

HR Committee

22nd September 2016



Report of: Service Director HR & Workplace

Title: Ban the Box

Ward: N/A

Officer Presenting Report: Richard Billingham

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Recommendation

That the Committee agrees in principle that the Council should become a Ban the Box employer.

Summary

The report briefs the Committee on the Ban the Box initiative and asks the Committee to consider if the Council should become a Ban the Box employer.

The significant issues in the report are:

- The Council currently requires all job applicants to disclose their unspent criminal convictions on their application form.
- Ban the Box is an initiative spearheaded by one of The Prince of Wales' Charities. The campaign aims to encourage all employers to assess the suitability of job applicants on the basis of their skills, experience and interest in the job. Ban the Box employers do not ask applicants about criminal convictions at the first point of the application process. Instead, they could ask the question once a short-list of candidates for interview has been drawn up, at interview, before a job offer is issued or after a conditional job offer has been issued.
- Signing up as a Ban the Box employer publicises the organisation's willingness to consider candidates with criminal convictions.



Policy

1. In relation to 'Regulated Activity', that is working with children and young people under the age of 18 and with vulnerable adults, the job application form includes the following:

"Disclosure

Bristol City Council

Application for Employment (Work with Children or Vulnerable Adults)

Criminal records, convictions, cautions, reprimands etc

Important Information

Jobs working with children (ie all under-18s) or vulnerable adults are exempt under the Rehabilitation of Offenders Act (1974) by virtue of an amended Exceptions Order. This means that you cannot withhold information about any spent or unspent convictions in applying for this post. You are also asked not to withhold information about cautions, reprimands and other non-conviction information such as police enquiries and pending prosecutions.

*Do you have a criminal record?**

*Have you ever been banned from working with children (up to 18) or vulnerable adults?**

If your answer is yes to this question and you are short listed, the panel will discuss this at interview. You may wish to provide documentation.

Important: In the event of answering yes to the above question, it is important to note that your application will be treated on its merits. A criminal record is not necessarily a barrier to employment. It will be weighed according to relevance and the circumstances and background to your record. A copy of the Council's Policy re the recruitment of ex-offenders is available if you wish to see it."

2. In relation to all other jobs, the application form includes the following:

"Convictions

*Do you have any unspent criminal convictions?**

If Yes please provide details below. You do not have to tell us about any convictions that are spent (as defined by the Rehabilitation of Offenders Act 1974). You must disclose all unspent convictions of any offence.

Date

Offence

Sentence"

Consultation

3. **Internal**

Views on how this should be implemented will be sought from hiring managers and the trade unions.

4. **External**

None.

Context

5. 10 million people in the UK have a criminal record. This equates to over 20% of the working age population. Evidence indicates that asking job applicants about their criminal record at the first

stage of recruitment can act as a barrier to many people entering employment. Re-offending costs our society up to £13 billion a year. Research shows that employment reduces offending by 33% to 50%. It's therefore in every community's interest to reduce the barriers to work for people with criminal convictions.

6. Ban the Box is an international campaign. In the UK it is spearheaded by Business in the Community, which is the Prince's Responsible Business Network, aiming to build a fairer society and a more sustainable future. Business in the Community is one of The Prince's Charities, a group of not-for-profit organisations of which The Prince of Wales is President.
7. The aim of Ban the Box is to remove the opportunity for employers to immediately judge an applicant because they have a criminal record. Instead they assess their suitability for the role based on the applicant's skills, experience and interest in the job.
8. The campaign has had success in the USA, led there by the National Employment Law Project. When the City Council in Minneapolis banned the box it saw 57.4% of applicants with convictions hired, compared to just 5.7% before the box was removed.
9. In the UK, organisations of all sizes have signed up to the campaign, including the entire Civil Service.
10. Best practice guidance from the National Association for the Care and Resettlement of Offenders (Nacro) and the Chartered Institute of Personnel and Development (CIPD) states that:
 - 10.1. Employers who need to ask applicants about criminal records should do so in a way that encourages honesty.
 - 10.2. Applicants should be informed at the outset exactly what information will be requested from them and why, and at which stage of the application this will be requested.
 - 10.3. Employers should emphasise that this information will be used only to assess their suitability for employment where it is relevant.
 - 10.4. The applicant should be considered first and foremost on skills, qualifications and ability to do the job and should not be unfairly discriminated against.
11. Nacro-recommended policy statements on recruiting applicants with criminal records for jobs (1) exempt from and (2) covered by the Rehabilitation of Offenders Act 1974 are attached at Appendices A and B respectively.
12. The expectation of Ban the Box employers is not that they stop asking about criminal convictions where it is appropriate or a legal requirement to do so. The commitment is in fact for the employer to stop asking about criminal convictions at the first point of the application process. Instead, the organisation could ask the question:
 - 12.1. Once a short-list of candidates for interview has been drawn up;
 - 12.2. At interview;

12.3. Before a job offer is issued;

12.4. After a conditional job offer has been issued.

13. Whenever the question is asked, Ban the Box recommends it should be asked in a positive way that allows the applicant to explain or contextualise their criminal record and helps the hiring managers to assess whether the conviction is relevant or a risk to the job.

14. Ban the Box emphasises the importance of communicating the chosen policy:

14.1. To current staff and hiring managers to ensure there is a fair and open recruitment culture;

14.2. To applicants so they know they will be recruited based on their skills;

14.3. To all so that everyone knows the organisation is committed to valuing skills over past mistakes.

15. Signing up as a Ban the Box employer publicises the organisation's willingness to consider candidates with criminal convictions.

Proposal

12. That the Committee agrees in principle that the Council should become a Ban the Box employer.

Other Options Considered

13. Not becoming a Ban the Box employer. This is not recommended because it could give the impression that the Council does not take seriously the issues around the employment of people with criminal convictions.

Risk Assessment

14. The risk of agreeing in principle to the Council becoming a Ban the Box employer is believed to be low because appropriate safeguards will remain in place – ie, information on criminal convictions will continue to be requested from applicants, albeit not at the first stage of the recruitment process. In addition, Disclosure and Barring Service checks will continue to be performed on all applicants/employees undertaking Regulated Activity.

Public Sector Equality Duties

15a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.

- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

15b) An equalities impact assessment has not been completed because this proposal is aimed at enhancing the employment prospects of all people who have criminal convictions, and does not change the existing regime of Disclosure and Barring Service checks for those who undertake Regulated Activity.

Legal and Resource Implications

Legal

The Council will continue to carry out DBS checks for all posts covered by the Safeguarding Vulnerable Groups Act 2006 and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Other than for those posts employers are not obliged to request information on criminal convictions from job applicants.

Kate Fryer
Solicitor
12 September 2016

Financial

(a) Revenue

It has been confirmed that if the proposal to become a “Ban the Box” employee is approved, that this can be implemented at nil cost to the Council, in revenue terms, for example removing the criminal convictions question from the Council’s application forms.

Janet Ditte: Service Manager: Finance Business Support
Date: 14th September 2016

(b) Capital

There are no known financial implications of a capital nature.

Land

Not applicable.

Personnel

Personnel implications are outlined in the report.

Appendices:

- A Recommended policy statement on recruiting applicants with criminal records for jobs exempt from the Rehabilitation of Offenders Act 1974
- B Recommended policy statement on recruiting applicants with criminal records for jobs covered by the Rehabilitation of Offenders Act 1974

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**Background Papers:**

None.