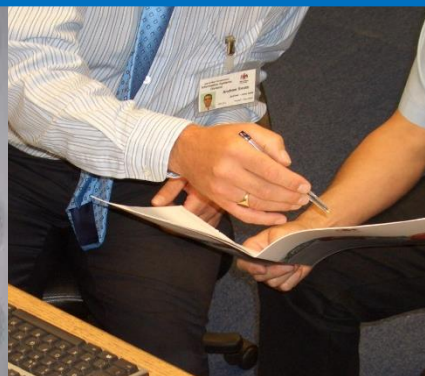




**Isle of Man
Government**

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Gambling Supervision Commission
Policy

DOCUMENT TITLE	Consideration of Ex-Offenders Associated to a Medicinal Cannabis Licence
DOCUMENT DESCRIPTION	Consideration of ex-offenders during the licensing and supervision of medicinal cannabis sector
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Consideration of ex-offenders associated to a medicinal cannabis licence

Introduction

The Isle of Man Gambling Supervision Commission (GSC) has a lawful basis to be a Registered Body and access the Disclosure and Barring Service (DBS) information as per the Police Act 1997¹ part 5.

The Rehabilitation of Offenders Act 1974² Article 6 makes provisions for some rehabilitation periods to be exempted from certain professions, offices, employments, work and occupations.

The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010³, extends Article 6 to the Isle of Man; to include the Rehabilitation of Offenders Act 2001 (Exceptions) Order 2018 (IOM) (SD No. 20180327)⁴, the Isle of Man equivalent to the UK Rehabilitation of Offenders Act 1974 (Exceptions) Order (1975 No.1023)⁵.

The DBS Code of Practice⁶ (the Code) published under section 122 of the Police Act 1997, advises that it is a requirement that all registered bodies must treat DBS applicants who have a criminal record fairly and not discriminate automatically because of a conviction or other information revealed.

A registered body is an organisation that has registered with the DBS to submit DBS check applications.

The Code also obliges registered bodies to have a written policy on the recruitment of ex-offenders. The DBS advises that the requirement to have a written policy of the approval of ex-offenders also reaches to the application and supervision of medicinal cannabis licences, where the GSC requires a DBS certificate.

This policy details the GSC's lawful basis to require a DBS certificate, in accordance with rehabilitation of offender's legislation, fairness and where further guidance can be found in relation to GSC DBS requirements.

The GSC has responsibility for the granting and supervision of medicinal cannabis licenses in the Isle of Man and is therefore required to have a policy on the consideration of ex-offenders associated with a licence.

1 www.legislation.gov.uk/ukpga/1997/50/pdfs/ukpga_19970050_en.pdf

2 www.legislation.gov.uk/ukpga/1974/53

3 <https://www.legislation.gov.uk/uksi/2010/1153/article/4/made>

4 www.gov.im/media/1364160/20181220-therehabilitationofoffendersact2001-exceptions-order2018-18119.pdf

5 www.legislation.gov.uk/uksi/1975/1023/contents/made

6 www.gov.uk/government/publications/dbs-code-of-practice#:~:text=The%20code%20of%20practice%20applies,function%20to%20non%20registered%20organisations.

7 legislation.gov.im/cms/images/LEGISLATION/SUBORDINATE/2022/2022-

0202/MisuseofDrugsCannabisLicencesDataProcessingRegulations2022.pdf?zoom_highlight=cannabis

Consideration

As an organisation considering applicants' suitability for roles which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order (UK) and the Rehabilitation of Offenders Act 2001 (Exceptions) Order 2018 (IOM), it complies fully with the Code and undertakes to treat all applicants for roles fairly.

The GSC will only ask an individual to provide details of convictions and cautions that it is legally entitled to know about. A certificate at either standard or enhanced level is only requested when the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (UK) and the Rehabilitation of Offenders Act 2001 (Exceptions) Order 2018 (IOM).

The GSC undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

Certain cautions and convictions are considered 'protected'. This means that they will be filtered by the DBS prior to disclosure on a certificate. Protected cautions and conviction are reprimands, final warnings, youth cautions and some multiple convictions. The GSC can only ask an individual about convictions and cautions that are not protected, meaning it will not request information about youth cautions.

The GSC is committed to the fair treatment of individuals applying for or associated to a medicinal cannabis licence, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background subject to the requirements specified in the Single Convention on Narcotic Drugs 1961 (the Convention).

This document is the GSC's policy on the consideration of ex-offenders associated with a medicinal cannabis licence, which is made available to all DBS applicants at the start of the licence application process via the GSC Integrity Guidance documents.

The GSC considers applications from a wide range of candidates. However, there is an exemption in that the [United Nations Single Convention on Narcotic Drugs 1961](#), and the [Commentary on the Single Convention on Narcotic Drugs 1961](#), as detailed below and referred to as 'the Convention' and the 'Commentary', specifies that no person convicted of a drugs offence can be associated to a medicinal cannabis licence.

It is to be noted that a cannabis licence for cultivation exclusively for industrial purposes (Low-THC without use), is not included in the drug conviction exemption and applicants with a conviction can be considered, as detailed in the Medicinal Cannabis Licensing Integrity Guidance.

1 www.legislation.gov.uk/ukpga/1997/50/pdfs/ukpga_19970050_en.pdf

2 www.legislation.gov.uk/ukpga/1974/53

3 <https://www.legislation.gov.uk/ukqi/2010/1153/article/4/made>

4 www.gov.im/media/1364160/20181220-therehabilitationofoffendersact2001-exceptions-order2018-18119.pdf

5 www.legislation.gov.uk/ukqi/1975/1023/contents/made

6 www.gov.uk/government/publications/dbs-code-of-practice#:~:text=The%20code%20of%20practice%20applies,function%20to%20non%20registered%20organisations.

7 [legislation.gov.im/cms/images/LEGISLATION/SUBORDINATE/2022/2022-](http://legislation.gov.im/cms/images/LEGISLATION/SUBORDINATE/2022/2022-0202/MisuseofDrugsCannabisLicencesDataProcessingRegulations2022.pdf?zoom_highlight=cannabis)

[0202/MisuseofDrugsCannabisLicencesDataProcessingRegulations2022.pdf?zoom_highlight=cannabis](http://legislation.gov.im/cms/images/LEGISLATION/SUBORDINATE/2022/2022-0202/MisuseofDrugsCannabisLicencesDataProcessingRegulations2022.pdf?zoom_highlight=cannabis)

The Convention Article 28 specifies:

1. If a Party permits the cultivation of the cannabis plant for the production of cannabis or cannabis resin, it shall apply thereto the system of controls as provided in article 23 respecting the control of the opium poppy.

However, Article 23 does not specify the details regarding convictions, this is specified in the Commentary paragraph 2, subparagraph (b) and (c):

1. Licences to grow the poppy for the production of opium may be issued to individual farmers or to corporate bodies. An application for a licence may be made orally or in writing. The applicant should exactly indicate the plot or plots on which he intends to grow the poppy for opium. **Persons convicted of an offence against laws or regulations governing narcotics control should not be granted a licence, nor should licensed culti-vators be permitted to employ them in the cultivation of the poppy and in the harvesting of the opium.**

The GSC considers all applicants based on the requirements of the Misuse of Drugs (Cannabis) Regulations 2020 and the Misuse of Drugs (Cannabis Licences) (Data Processing) Regulations 2022.

An application for a criminal record check is only submitted to DBS if it is relevant to the role concerned. For those roles where a criminal record check is identified as necessary, this is detailed on the application forms and GSC Integrity Guidance.

The Misuse of Drugs (Cannabis Licences) (Data Processing) Regulations 2022⁷(SD No 20220202) schedule 3 specifies when a DBS check is required for the Fit and Proper considerations.

The GSC ensures that all those in the organisation who are involved in the application and supervision process have been suitably trained to identify and assess the relevance and circumstances of offences. This training is internal and based on the GSC's legal obligations and risk appetite.

The GSC also ensures that its staff has received appropriate guidance and training in the relevant legislation relating to the consideration of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

The GSC ensures that it is open and measured on the subject of offences or other matters that might be relevant to licensing. The GSC is clear that failure to reveal information that is directly relevant may have a negative effect on the application process.

1 www.legislation.gov.uk/ukpga/1997/50/pdfs/ukpga_19970050_en.pdf

2 www.legislation.gov.uk/ukpga/1974/53

3 <https://www.legislation.gov.uk/uksi/2010/1153/article/4/made>

4 www.gov.im/media/1364160/20181220-therehabilitationofoffendersact2001-exceptions-order2018-18119.pdf

5 www.legislation.gov.uk/uksi/1975/1023/contents/made

6 www.gov.uk/government/publications/dbs-code-of-practice#:~:text=The%20code%20of%20practice%20applies,function%20to%20non%20registered%20organisations.

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0202/MisuseofDrugsCannabisLicencesDataProcessingRegulations2022.pdf?zoom_highlight=cannabis

The GSC makes every subject of a criminal record check submitted to DBS aware of the existence of the [code of practice](#). This is provided on the GSC Integrity Guidance document and Privacy Notice.

The GSC undertakes to discuss any matters revealed on a DBS certificate with the individual seeking approval to the role before making a decision.



This document can be provided in large print or as an audio recording on request