

Staff Vetting Policy

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Appendix A: DBS Check Required Form

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1. Policy Statement on criminal records checks

The Council is committed to ensuring the wellbeing and safety of all clients. This includes developing, implementing and maintaining effective recruitment and human resources procedures to promote safeguarding of children, young people and vulnerable adults.

The council also has a commitment to equality of opportunity for all job applicants and aims to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

The council will therefore consider ex-offenders for employment on their individual merits.

The council's approach towards employing ex-offenders differs depending on whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974.

2. Scope

This policy will apply to those seeking paid work or volunteering opportunities with the council. In addition, voluntary or seasonal work, student placements, preferred contractors and other regulated positions will also come under the provisions of the policy.

3. TYPES OF DISCLOSURE AND BARRED LIST CHECKS

3.1. Relevant posts across the council will have a record on the council's HR and Payroll Systems identifying which checks they require. A list of council posts which have been identified as requiring a criminal record check can be found at Appendix E. This list will be reviewed and updated periodically and as necessary.

3.2. The different levels of criminal records check that are available to the council are:

- Basic Disclosure through Disclosure Scotland (DS)
- Standard Check through the Disclosure and Barring Service
- Enhanced DBS check through the Disclosure and Barring Service
- Enhanced DBS check with Children's Barred list check
- Enhanced DBS check with Adult Barred list check
- Enhanced DBS check with Children's and Adult Barred list check

4. REFERRAL TO THE DISCLOSURE AND BARRING SERVICE (DBS)

4.1. The Safeguarding Vulnerable Groups 2006 Act sets a legal duty for the council to refer information to the DBS if a member of staff/volunteer/contractor is dismissed or removed from working with children and/or vulnerable adults (in what is legally defined as Regulated

Activity) because 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.

5. COSTS OF DISCLOSURE

- 5.1 The cost of criminal records checks relating to council posts will be met by the council.
- 5.2 The cost of checks undertaken by the council on behalf of contractors and those from whom the council commissions a service will be met by the contractor depending on the particular circumstances and terms of the contract.
- 5.3 Checks for volunteers are free. See paragraph 15 below for further information.

6. UPDATE SERVICE

Employees within posts which require an Enhanced DBS check will be required to subscribe to the DBS online Update Service.

The DBS online Update Service allows individuals to keep their DBS certificates up to date. This subscription service allows employers the facility to check the status of an individuals' existing certificate.

The council must obtain the employee's consent via the DBS Update Service Consent Form (Appendix F). This consent must be given as a condition of their employment with the council.

In order to access the Update Service, the council must be legally entitled to apply for a DBS Certificate of the same type and level that to be checked.

The annual subscription cost of the Update Service will be paid for by the council on obtaining signed agreement from the employee, to allow access to this facility.

7. ENHANCED DBS AND BARRED LIST RE-CHECKS FOR EMPLOYEES

- 7.1. If a post requires an Enhanced DBS check the council will re-check relevant staff on an annual basis via the Update Service. If the online status check reveals a change in the disclosure status then a full re-check will be required to determine the exact nature of the change.
- 7.2. Where there are reasonable grounds the council may require existing employees to re-apply for an up to date Enhanced DBS check. It reserves the right to ask existing members of staff in relevant positions to apply for a new DBS check if their actions or activities give 'cause for concern'. The

grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other person or a colleague, parent, carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with the council's Disciplinary Policy. As part of the investigation process, the employee may be required to undergo an Enhanced DBS check with consideration and legal advice taken in respect of human rights and employment legislation.

- 7.3. Where, due to changes in legislation, occupational groups become subject to regulation for the first time, the council will write to existing employees in those groups informing them of the requirement to obtain an Enhanced DBS check. All affected employees will be consulted appropriately.

8. ESTABLISHING CRIMINAL RECORDS DISCLOSURE REQUIREMENTS FOR A NEW POST

- 8.1. All new posts will be assessed via the DBS Online Toolkit. Service Managers will complete the DBS Check Required Form (Appendix A) confirming whether criminal records checks are required and at which level. The Check Required Form will be retained by Human Resources and any posts which require a criminal records check will be recorded on the council's HR and Payroll systems. The list of posts which require a criminal records check (Appendix E) will be updated.

9. POSTS REQUIRING BPSS CHECKS

- 9.1. There are currently a limited number of posts in the council that are required to adhere to the Baseline Personnel Security Standard (BPSS). Part of the BPSS requirement is an unspent criminal record check, those employees that do not have a DBS will be required to have a Basic Disclosure Scotland check. Any posts which require a BPSS check will be recorded on the council's HR and Payroll systems.

10. RECRUITMENT

- 10.1. All recruitment will be in line with the council's Recruitment and Selection Policy.
- 10.2. Only carry out pre-employment vetting on an applicant as at late a stage as is practicable in the recruitment process. This will normally be once a provisional offer of employment has been made.
- 10.3. If, for operational reasons, an individual is required to commence employment prior to a criminal record check being returned, the manager must first complete the DBS Risk Assessment Template (Appendix B) and return to HR. Once a disclosure is received the Risk Assessment must be updated.
- 10.4. The risk assessment asks for confirmation that:
 - A correctly completed criminal records check application has been submitted.
 - An adult or children Barred List check, if applicable, has been undertaken.
 - All other required pre-employment checks have been completed.
- 10.5. The manager has introduced sufficient safeguards for the individual not to have unsupervised access to children or vulnerable adults.
- 10.6. The DBS does not hold details of convictions, cautions, reprimands or warnings from outside the United Kingdom. Applicants that have worked or been resident overseas, including UK citizens who have worked or lived overseas, may require the Statement of Good Conduct (Appendix D). The qualifying periods are
 - DBS – Three months in the previous 5 years
 - Disclosure Scotland – 3 months in the previous 3 years

This does not apply to members of the UK armed forces and their families that were stationed overseas. See Statement of Good Conduct (Appendix D) for further information.

11. FILTERING

The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and minor cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account when making recruitment decisions.

Filtering is the term used to describe the process which will identify and remove protected convictions and cautions so that they are no longer disclosed on a DBS certificate (DBS check).

- 11.1 The council's recruitment practice will adhere to legislation in

relation to filtering of protected convictions.

11.2 Council managers will not take into account protected convictions when making recruitment decisions.

12. AFTER RECRUITMENT

12.1. As part of an employee's induction new employees will be required to undertake the council's mandatory Safeguarding training. The level of this training will be appropriate to the job role.

13. APPLICANTS WITH ADVERSE DISCLOSURES

13.1 Jobs covered by the Rehabilitation of Offenders Act 1974

The council will not automatically refuse to employ a particular individual just because they have a previous criminal conviction.

As part of the provisional offer stage, the council will ask candidates to disclose any unspent convictions, but will not ask questions about spent convictions, nor expect them to disclose any spent convictions.

If an applicant has a conviction that is not spent and if the nature of the offence is relevant to the job for which he/she has applied, the council will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment. This decision will be made by the appropriate member of the council's Corporate Management Team (CMT) or the Senior Leadership Team (SLT) following advice from Human Resources.

The Cause for Concern Risk Assessment Proforma (Appendix C) will be completed to assist this decision making process. The applicant will be asked to sign the completed risk assessment to verify the information provided and give permission for the risk assessment to be stored securely and later destroyed in accordance with the council's Human Resources Information Security Policy.

13.2 Jobs that are exempt from the Rehabilitation of Offenders Act 1974

If the job into which the council is seeking to recruit is one of the excluded jobs listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, the council will require the applicant to disclose all convictions, whether spent or unspent (other than where protected cautions and protected convictions do not need to be disclosed).

Even in these circumstances, however, the council will not refuse to employ a particular individual unless the nature of the conviction has some relevance to the job for which the individual has applied.

Furthermore, if the job is exempt, the council will, once it has selected the person to whom it wishes to offer employment, seek documentary evidence about that person's criminal convictions. The council will seek the applicant's agreement to make a joint application to the Disclosure and Barring Service (DBS) for a standard, enhanced or enhanced with DBS barred lists check (as appropriate). Where the individual is a member of the DBS update service, the council will, with their permission, carry out a status check on any current certificate.

If the DBS check identifies that the applicant has any convictions, spent or unspent, the council will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment. This decision will be made by the appropriate member of the council's Corporate Management Team (CMT) or the Senior Leadership Team (SLT) following advice from Human Resources.

The Cause for Concern Risk Assessment Proforma (Appendix C) will be completed to assist this decision making process. The applicant will be asked to sign the completed risk assessment to verify the information provided and give permission for the risk assessment to be stored securely and later destroyed in accordance with the council's Human Resources Information Security Policy.

13.3 If the candidate has made a false declaration on their application form then the council will not be able to confirm the appointment. If the disclosure certificate contains information that was not revealed by the candidate it will be necessary to hold a further discussion with the candidate and undertake a further review against any risk assessment before deciding to confirm or withdraw the offer of employment.

13.4 It is an offence for a barred person to work, apply to work or offer to work in Regulated Activity with a group they are barred from working with. Candidates on the Barred List will not be employed in Regulated Activity by the council. If the checks reveal that a candidate is on the Barred List for Regulated Activity the council will make a referral to DBS to notify them of the individuals attempt to apply for barred work.

14. EMPLOYEES WITH ADVERSE DISCLOSURES

Where existing employees, who have not been previously checked, or their post requires a re-check and subsequently have an adverse disclosure result, the manager should follow the guidance in paragraph 13 Applicants with Adverse Disclosures and complete the Cause for Concern Risk Assessment Proforma (Appendix C) and discuss the contents with HR. It may be appropriate to move the employee to an alternative post with no access to

children and/or vulnerable groups, property/information/resources etc. depending on the nature of the disclosures and pending the outcome of a full investigation. It may be that there are no suitable duties the employee could undertake during this period which do not bring them into contact with children/ vulnerable adults. If this is the case, the manager must give consideration to suspending the employee on full pay pending the outcome of the disciplinary investigation.

- 14.1 The employee may confirm or refute the information provided by the DBS/Disclosure Scotland, where this is the case, clarification with the DBS/Disclosure Scotland will be sought.
- 14.2 When completing The Cause for Concern Risk Assessment Proforma it should be considered whether the conviction is relevant to the post. If the disclosure results are considered to be of a serious nature and prove to be correct the following options will be considered:
 - Termination of employment.
 - Redeployment depending on the availability of a suitable vacancy.
 - The introduction of safeguards.
- 14.3 Only after a full appraisal of the situation including the risks involved and other alternative employment options investigated should dismissal be considered and then only after advice from HR and the council's lead officer in relation to Safeguarding. If termination of employment is considered, then the employee must be informed in writing and a hearing held in line with the council's Disciplinary Procedure.
- 14.4 If the disclosure results are considered not to be serious and do not impinge on an employee's ability to work in their existing role the line manager should inform the employee accordingly in writing.

15. AGENCY WORKERS

- 15.1. The agency is legally the employer of any agency workers and the responsibility to obtain a relevant Basic Disclosure or DBS check, is theirs. This check can then be used within any organisation that the agency provides workers to work within provided that it is for the same workforce and relevant barred list check. Relevant managers must ensure that agency workers are compliant with the council's safeguarding requirements.
- 15.2. When using an agency worker, a manager should ask to see a copy of the DBS check (this should be no more than one year old), to ensure that each worker supplied to them has had a satisfactory DBS check and checks against the Children's and/or Adult's barred list.

16. CONTRACTORS

16.1. The organisation providing the contractor is legally the employer of any contractors and the responsibility to obtain a relevant DBS check or Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that contractors are provided to. If contractors are procured, the procuring manager will ensure that all Safeguarding requirements are included within the procurement documentation.

17. VOLUNTEERS

17.1. A volunteer is described as a person who performs an activity which involves spending time unpaid (except for travelling and approved out of pocket expenses) doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.

17.2. Volunteers who assist on a regular basis in a role which meets the parameters for requiring a DBS check are required to undertake the relevant level of DBS check.

17.3. The disclosure is provided free of charge. To qualify for a free of charge disclosure, the applicant must not benefit directly from the position the DBS application is being submitted for. The applicant must not:

- receive any payment (except for travel and other approved out of pocket expenses);
- be on a placement/work experience;
- be on a course that requires them to do this job role; and/or
- be in a trainee position that will lead to a full-time role post qualification.

17.4. Volunteer roles should be properly described under 'role of applicant' on the DBS disclosure form e.g. "volunteer Museum Assistant".

18. GENDER RECOGNITION CERTIFICATES

18.1. The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.

18.2. If the person is required to undergo a DBS/Basic Disclosure check as part of the recruitment process they must disclose any previous names and/or gender to the DBS/Disclosure Scotland who have established a special application procedure/dedicated contact officer to maintain confidentiality:

18.3. Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names.

19. DATA PROTECTION

19.1. The council is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of the Data Protection Act 1998. Data held on file about an individual's criminal convictions will be held only as long as it is required for employment purposes and will not be disclosed to any unauthorised person.