth justice worker about suitability for the post applied for.
- 2.5. The College also reserves the right to amend the offer of employment to allow for the outcome of the risk assessment to be implemented eg to temporarily amend the job description for the post so that the applicant may be given greater opportunity during their initial probationary period to demonstrate their suitability for the post.
- 2.6. Any subsequent decision to withdraw an offer of employment/placement because of, or partly because of, a criminal record will relate to an aspect of the person/placement specification which is seen to be unmet. In cases such as these, the applicant will be advised of why the offer has been withdrawn.
- 2.7. In circumstances where the appointment/placement of a person with a serious record might give rise to criticism of Southport College, the Head of Personnel & Payroll should be consulted before the appointment/placement is confirmed.

### People Banned from Working with Children

Under the Protection of Children Act 1999 and Criminal Justice and Court Services Act 2000, a number of people are banned from working with children. These are:-

- People on the DfES List 99
- People on the DoH List
- People on the National Assembly of Wales List
- People aged 18 or over convicted of certain specified offences against those aged under 18 (or 16 in some instances) and given a hospital or guardianship order or a custodial sentence of 12 months or more. Suspended sentences of 12 months or more are treated as qualifying sentences.

The specified Schedule Four offences are:-

- Murder or manslaughter
- Rape or burglary with intent to commit rape
- Grievous bodily harm
- Cruelty to children
- Kidnapping, false imprisonment and abduction
- Indecent assault on a man or a woman
- Sexual intercourse with a child under 13
- Intercourse with a girl aged between 13 and 16
- Buggery with a child under 16
- Indecency between men
- Abuse of trust
- Incest and related offences
- Assault with intent to commit buggery
- Indecency with children under the age of 14
- Offences relating to or encouraging child prostitution
- Offences relating to child pornography

The “working with children” covers a number of areas. According to the *Guide on Protection of Children*, broadly these are:-

- **Employment in certain establishments**, which provide functions of various sorts exclusively, or mainly for children such as schools, children’s homes and children’s hospitals. All staff, whether primary or secondary carers or ancillary staff, are deemed to be primary carers.
- **Employment in day care premises**
- **Caring for, training, supervising or being in sole charge of children**
- **A position where normal duties involve unsupervised contact with children** eg minicab drivers who regularly transport unaccompanied children
- **Child employment**
- **Positions of influence and control** over children, which could place them at risk.

Juveniles – under 18 year olds, should only be banned if a court believes there is a likelihood of the offender committing a further offence against a young person.

The 1999 Act requires childcare organisations to refer the names of individuals considered unsuitable for work with children to the DoH and DfES lists. It also requires childcare organisations not knowingly to offer employment to anyone listed for any posts involving regular contact with children in a childcare capacity.

### A Simple Guide to the Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 helps people who broke the law some time ago but have not been in trouble since if they want to get a job or insurance.

If a conviction is spent under the ROA 1974, then an applicant may say “no” if an employer or insurance company asks them if they have a conviction. However certain employers, such as Southport College which is a further education establishment working with children under 18, are exempt from the provisions of this Act and all convictions – including spent ones must be declared.

#### When Convictions Become Spent

Sentence	Time it takes to become spent (if 17 or under when found guilty)	Time it takes to become spent (if 18 or older when found guilty)
Prison and YOI term of 6 months or less	3 ½ years	7 years
Prison and YOI term of more than 6 months, up to 2 ½	5 years	10 years
Fine, compensation, probation*, community service or combination order	2 ½ years	5 years
Action plan, curfew, drug treatment and testing order or reparation order	2 ½ years	5 years
Absolute discharge	6 months	6 months
<i>* If found guilty on or after 3 February 1995</i>		
Sentence	Time it takes to become spent (if 12, 13 or 14 when found guilty)	Time it takes to become spent (if 15,16 or 17 when found guilty)
Detention and training order of 6 months or less	1 year after order ends	3 ½ years
Detention and training order of more than 6 months	1 year after order ends	5 years
Sentence	Time it takes to become spent	
Probation*, supervision, care order, conditional discharge and bind-over	1 year or until the order ends (whichever is longer)	
Attendance centre order	1 year after the order ends	
Referral order	Once the order ends	
<i>* If found guilty on or after 3 February 1995</i>		