

SLOUGH BOROUGH COUNCIL

REPORT TO: Employment & Appeals Committee
DATE: 25th October 2016
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WARD(S): All

PART I

FOR APPROVAL

Criminal Records Check (DBS) Policy and Procedure

1. Purpose of Report

The purpose of this report is to update the Employment and Appeals Committee on the revisions to the Council's Criminal Record Check Policy and Procedure, following a review of the document. The revised document includes the Council's policy, guidelines and code of practice for the management of the Criminal Records Checks (DBS) disclosure process for all employees that meet the criteria for such a check.

2. Recommendation(s)/Proposed Action

The Committee is requested to approve the changes that have been made to the Criminal Record Check policy and procedure as detailed in Appendix A.

3. Supporting Information

Background:

The criminal records check policy and procedure is a key HR policy which is fundamental to establishing an effective workforce. The policy and procedure provides a clear and fair framework for managers to be able to assess the suitability of an employee / volunteers engaging with children, young people and other vulnerable client groups are suitably checked.

Policies are regularly reviewed to ensure best practice, compliance with legislation and to reflect changes required in the light of operational experience. In this case the revision of the policy and procedure was initiated as part of OD/HR work programme which is to review employment policies. The review of employment policies is ensure they continue to reflect best practice, align to the council's strategic aims and consider feedback from both managers and staff.

Over the past few years there have been various changes to the CRB process within the Council. This has included arvato administering the checks on Slough's behalf, Slough changing to a new electronic checking system known as 'e-bulk' and the introduction of the Protection of Freedoms Act..

The revised Criminal Records Check Policy and Procedure has been prepared with due regard to the new DBS Code of Practice and prevailing legislation. The updated policy will ensure that the Council complies with all requirements in respect of DBS checks and recognises our safeguarding responsibilities.

Consultation:

The policy was circulated for formal consultation with Corporate Management Team, recognised trade unions and Employee Engagement Group. Both the Head of Democratic Services and the Council's Monitoring Officer were consulted on the arrangements for Members. All of the groups have responded positively to the improvements within the policy and procedure.

The main changes to the policy and procedure include:

- Outlining in a transparent and user friendly way the legal position with regards to undertaking DBS checks, when they apply and the criteria that must be met for each level of disclosure
- Introducing a risk assessment form for when, in very exceptional circumstances, an employee may start work before the DBS check has been returned
- Guidance on how to deal with an adverse disclosure including the requirement to complete a Cause for Concern Form to ensure a comprehensive record of decisions and actions taken.
- New guidance to provide clarification on the eligibility and procedures for Member DBS checks
- New guidance on making a referral to the DBS (where we have withdrawn permission for a person to work with children/vulnerable adults)

Implementation Process

The revised Criminal Records Check policy will be made available to staff and managers initially through SBCinsite.

The policy will be communicated to staff and managers through policy update briefing sessions and through appropriate internal communication methods including:

- Grapevine staff newsletter

- News round email
- E-mail to all line managers
- HR Business Partners to provide briefings at Senior Management Team Meetings
- Communication with Transactional HR services

4. Background Papers

None

5. Conclusion

The Committee is requested to approve the introduction of this amended policy for immediate implementation.

Appendices

Appendix 1: Criminal Records Check (DBS) Policy and Procedure

CRIMINAL RECORDS CHECK (DBS) POLICY & PROCEDURE



Policy Schedule		
Policy owner and lead	ODHR: HR Policy Manager	
Consultation	Trade unions	September 2016
	Employee engagement forum	September 2016
	CMT	September 2016
	CCF	October 2016
Approving body	Employment & Appeals Committee	
Date of approval		
Date of implementation		
Version number	Version 2:01 (October 2016)	
Related documents	Recruitment of Ex-Offenders Policy Recruitment and Selection Policy	
Review interval	Three yearly (October 2019)	

DRAFT V5: 12 October 2016

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B	DBS disclosures for Members
C	Standard DBS checks: Rehabilitation of Offenders Act Exception Order
D	Enhanced DBS checks for regulated activity
E	Identification documentation
F	DBS Risk Assessment Form
G	Cause for Concern Risk Assessment Form
H	Referrals to the DBS.

1. Introduction

- 1.1 Slough Borough Council is committed to protecting the wellbeing of those groups or individuals in our care who are considered to be vulnerable or at risk such as children, the elderly and those with disabilities. We take every step to ensure that vulnerable groups in our society are cared for by employees, volunteers and contractors who have been screened to ensure they are suitable to carry out their roles and responsibilities.
- 1.2 The Disclosure and Barring Service (DBS) is responsible for processing requests for criminal record checks as well as checking the children's and adults' barred lists for eligible positions.
- 1.3 This policy and procedure should be read and applied in conjunction with the Recruitment of Ex-Offenders Policy and Recruitment and Selection Policy and is aligned to the following legislation:
 - The Protection of Freedoms Act 2012

- Human Rights Act 1998
- Data Protection Act 1998
- The Police Act 1997
- The Safeguarding Vulnerable Groups Act 2006
- The DBS code of practice
- The Rehabilitation of Offenders Act 2974
- The Criminal Justice and Court Services Act 2000

2. Scope

2.1 As a responsible employer, we ask successful job candidates to submit a DBS application for positions that are included in the Exceptions Order 1975 of the Rehabilitation of Offenders Act 1974. We only apply for a criminal record check for positions that are included in this Order as it may otherwise be an offence under the Police Act 1997.

2.2 This policy and procedure applies equally to internal job candidates (i.e. those already currently employed by the Council) and external candidates. It also applies to employees based in schools that use Slough Borough Council as their recognised Registered Body.

2.3 This policy and procedure also applies to those seeking volunteering opportunities with the council. The definition of a volunteer, as set out in the Police Act 1997 is

'Any person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative'.

2.4 This policy and procedure also applies to elected members who undertake regulated activity involving regular and unsupervised contact with children and/or vulnerable adults. Appendix B provides further information on managing criminal record checks for members.

2.5 The requirement for a criminal record check also applies when external agencies recruit and employ individuals to carry out work on our behalf. Where a check is required the agency (as the employer) will be expected to obtain DBS disclosure and confirm clearance has been received in advance of the placement starting.

2.6 The minimum age that someone can have a criminal record check is 16 years old.

3. Types of disclosure and barring checks

3.1 The different levels of criminal records check available are summarised below

Type of DBS Check	Information Searched					Criteria
	Unspent convictions	Spent convictions	Cautions, warnings, reprimands	Other police info	Children or adults barred list	
Basic	Yes	No	No	No	No	Anyone can apply for a basic check themselves. Basic disclosures are undertaken by DBS Scotland
Standard	Yes	Yes	Yes	No	No	Must be listed in Exception Order (Appendix C)

Enhanced DBS with Barred List check	Yes	Yes	Yes	Yes	Yes	Must be listed in Exception Order and undertaking 'regulated activity' (Appendix D)
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4. Establishing DBS disclosure requirements for a new position

- 4.1 All positions across the council will have a record on Agresso identifying whether they require a DBS check and the level of check required. However, prior to commencing recruitment, managers should review the position against the criteria for a standard check (Appendix C) and an enhanced check (Appendix D) particularly if the position is a new position and if the duties and/or responsibilities have changed since it was last reviewed. If a position does not meet either set of criteria then a DBS check is not required.

5. Transferring DBS disclosure

- 5.1 A DBS certificate details the organisation and role for which it was requested. Certificates cannot be transferred between organisations and we do not accept certificates issued by a previous employer. A new DBS application must be made regardless of whether an individual already holds a DBS certificate from a previous employer.
- 5.2 Employees transferring to the council as part of a TUPE transfer will be required to complete a new DBS application if they hold an eligible position.

6. DBS arrangements for recruitment

- 6.1 Applicants for positions which meet the criteria for a criminal record check will be advised as part of the recruitment process that they will be required to complete a DBS application in the event that they are offered the position. Any offer of employment must be subject to DBS clearance for eligible positions.
- 6.2 HR Transactional Services will provide applicants with a DBS application form and guidance notes alongside the offer of employment letter. Individuals are required to bring their completed application form together with the requisite identify evidence documentation (as outlined in Appendix E) in for review prior to their start date. DBS applications should be submitted at least 4 weeks in advance of the anticipated start date to allow time for them to be returned before work starts.
- 6.3 Once DBS clearance has been confirmed, HR Transactional Services will notify both the employee and the recruiting manager.
- 6.4 For each employee/volunteer subject to a DBS disclosure, we will securely hold a record of the employee/volunteer's name, disclosure issue date, type of disclosure request, the position for which the disclosure was requested and the unique reference number. Appendix A confirms our arrangements for the storage, handling, retaining and disposing disclosure information.
- 6.5 In **very exceptional circumstances** a new employee may start work before the DBS disclosure has been returned. In such circumstances the Head of Service must ensure that a DBS Risk Assessment Form (Appendix F) is completed. This assessment asks for confirmation that:
- A correctly completed criminal record check application has been submitted
 - An adult or children Barred List check, if applicable, has been undertaken

- All pre-employment checks have been completed. For example, the identity of the applicant has been confirmed and references have been taken and verified
- The manager has introduced sufficient safeguards for the individual not to have unsupervised access to children or vulnerable adults.

6.6 The DBS Risk Assessment Form must be approved and signed by the relevant Assistant Director/Director and returned to HR Transactional Services who will store the form securely on the employee's record, alongside the DBS clearance once it has been received.

7. Applicants with adverse disclosures

- 7.1 Possessing a criminal record will not necessarily prevent an individual from working with the council but it may preclude them from working in particular positions. This will depend on the nature of the position and the circumstances of the offence committed.
- 7.2 Assessing and managing the risk of employing a person with a criminal record means comparing the candidate's conviction circumstances against the risk criteria identified for the position and deciding on the relevance of the conviction or other mitigating information.
- 7.3 Addressing issues relating to criminal offences should be undertaken by the Head of Service through the use and completion of the Cause for Concern Risk Assessment Form (Appendix G). The assessment should take into account of the following:
- The nature of the position and duties
 - The nature and seriousness of the offence
 - The length of time since the offence occurred
 - The circumstances involved and whether circumstances have changed
 - The sentence
 - Whether there is a pattern of offending or whether the offence was a one off
 - Efforts to avoid re-offending
 - Safeguards against offending at work
 - Possible reactions of employees and customers objectively assessed.
 - Any legal duties placed upon the council
 - Whether the applicant disclosed details of the offence at application or interview stage.
- 7.4 When making an assessment the Head of Service should invite the applicant to discuss the nature of the criminal record with them so that they can give a full account of the circumstances of the offence, any extenuating circumstances and of their efforts to avoid re-offending.
- 7.5 Where an applicant has not declared a criminal record on their application form and the DBS disclosure reveals the existence of a criminal record, the Head of Service should still discuss the matter with the applicant but it will normally result in the offer of employment being withdrawn. Advice from your HR Service Officer should be sought prior to the offer being withdrawn.
- 7.6 Where the appointment is considered a low risk after a thorough assessment, the applicant will be asked to sign the completed Cause for Concern Risk Assessment Form to verify the information provided and give permission for the form to be stored securely and later destroyed in accordance with the arrangements for secure storage, handling, use, retention and disposal of disclosures and disclosure information (Appendix A).
- 7.7 All Cause for Concern Risk Assessments must be reviewed and approved by the relevant Director/Assistant Director before the offer of employment can proceed.
- 7.8 Where an assessment indicates that the applicant presents a low risk to the council an offer of employment on a conditional basis may be made provided extra safeguards are put into place.

8. Re-checking existing employees

- 8.1 Any existing employee who is offered a new position within the council will be required to undertake a new DBS application if their new role will include unsupervised access to, or responsibility for, vulnerable groups. A new criminal record check will be required regardless of whether they have previously received DBS clearance.
- 8.2 Employees who have previously undertaken a DBS application relevant to their current position will be required to renew their DBS clearance on a three yearly basis unless their profession is one that only requires clearance at the point of entry as specified by the DBS (See Appendix C). Although employees are expected to notify their manager of any convictions or warnings that may have arisen after appointment at the time, the requirement to renew their clearance provides a clear reminder of the importance of disclosure.
- 8.3 Quarterly reports will be provided to Assistant Directors/Directors providing details of DBS disclosures due for renewal. HR Transactional Services will also issue reminders to employees, providing them with a DBS Application Form and giving a deadline for the return of the completed application together with the requisite identity evidence documentation.
- 8.4 Failure by an employee to provide the completed Application Form and identity documentation will be investigated under the council's disciplinary policy and procedure and may result in disciplinary action.

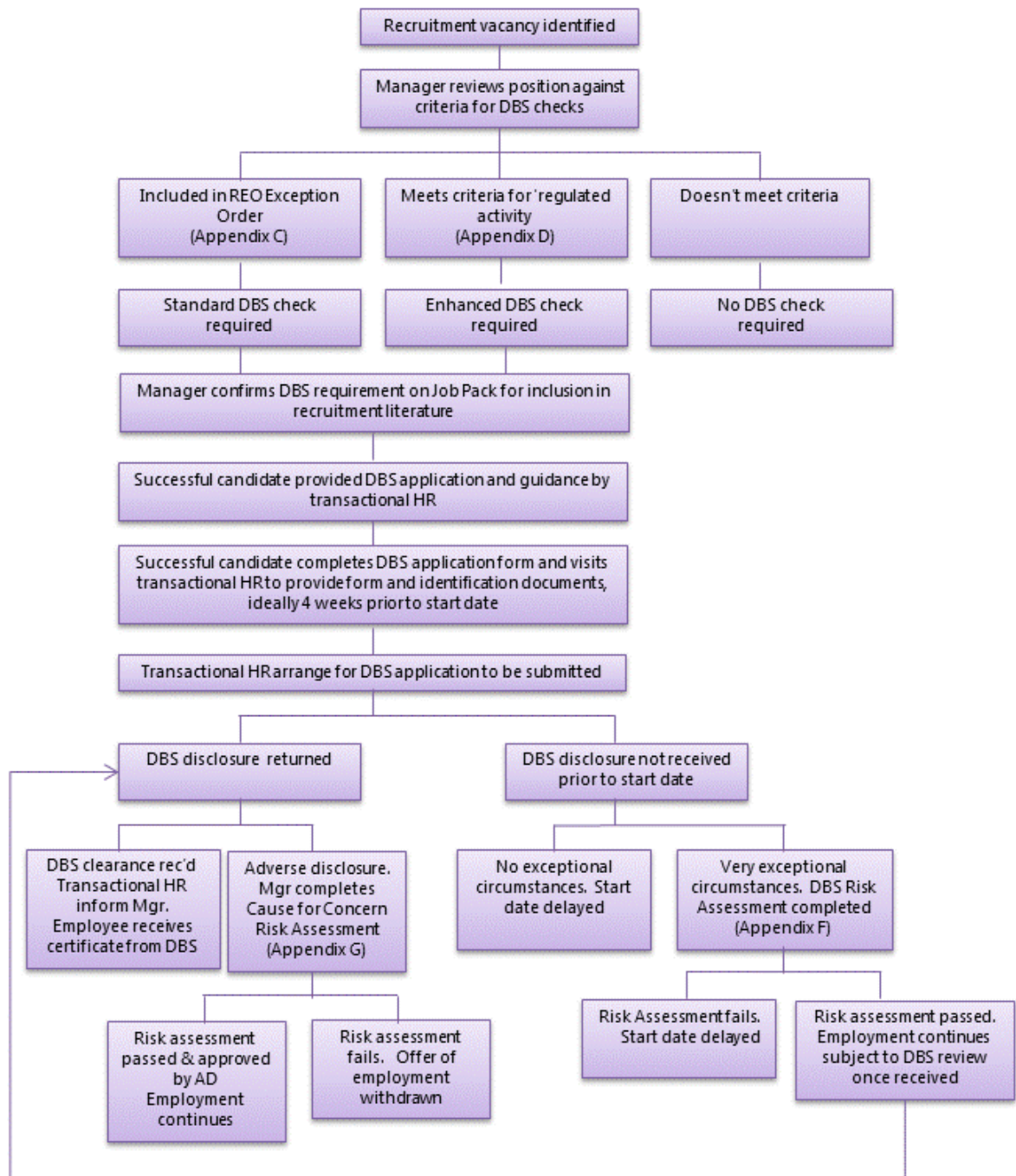
9. Employees with adverse disclosures

- 9.1 Where an existing employee who has not been previously undertaken a criminal record check or their position requires a re-check and they subsequently have an adverse disclosure, the manager should follow the guidance in section 7 above.

10. Notifying relevant misconduct to the DBS

- 10.1 The Safeguarding Vulnerable Groups 2006 Act sets a legal duty for the council to refer information to the DBS if an employee/volunteer/contractor is dismissed or removed from working with children and/or vulnerable adults (in what is legally defined as Regulated Activity) if they meet the referral criteria. The council has a duty to refer information to the DBS as both a Regulated Activity Provider and as a Local Authority. Appendix H provides additional information on managing referrals to the DBS.

11. Process flowchart



1. Introduction

- 1.1 Slough Borough Council complies fully with the DBS code of practice regarding the correct handling, use, retention and disposal of disclosures and disclosure information and with our obligations under the Data Protection Act.

2. Storage, Handling and access

- 2.1 All disclosure documentation is kept securely by HR Transactional Services.
- 2.2 In accordance with the Police Act 1997 disclosure information will only be passed to those who are authorised to receive it in the course of their duties. HR Transactional Services retain a record of those to whom disclosure or disclosure information is revealed and we recognise that it is a criminal offence to pass this information on to anyone who is not entitled to receive it.
- 2.3 For each employee/volunteer subject to a DBS disclosure, HR will hold a record of the employee/volunteer's name, disclosure issue date, type of disclosure request, the position for which the disclosure was requested and the unique reference number.

3. Usage

- 3.1 Disclosure information is only used for the specific purpose for which it was required and for which the applicant's full consent was given.

4. Retention

- 4.1 We do not keep disclosure information for any longer than is necessary and once an appointment decision has been made the disclosure and disclosure information should be destroyed confidentially after six months (which allows for consideration and resolution of any disputes or complaints). In exception circumstances it may be necessary to keep disclosure information for longer than six months. We will consult the DBS before doing so and give full consideration to the Data Protection Act before doing so. Exceptions allowed by the DBS are as follows:
- For establishments regulated by the Care Quality Commission/Ofsted Social Care Regulations – disclosure must be destroyed after 12 months
 - For employees in residential schools – disclosures must be destroyed after 12 months
 - For disclosure relating to fostering or adoption – disclosure must be destroyed after 36 months
- 2.4 Where employees are subject to Taxi Licensing, disclosure information will be retained for three years.
- 2.5 In accordance with the DBS guidance relating to handling certificate information, those registered care homes that are inspected by the Care Quality Commissions (CQC) and those organisations that are inspected by Ofsted may retain the certificate or related information until the next inspection. Once the

inspection has taken place the certificate or related information should be destroyed in accordance with the DBS Code of Practice (see disposal below)

- 4.2 If a Cause of Concern Risk Assessment is completed, this will be kept securely for 6 months from the date of the assessment if not appointed and for the duration of employment if appointed.

5. Disposal

- 5.1 Once the retention period has elapsed HR Transactional Services will ensure that any disclosure information is destroyed by secure means, i.e. by shredding. While awaiting destruction, the usual conditions regarding safe storage and control access prevail.
- 5.2 In order to maintain the council's criminal record check database (a record of disclosures undertaken) we will keep a record of the individual's name, the date of disclosure, the position for which the disclosure was requested, the unique reference number of the disclosure and the details of any associated recruitment decision taken.

1. Introduction

- 1.1 This document sets out the arrangements for when Members will be asked to undergo a criminal record check and the procedure for undertaking these checks.
- 1.2 These arrangements aim to balance the council's safeguarding duties for children and vulnerable adults and our corporate parenting role alongside the legal restrictions placed on Members acting in certain positions, their rights to privacy and the democratic basis of the council relating to committee appointments.

2. Legal framework

- 2.1 The Protection of Freedoms Act 2012 introduced a number of changes to the vetting and barring of individuals from working with children and vulnerable adults. These changes reduced the number of positions and circumstances in which an individual would be subject to a criminal record check. In addition, specific provisions under which Members could be asked to undertake a criminal record check were removed.
- 2.2 Members are required to undertake a criminal record check only if their position and/or the work they do is included in the Rehabilitation of Offenders Exception Order (for a standard check) or classified as 'regulated activity' (for an enhanced check). Examples of regulated activity include positions that involve regularly undertaking unsupervised activities such as caring for children, regularly working for certain organisations such as children's centres, and providing personal care to an adult in a care home or day care centre.
- 2.3 The majority of Members will not have regular and unsupervised contact with children and/or vulnerable adults as part of their commitments and will not, therefore, be involved in regulated activity. Unless activities fall within the scope of 'regulated activity', Members will not be required to undergo a criminal record check by the virtue only of their position as a Member.
- 2.4 It is worth noting that the law relating to elections already provides some safeguarding by barring individuals from standing for election if they have been convicted of a criminal offence within the last 5 years and received in excess of 3 months' imprisonment. All candidates for election are required to confirm in their Consent to Nomination Form that they are not disqualified from being elected by reason of any disqualification including in relation to a criminal offence as outlined above.

3. Eligibility

- 3.1 Member positions that have been identified as requiring a criminal record check based on the Rehabilitation of Offenders Exception Order or regulated activity with children or vulnerable adults are:
 - Commissioner for Education and Children's Services Standard Check
 - Commissioner for Health and Social Care Standard Check
 - Members of Corporate Parenting Panel Standard Check
 - Council Nominee for Children's Trust Board Standard Check


4. Process

- 4.1 Within two months of taking office, Members will be required to undergo a criminal record check. Following the annual meeting in May, Democratic Services will inform ODHR of any member appointments to those positions above that require a DBS check. Similarly, any changes in appointments mid term will also be notified to ODHR by Democratic Services.
- 4.2 ODHR will liaise with HR Transactional Services to make arrangements for the relevant Members to complete a DBS Application Form and for the identify evidence documentation listed in Appendix E to be reviewed. HR Transactional Services will then submit the application to the DBS.
- 4.3 HR Transactional Services will notify Democratic Services of the disclosure. Where a disclosure contains details of an offence, Democratic Services will also notify the council's Monitoring Officer who will contact the Member and outline that they are required to provide him/her with a copy of their DBS certificate (which they will receive directly from the DBS) within 28 days of the date of issue.
- 4.4 The Monitoring Officer will maintain a register of the date of the request for and issue of disclosure, the name of the Member, the type of disclosure requested, the position for which the disclosure was requested, the unique reference number of the disclosure and the detail of any decision taken as a result

of the disclosure. Disclosure retention and storage arrangements will be in accordance with those detailed in Appendix A.

5. The use of disclosure information

- 5.1 The existence of a criminal record revealed as a result of a DBS check will not prevent a Member from holding office. In the event that the disclosure raises issues of concern, the Chief Executive, advised by the Monitoring Officer, Head of Democratic Services and Directors of Adult Social Care and Children’s Services, as required, in consultation with the relevant Group Leader, will discuss the individual Member and the restrictions considered necessary to safeguard children, young people and vulnerable adults, on the positions held by that member.



CRIMINAL RECORDS CHECK (DBS) POLICY & PROCEDURE

Appendix C: Standard DBS checks - Rehabilitation of Offenders Act Exception Order

To be eligible for a standard or enhanced DBS check, the position must be included in the Rehabilitation of Offenders Act 1974 Exceptions Order 1975. A full list of positions included in the Rehabilitation of Offenders Act Exception order is available on the DBS website at <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance> Positions that may be more relevant to the work of the council are listed below.

Positions included in the Rehabilitation of Offenders Act Exceptions Order	DBS Ref
Any work defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006	01
Any work defined as ‘work with children’ in regulation 5C of the Policy Act 1997 (Criminal Records) Regulations 2002	02
Any work defined as regulated activity relating to adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act 2006	03
Any work defined as ‘work with adults’ in regulation 5B of the Police Act 1997 (Criminal Records) Regulations 2002	04
Any office or employment which is concerned with: <ul style="list-style-type: none"> the provision of care services to vulnerable adults; or the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment and which is such a kind as to enable a person in the course of their normal duties to have access to vulnerable adults in receipt of such services	05
Any work in a further education institution or 16-19 Academy where the normal duties of work include regular contact with children	06
Health care professional (regulated by a body mentioned in subsection (3) of section 25 of the NHS Reform and Health Care Professions Act 2002) - on entry into the profession only	07
Barrister or solicitor – on entry into the profession only	08
Chartered accountant certified accountant – on entry into the profession only	09
Actuary – on entry into profession only	11
Chartered Legal Executive or other Chartered Institute of Legal Executive authorised person – on entry into profession only	13
Traffic wardens	19
Any employment/other work which is concerned with the provision of health services and which is of	21

such a kind as to enable the individual to have access to persons in receipt of such services in the course of normal duties	
Financial Services positions – this means all positions for which the Financial Conduct Authority or competent authority for listings are entitled to ask exempted questions to fulfil their obligations under the Financial Services & Markets Act 2000	22
Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet	27
An individual designated under section 2 of the Traffic Management Act 2004 – those who can take over police functions working as on-road traffic operations staff	28
Following persons: <ul style="list-style-type: none"> • Persons who execute writs or sequestration • Civilian enforcement officers as defined in section 125A of the Magistrates’ Courts Act 2980 • Persons who are authorised to execute warrants under section 125B(1) of the Magistrates Courts Act 1980, and any other person (other than a constable) who is authorised to execute a warrant under section 125(s) of the 1980 Act. • Persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d) 	30
A regulated immigration adviser who provides immigration advice or immigration services under Section 82(1) of the Immigration & Asylum Act 1999(a). This also applies to persons who act on behalf of and are under the supervision of such a registered person	32
A person working for a childminder agency who is required to enter day care or childminding premises for quality assurance purposes and, in the course of their normal duties, has contact with children there or access to sensitive/personal information about the children there	36
Any person living at the premises where a childminding or day care service is provided or who regularly works on the premises at a time when childminding takes place	37
A person living in the same household as a person whose suitability is being assessed to work in regulated activity with children <ul style="list-style-type: none"> • what would have been regulated activity with children before September 2012 • an FE institution or 16-19 Academy where the normal duties of that work involve regular contact with children and who lives on the same premises where the work would normally take place	38
Applications for prospective adopters, special guardians or anyone who lives in the adoption or special guardian household in England and Wales	39
Applications for prospective foster carers, prospective private foster carers or anyone who lives in the fostering household in England and Wales	40
Any employment or work in a children’s home or residential family centre	41
Any employment of work for the purposes of <ul style="list-style-type: none"> • an adoption service or support agency • a voluntary adoption agency • a fostering service or agency which is of such a kind as to enable a person, in the course of their normal duties, to have contact with children or access sensitive/personal information about children	42
Individuals seeking authorisation from the Secretary of State for the Home Department to become authorised search officers	43
For the award of public works contracts, public supply contracts and public service contracts in accordance with the Public Contract Regulations 2015 and the Utilities Contracts Regulations 2016	44
Football stewards, supervisors or managers of football stewards	45
Any employment or other work in England and Wales regarding counter fraud, investigation and security management in the NHS	55
Licences included in the Rehabilitation of Offenders Act Exception Order	Ref
For taxi driver and private hire vehicle licensing purposes	56
For licences issued under Section 8 of the Private Security Industry Act 2001	59

1. Criteria

To be eligible for an enhanced level DBS disclosure with a check of the children or adults barred lists, the position must be undertaking 'regulated activity'.

2. Regulated activity in relation to children

Category 1:

Unsupervised and regular*:

- Teaching, training, instructing, caring for or supervising children
- Providing advice/guidance on well being to children
- Driving a vehicle for children
- Work for a limited range of establishments (specified places) with opportunity for contact

* Regular means carried out by the same person once a week or more or for health and social care services providing personal care, four days or more in one month or, in some circumstances, overnight between 2am and 6am

Category 2

- Relevant personal care e.g. washing or dressing a child; or health care by or supervised by a professional, even if done only once.
- Registered childminding
- Foster carers

A DBS check is not required in respect of the activities in categories 1 and 2 if the person undertaking these activities:

- Is supervised at a reasonable level
- Is providing treatment or therapy (instead of health care)
- Is a supervised volunteer
- Is carrying out occasional or temporary services (e.g. window cleaners)
- Is an office holder e.g. governors

Regulated activity relating to children does not include family arrangements or activity by a person in a group assisting or acting on behalf of, or under director of, another person engaging in regulated activity in relation to children.

3. Regulated activity relating to vulnerable adults

A vulnerable adult will be aged 18 or over. An adult may be considered vulnerable at a time they require certain services provided to them:

- Accommodation and nursing or personal care in a care home
- Personal care in their own home through a domiciliary care agency

- Health care services provided by an independent hospital, independent clinic, independent Medical agency or NHS body
- Is an expectant or nursing mother living in residential care
- Is receiving direct payments from the council in lieu of social care services
- Services provided in an establishment catering for a person with learning difficulties

And in consequence of any one or any combination of the following factors:

- A substantial learning or physical disability; or
- A physical or mental illness including an addiction to alcohol or drugs; or
- A substantial reduction in physical or mental capacity due to advanced age;
- They are substantially dependent upon others in performing basic physical functions or their ability to communicate with those providing services or with others is severely impaired and they are incapable of protecting themselves from assault or abuse or there is a potential danger that their will or moral well being may be subverted or over powered.

Regulated activities relating to adults are outlined below. There is no requirement to carry out these duties a certain number of times before a person is deemed to be engaging in regulated activity with adults:

- Work undertaken by regulated health care professionals
- Work undertaken by a person under the direction or supervision of a health care professional
- Personal care provided to an adult (e.g. assistance with washing, dressing, eating, drinking or toileting or teaching someone to do these tasks)
- Social work: provision by a social care worker or social work which is required in connection with any health services or social services
- Providing assistance to an adult e.g. with a person's money, bills or shopping because of their age, illness or disability (e.g. collecting a pension)
- Providing assistance with the conduct of an adult's own affairs e.g. lasting or enduring powers of attorney or deputies appointed under the Mental Health Act
- Conveying adults for reasons of age, illness or disability to, from or between places where they receive healthcare, personal care or social work

4. Exceptions

Regulated activity does not include family arrangements or activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children and vulnerable adults.



CRIMINAL RECORDS CHECK (DBS) POLICY & PROCEDURE

Appendix E: Identification Documentation

1. Introduction

Applicants going through a DBS application must provide the council with original documents (not copies) to provide their identity. Identification documents will be checked by a colleague who has Lead or Counter signatory status as approved by the DBS.

2. Documentation

The identity documents required will depend on the route the application takes. In all routes, at least one of the documents provided must show the applicant's current address

3. Route 1

The applicant must try to provide documents from route 1 first.

- One document from Group 1
- Two further documents from either Group 1 or Group 2a or 2b

4. Route 2

If the applicant doesn't have any of the documents in Group 1, then they must be able to show:

- One document from Group 2a
- Two further documents from either Group 2a or 2b

The council will then need to ensure use of an appropriate external ID validation service to check the application.

5. Route 3

Route 3 can only be used if it is impossible to process the application through Routes 1 or 2. For Route 3, the applicant must be able to show:

- A birth certificate issued after the time of birth (UK and Channel Islands)
- One document from Group 2a
- 3 further documents from Group 2a and 2b

Group 1: Primary identification documents	
Document	Notes
Passport	Any current and valid passport
Biometric residence permit	UK
Current and valid driving license photo card (full or provisional)	UK, Isle of Man, Channel Islands and EU
Birth certificate (issued within 12 months of birth)	UK, Isle of Man, Channel Islands – including those issued by UK authorities overseas (e.g. embassies, High Commissions & HM Forces)
Adoption certificate	UK and Channel Islands
Group 2a: Trusted government documents	
Document	Notes
Current and valid driving license photo card (full or provisional)	All countries outside the EU (excluding Isle of Man and Channel Islands)

Current and valid driving license (full or provisional) paper version (if issued before 1998)	UK, Isle of Man, Channel Islands and EU	
Birth certificate – issues after time of birth	UK, Isle of Man and Channel Islands	
Marriage/civil partnership certificate	UK and Channel Islands	
HM Forces ID Card	UK	
Firearms license	UK, Channel Islands and Isle of Man	
Group 2b: Financial and social history documents		
Document	Notes	Issue date & Validity
Mortgage statement	UK or EEA	Issued in last 12 months
Bank or building society statement	UK, Channel Islands or EEA	Issued in last 3 months
Bank or building society account opening confirmation letter	UK	Issued in last 3 months
Credit card statement	UK or EEA	Issued in last 3 months
Financial statement, e.g. pension or endowment	UK or EEA	Issued in last 12 months
P45 or P60 statement	UK and Channel Islands	Issued in last 12 months
Council Tax statement	UK and Channel Islands	Issued in last 12 months
Work permit or visa	UK	Valid up to expiry date
Letter of sponsorship from future employment provider	Non UK or non EEA only.	Valid only for applicants residing outside UK at time of application
Utility bill	UK – not mobile telephone bill	Issued in last 3 months
Benefit statement (e.g. Child Benefit, Pension)	UK	Issued in last 3 months
Central or local government, government agency or local council	UK and Channel Islands	Issued in last 3 months

documentation giving entitlement		
EU National ID Card		Must still be valid
Cards carrying the PASS accreditation	UK, Isle of Man and Channel Islands	Must still be valid



CRIMINAL RECORDS CHECK (DBS) POLICY & PROCEDURE

Appendix F: DBS Risk Assessment Form

For employees starting work before DBS check has been completed

Name of manager:

Name of applicant:

Position applied for:

Directorate and service area:

Questions		Response
1	Have all necessary pre-employment checks been completed, including where applicable: <ul style="list-style-type: none"> • References checked and verified • Application form checked (signed & dated by applicant) • Evidence of professional qualifications • Right to work in UK documentation & proof of identity • Medical clearance (if required) • Bank and personal details form • Appointment Details Form • Any mandatory registrations (e.g. HCPC/QTS etc.) • Candidate interview notes • Interview proforma 	Yes / No
2.	Has HR Transactional Services confirmed they have received all the required above paperwork?	Yes/No
3.	Has HR Transactional Services confirmed the DBS application has been submitted?	Yes/No
4.	What level of safeguard can be implemented, e.g. how much supervision is available from an appropriately qualified and experienced member of staff / no unsupervised contact	
5.	Has the applicant advised of any disclosures that the DBS check will show? If so, what is the impact of these? (See Appendix G – Cause for Concern Risk Assessment)	

6	Is the position eligible for a check of the Barred List(s) (see Appendix D)	Yes/No
7	<p>For completion by HR Transactional Services only: Has the relevant barred list check been undertaken</p> <p>Children's Barred List Adults' Barred List Is the applicant barred from working with children/adults?</p> <p>Checked by name/position: Signed: _____ Date: _____</p>	<p>Yes No N/A</p> <p>Yes No N/A Yes No N/A Yes No N/A</p>
8	Any questions/additional comments from the applicant?	

Declaration by applicant:

I understand that commencing work before my DBS check is returned is subject to the information I have supplied and that it is complete and correct. False information or failure to supply the details required may lead to termination of employment.

Signature: _____

Date: _____

Additional comments by Head of Service/Manager:

Outcome of Risk Assessment:

Allow employee to begin work before DBS is returned? Yes/No

Please state (if applicable) whether approval is dependent upon conditions being met, such as restrictions or safeguards to be implemented:

Name and Position:

Signature: _____

Date: _____

CMT Authorisation

I have considered the content of this risk assessment and give approval for the applicant to start in position, with the safeguards set out above put in place, prior to the return of the DBS check.

Name of Assistant Director/Director:

Please complete this form fully, you may wish to discuss any relevant issues with your HR Service Officer. This Risk Assessment Form will inform the decision on whether to appoint someone into a position where adverse disclosures have been identified on a returned DBS certificate.

Name of manager:

Name of candidate:

Position applied for:

Directorate and service area:

Questions		Responses
1	Does the candidate meet all the essential criteria for the position?	
2	Does the candidate agree that the information detailed on the DBS certificate is correct? <i>In the event of a challenge from the candidate the matter needs referring to the DBS disputes team</i>	
3	Did the candidate declare the offence(s) at application or interview stage?	
4	What is the nature of the contact the candidate would have with children and/or vulnerable adults? If working with adults, will the candidate have access to finances or items of value?	
5	What was the nature of the crime and sanction/sentence? Is the offence(s) directly relevant to the post?	
6	Do the matters disclosed form any pattern of re-offending and when did the relevant offence(s) occur	
7	Was the relevant offence committed at work (either paid or unpaid)? Does the job present any opportunities for the candidate to re-offend in the workplace?	
8	What is the seriousness of the offence(s) and relevance to the safety of other employees, customers, service users and property?	
9	Are there any mitigating circumstances – has the candidate offered information about the circumstances that led to the offence being committed?	
10	Has the candidate's circumstances changed since the offence was committed, making re-offending less likely? Can the candidate demonstrate any efforts taken not to re-offend (e.g. a rehabilitation course)?	

11	Would the candidate do anything differently now? Has their motivation changed? Do they regret the offence and what is their attitude towards matters now?	
12	Are there any assessments and reports from those agencies involved in the candidate's process of rehabilitation (e.g. probation service)?	
13	What level of and how much supervision would be available to the candidate if employment continued?	
14	Can any safeguards be implemented to reduce/remove risk (e.g. no unsupervised contact)?	

Applicant

Are there any additional comments in support of your employment:

I understand that any offer of employment will be subject to the information I have supplied and that this is complete and correct. False information, or failure to supply the details required could make an offer of employment invalid or lead to termination of employment and I consent to the above.

Name:

Signature:

Date:

Head of Service

Are there any additional comments, e.g. approval is dependent upon conditions being met, restrictions and/or safeguards to be implemented?

I have discussed this assessment with a HR representative Yes/No

If Yes, name of HR representative:

Outcome of Risk Assessment (delete as appropriate):

Continue with offer of employment / Withdraw offer of employment

Name and Position:

Signature:

Date:

CMT Authorisation

I have considered the content of this risk assessment and give approval for the candidate to commence employment with any restrictions and safeguards as outlined above.

Name of Assistant Director/Director:

Signature:

Date:

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blank

1. Introduction

The Safeguarding Vulnerable Groups Act (2006) sets a legal duty on the council to refer information to the DBS if we dismiss or remove an employee/volunteer from working with children and/or adults (in what is legally defined as regulated activity) if they meet the referral conditions. In addition, as a regulated activity provider, we also have a duty to refer all allegations of abuse or misconduct towards a child or vulnerable adult made against an employee, volunteer, contractor or partner organisation.

2. Referral conditions

A referral must meet both conditions below:

Condition 1

We withdraw permission for a person to engage in regulated activity with children and/or vulnerable adults, or move the person to another area of work that doesn't involve regulated activity.

This includes situation when we would have taken the above action but the person was re-deployed, resigned, retired or otherwise left employment.

Condition 2

We think the person has carried out one or more of the following:

- Engaged in relevant conduct (see below) in relation to children and/or adults. An action or inaction has harmed a child or vulnerable adult or put them at risk or harm
- Satisfied the harm test (see below) in relation to children and/or vulnerable adults (e.g. there has been no relevant conduct but a risk of harm to the child or adult still exists)
- Been cautioned or convicted or a relevant of a relevant offence

Relevant Conduct

- Endangers a child or vulnerable adult or is likely to endanger a child or adult;
- If repeated against or in relation to a child or adult, would endanger them or would be likely to endanger them
- Involves sexual material relating children including possession of such material
- Involves sexually explicit images depicting violence against human beings including possession of such images (if it appears to the DBS that the conduct is inappropriate)
- Conduct of a sexual nature involving a child or vulnerable adult (if it appears to the DBS that the conduct is inappropriate)

Harm Test

- May harm a child or vulnerable adult
- May cause a child or vulnerable adult to be harmed
- Puts a child or vulnerable adult at risk of harm
- Attempts to harm a child or vulnerable adult
- Incites another to harm a child or vulnerable adult

If both conditions have been met the information must be referred to the DBS once we have gathered sufficient evidence as part of the investigations to support our decision to withdraw permission to engage in regulated activity. If following an investigation it is decided that the best course of action is to issue a sanction short of dismissal or redeployment to another position, we still have a duty to refer the matter to the DBS.

2. Referrals to the DBS where there is no legal duty to do so

There are situations in which we may make a referral but there is no legal duty to refer (for example following an internal investigation) where there is insufficient evidence to show relevant conduct occurred but there are still serious concerns about that individual. This may be reported as 'patterns of behaviour' on which the DBS might make a future decision to bar.

Although there is a legal duty to refer in certain circumstances, there is now the power (but not a mandatory duty) for local authorities to make retrospective referrals to the DBS. This is when there is evidence that an individual has engaged in relevant conduct prior to 12 October 2009 and that person is engaged or may engage in regulated activity.

3. Duty to refer as a local authority

It is possible that, in the course of a child protection or adult safeguarding investigation, or by other means, an officer may become aware that a person not employed by the council may have satisfied the relevant conditions but that no referral has been made by any other agency. Where possible the employer of the individual should be informed of their legal duty to refer the matter to the DBS. If they still fail to fulfil this duty then a referral should be made by the appropriate Director for adult social care or children's services.

4. Requirement to submit information where the employee is a registered professional

There may be circumstances in which an employee is registered with the Teaching Agency or Health and Care Professions Council. It is appropriate to refer matters relating to misconduct relating to a vulnerable client to both the DBS and the registered organisation.

5. Duty to provide information to the DBS if requested

The DBS has a legal right to receive information where it asks for it from regulated activity providers and personnel suppliers. There may be occasions during an investigation when the DBS will ask for additional information to assist with its decision making and we are obliged to provide this information if it is information we might hold.

6. Making a referral

The DBS has a specific referral form, which can be downloaded from their website here <https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

Responsibility for initiating a referral to the DBS lies with the manager who has raised the initial concern. To ensure a consistent approach to the delivered of information to the DBS, all referrals should be made through HR Transactional Services who arrange for DBS submissions.

HR Transactional Services will securely retain a copy of the referral form and all associated papers for future reference as the DBS may need to refer to a specific case on a subsequent occasion.