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HUMAN RESOURCES

DISCLOSURE AND BARRING SERVICE (DBS) POLICY



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I. Introduction

- I.1 The Royal Borough is committed to ensuring the well being and safety of all service users. This includes developing, implementing and maintaining effective recruitment and human resources procedures to promote safeguarding of children, young people and vulnerable adults.
- I.2 Previously the Criminal Records Bureau (CRB) disclosure service played a key role in meeting this commitment. Under the Protection of Freedoms Act 2012 the Independent Safeguarding Authority and the CRB merged to form the Disclosure and Barring Service (DBS) and the terminology and process in this guidance reflects that change. Many parts of the original scheme remain unchanged – in particular:
- It is a criminal offence for a barred person to work, or volunteer, in Regulated Activity.
 - It is a criminal offence for an employer to knowingly employ (either on a paid or voluntary basis) a barred person in Regulated Activity.
 - It is a criminal offence to allow someone to work in Regulated Activity without carrying out the required checks.
- I.3 Where a person is removed from Regulated Activity by an employer because the person has caused harm to a child or adult considered vulnerable, the DBS must be notified.
- I.4 Where a role is not eligible for a DBS check but there is a case for a criminal records check a Disclosure Scotland Check will be instigated.
- I.5 This policy is applicable to Royal Greenwich job applicants and employees only. See sections 7 and 9 regarding agency staff and school governors/volunteers respectively.

2. Framework for DBS checks

- 2.1 This procedure aims to ensure a consistent and robust decision making process for all posts subject to DBS checks, ensuring the safety and protection of children and vulnerable adults.
- 2.2 If the Royal Borough considers that an individual will be engaged in a Regulated Activity a check against the relevant barred list and an enhanced Disclosure will be required. An enhanced DBS Disclosure contains details of both spent and unspent convictions as well as cautions, reprimands and final warnings held on the Police National Computer (PNC) together with non-conviction information from local

police records if thought to be relevant to the post applied for. **Please see Guidance on Regulated Activity.**

- 2.3 A standard DBS disclosure contains only information held on the PNC and should be carried out for certain professions, offices, employments and occupations listed in the exemptions order to the Rehabilitation of Offenders Act 1974 e.g. solicitors, chartered/certified accountants, legal executives. Under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the act. For the Full List of exempted positions go to <https://www.gov.uk/government/publications/db-check-eligible-positions-guidance>
- 2.4 All school-based posts engaged by the school require enhanced DBS checks. See paragraph 10 regarding school governors and volunteers. Schools who engage Contractors who are on site for a longer period of time are entitled to request an enhanced DBS check but are not required to do so
- 2.5 Adverse information contained in a Disclosure will not necessarily act as an automatic bar to employment with the Council. See the **Royal Borough's Rehabilitation of Offenders Policy**
- 2.6 Please note under the Police Act 1997, it is unlawful to conduct a DBS check for an employee, where there is no jurisdiction under the eligibility guide to do so.
- 2.7 The roles and responsibilities of different groups involved in the DBS process is detailed in the associated document, **Roles and Responsibilities DBS Process.**

3. Procedure

3.1 Recruitment of Staff

- 3.1.1 Once the appropriate authority has been given to fill a post then the relevant manager will submit a Request to Recruit form to the Agency & Recruitment Team confirming whether a DBS disclosure (enhanced or standard) is required. .
- 3.1.2 Where the post requires a DBS check, managers must provide a draft advert which includes reference to the post being subject to a satisfactory DBS and if so at what level (standard or enhanced). The requirement for a DBS check must also be included in the job description.
- 3.1.3 A safeguarding statement will be included in recruitment documentation for relevant posts linked to safeguarding.

3.2 New Posts

- 3.2.1 When a new post requiring a DBS disclosure is created, the manager of the post is responsible for informing The Agency & Recruitment Team of the new post and

requesting that the post be added to the existing list of posts that require DBS disclosure.

3.3 Offer of employment

- 3.3.1 Once a recruitment panel have made a decision on who they would like to appoint, they must complete and return the interviewee and appointment paperwork to Recruitment & HR Admin. The offer of employment letter issued by HR Admin will inform the candidate that the offer is subject to relevant clearances, including a DBS disclosure. The DBS application form and guidance will be enclosed with the offer of employment.
- 3.3.2 Appointees will also be advised that they have the opportunity to subscribe to the DBS Update Service (within 14 days of receiving their DBS certificate) to avoid the need to apply for further DBS certificates. The annual subscription for the DBS Update Service will be paid by the appointee and will not be reimbursed by the authority.

3.4 Processing DBS Applications

- 3.4.1 Successful candidates are required to complete the DBS application form and contact The Agency & Recruitment Team to make an appointment. They will view and validate proof of identity, ensuring the DBS application form is completed correctly. Counter signatories are responsible for verifying the applicant's identity when they check completed applications and authorise the form, on behalf of the Royal Borough, before it is submitted to the DBS, normally within five working days of receipt.
- 3.4.2 The DBS certificate is sent to the appointee only. They will need to arrange to bring the certificate to be checked by The Agency & Recruitment Team.
- 3.4.3 If the appointee has previously subscribed to the DBS Update Service, they can bring in their existing DBS Certificate and a Status Check is then undertaken by the Agency & Recruitment Team. If the Status Check indicates new information since the issue of the DBS certificate, a further application for a DBS certificate (using the process outlined above) will be made.
- 3.4.4 If an appointee fails to submit their original DBS certificate to HR Admin once dispatched by DBS, this could result in the offer of employment being withdrawn. If a decision is made that the applicant is allowed to start work for the Royal Borough pending a satisfactory DBS check then their employment still remains subject to this and any failure to submit a DBS certificate could also result in their employment being terminated.
- 3.4.5 Where a current employee fails to submit a DBS certificate following a 3 yearly renewal check then this will be dealt with under the Disciplinary Procedure.

4. Information that will lead to an individual automatically being unsuitable

- 4.1 Enhanced Disclosures provide details of whether the individual is included on a list of people named as barred from working with children or adults considered vulnerable.
- Children's Barred list (Formerly List 99 and POCA — Protection of Children's Act list)
 - Adults Barred List (Formerly POVA – Protection of Vulnerable Adults)
- 4.2 Candidates/employees who are named on the lists are considered unsuitable to work with children/adults and must not be employed in Regulated Activity. There is no discretion. It is a criminal offence to allow someone to engage in Regulated Activity when barred.
- 4.3 It is a criminal offence for a person on either list to apply to work with children or adults considered vulnerable. If a Disclosure reveals that a job applicant on these lists has applied to work with children, or a Disclosure reveals that an existing employee is registered on one of the lists, the Royal Borough has a legal duty to inform the police.

5. Making Decisions Using Disclosure Information

- 5.1 The fact that someone has a conviction or a caution would not necessarily prevent them from taking up or continuing in employment with the Royal Borough, although serious consideration must be given to the information that has been received before a decision is made.
- 5.2 If an individual denies that the convictions relate to them, a further check must take place. This can be done by the individual contacting the DBS and advising that there is a dispute on the evidence submitted. The DBS should then undertake an investigation.
- 5.3 If a disclosure reveals information of convictions, reprimands or cautions, the Agency & Recruitment Team should first check with the recruiting manager whether the individual has previously disclosed details of any convictions or cautions. The recruiting manager should discuss the case with their Assistant Director, meet with the applicant (or employee) where necessary and seek advice from HR Professional for a final decision as to whether to proceed with the appointment (or future employment).
- 5.4 If the individual has not disclosed the convictions, either on an application form (or to their manager if already employed by the Royal Borough) when the offence took place, they should be asked why they had not done so. Non-disclosure of relevant information or the disclosure of false information by candidates/employees will normally lead to a withdrawal of an offer of employment, or the instigation of the Royal Borough's disciplinary procedures respectively.

- 5.5 When an offence has been disclosed and is subsequently detailed on a DBS the manager will be required, if appropriate, to undertake an investigation. The manager should explore with the applicant/employee the circumstances surrounding the convictions/cautions and when they took place. The manager may also contact the relevant police disclosure unit (detailed on the DBS certificate) to verify or obtain further information. The Manager should inform and seek consent from the individual before making contact with the police disclosure unit. Prior to any final decision being made by the Assistant Director regarding the outcome of the investigation the manager should seek advice from HR and the RBG Child Protection Officer (LADO).
- 5.6 In the case of a new appointment, the decision as to whether to confirm or withdraw the offer of employment will be documented on the Disclosure Review and Clearance Form, If the decision is made to appoint, the form needs to be kept on the employee's personal file. If the decision is not to appoint a record will be retained on the recruitment file.
- 5.7 When an existing employee discloses an offence the manager will, in the first instance, need to make a decision, regarding deployment of the individual, pending further investigation. Dependent on the disclosure and the position held by the employee the manager will need to consider if the following are necessary in the interest of the Royal Borough:
- Closer supervision of the employee in their job
 - Temporarily transfer the employee to other duties
 - Suspension on full pay, subject to disciplinary investigation

On receipt of a DBS which details the disclosed offence the manager will be required to undertake an internal investigation as detailed in paragraph 5.5. At the outcome of the investigation the manager will determine if a formal disciplinary investigation is required or if the employee may remain in post. When the decision is to take no further action, details of the offence, the investigation and the outcome should be detailed on the Disclosure Review and Clearance form and retained on the employee's personnel file.

- 5.8 It is expected that if a decision is taken that the employee may remain in employment the matter will not need to be reconsidered each time a DBS is processed which details the offence. The only exception would be if the employee has changed position within the organisation and has different responsibilities or if the manager has concerns regarding the conduct of the employee.

5.9 Factors to consider when making a decision

- 5.9.1 An applicant's/employee's criminal record should be assessed in relation to the tasks they will be required to perform and the circumstances in which the work is to be carried out. Factors to consider include:

- An examination of the circumstances leading up to the offence, e.g. the influence of financial or domestic circumstances.
- The seriousness of the offence.
- Whether the individual's circumstances have changed since the offence was committed, making re-offending less likely.
- The degree of intent on behalf of the offender.
- Any relevant information offered by the applicant about the circumstances which led to the offence being committed.
- The nature of the job, i.e. does the nature of the job present any opportunity for the post-holder to re-offend in the course of their work?
- The degree of risk that the offence suggests that the individual represents.
- The length of time since the offence took place.
- The extent of job supervision i.e. does the job involve one-to-one contact with children or other vulnerable groups and what level of supervision will the post-holder receive.

6. Supervising employees without a current DBS disclosure

- 6.1 As a general rule, no applicant should be allowed to start work for the Royal Borough in a post requiring a disclosure until all pre-employment checks have been received.
- 6.2 In exceptional circumstances, the relevant Assistant Director may decide, in consultation with the Agency & Recruitment Team that an applicant may start work before the clearances and checks have been received. This must only be in situations where there is an urgent need to maintain service delivery and all reasonable steps have been taken to protect the safety of service users. The arrangement will remain the responsibility of the employing directorate/service. Any such decision must be confirmed in writing using the **Approval to Commence Employment Pending DBS clearance form** and placed on the individual's personal file.
- 6.3 In any event, every possible step must be taken to protect service users. This will include not allowing the applicant to work in regulated activity to children or vulnerable adults, allowing the applicant to start work in an alternative or office based post, or shadowing an existing and experienced employee.

7. Agency Workers

- 7.1 Where agency cover is used for posts that require a DBS disclosure, the agency is responsible for obtaining a satisfactory disclosure for their worker which must include the date and reference number. It is the responsibility of the Royal Borough's Managed Agency to ensure that the agencies have undertaken the necessary clearances. Where disclosure information is identified, a decision whether to engage the agency worker needs to be agreed by the recruiting manager and their assistant director in consultation with HR and recorded on the **Disclosure Review Form**.

8. Overseas Candidates

- 8.1 In some instances, the Royal Borough may recruit individuals with a record of overseas residence. The DBS disclosure only has access to information held by police forces in the UK. That may include details of offences committed abroad by UK citizens or residents. Consequently DBS disclosures are unlikely to provide any information on applicants from overseas who have not previously lived in the UK.
- 8.2 Periods of residence outside the UK do not automatically exclude candidates from being offered employment with the Royal Borough. Decisions on these candidates must balance the Royal Borough's commitment to equality of opportunity for all against the need to minimise the risk to the Royal Borough and service users.
- 8.3 Overseas applicants and foreign nationals will be subject to the full range of pre-employment checks used to assess the suitability for the post applied for. Extra care and a robust approach will be required.
- 8.4 Where it is not possible to obtain a DBS disclosure for the applicant, a Certificate of Good Conduct from the relevant embassies or police force should be obtained. The level of information contained in these certificates varies from country to country. If the job applicant does not already have a certificate they must contact the relevant Embassy or High Commission of that country for advice. Contact details for Embassies and High Commissions in the UK are available on the Foreign and Commonwealth Office (FCO) website <http://www.fco.gov.uk/en/about-us/what-we-do/services-we-deliver/legal-services/local-document-search/010-certificate-of-good-conduct/> Applicants can consult the DBS website for information on how to apply for a certificate of good conduct
- 8.5 In some circumstances it may also be possible to arrange an International Criminal Record Check via the UK Central Authority for the Exchange of Criminal Records (UKCA), Home Office. For further details on requesting a UKCA check, please contact the Agency & Recruitment Team.
- 8.6 The decision to appoint an overseas applicant must be made by the recruiting manager and the relevant Assistant Director and the Agency & Recruitment Team. This decision must be recorded on the DBS Clearance Review Form. (*link 5*)

9. DBS checks of School Governors and Volunteers/work experience

- 9.1 All school governors are required to have an enhanced DBS. This requirement applies even if their role does not involve them going into classrooms or participating in a regulated activity.
- 9.2 Only those Governors who will be undertaking a regulated activity within the school will be subject to an additional check against the barred list.
- 9.3 A volunteer in a school will not be in regulated activity if they are supervised to the statutory level but they will still be able to receive a enhanced check (without barred

list check). If they are unsupervised they will be in regulated activity and therefore be able to receive an enhanced check with barred list check. Volunteers helping with single events, and infrequent visitors to schools who do not have unsupervised access to children, are not eligible for disclosures. Many other volunteers fall between these two extremes, and head teachers, together with their Governing Body, should apply professional judgement in deciding whether disclosures are needed, balancing any risk to children against their knowledge of individual volunteers.

9.4 School governors and volunteers will also be subject to 3 yearly renewals of DBS checks.

9.5 In determining whether volunteers should be checked against the DBS, the headteacher/managers should consider:

- The duration, frequency and nature of contact with children; and then
- What the organisation knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
- Whether the volunteer is well known to others in the organisation who are likely to be aware of behaviour that could give cause for concern;
- Whether the volunteer has other employment, or undertakes voluntary activities where referees would advise on suitability;
- Any other relevant information about the volunteer or the work they are likely to do.

9.6 For short work experience placements in schools, the timescales may not allow time for DBS checks to be undertaken. In these cases, appropriate supervision arrangements need to be put in place.

10. Rechecking

10.1 DBS disclosures are only relevant at the date the application is submitted.

10.2 It is the Royal Borough's policy that 3 yearly renewal DBS checks must be undertaken for all relevant employees.

10.3 HR will notify the individual employee and their line manager of the need to submit a new disclosure application. If the individual has subscribed to the DBS Update Service, their existing DBS certificate can be used and a Status Check run by HR. If new information is disclosed a new DBS application will need to be made.

12. Storage, usage, retention, disposal and record keeping

12.1 Storage and Access

Counter-signatories will ensure disclosure forms will be kept in a secure cabinet for 6 months and details recorded on i-Trent with access strictly controlled and limited to those who are entitled to see it as part of their duties.

12.2 Usage

Disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

12.3 Retention

Once a recruitment (or other relevant) decision has been made, the disclosure information will not be kept for any longer than necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep disclosure information for longer than six months, the Council will consult the DBS about this and full consideration will be given to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

12.4 Disposal

Once the retention period has elapsed, the Council will ensure that any disclosure form is immediately destroyed by secure means, i.e., by shredding. While awaiting destruction, disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). The Council will not keep any photocopy or other image of the disclosure or any other copy or representation of the contents of a disclosure.

16.1 Record keeping

Counter-signatories will ensure that the following information is recorded on i-Trent for monitoring and record purposes only:

- The name of the Disclosure subject (the applicant)
- The post applied for
- The date Disclosure was issued
- The type of Disclosure check sought (standard or enhanced)
- The unique Disclosure reference number

The Disclosure Review Form will be kept on employee's personal file This will include the reason where relevant why the applicant was considered unsuitable for appointment but will not include details of any conviction disclosed.

13. Acting as an Umbrella Body

- 13.1 Before acting as an Umbrella Body (one which countersigns applications and receives disclosure information on behalf of other employers or recruiting organisations), the Council will take all reasonable steps to satisfy itself that the originator will handle, use, store, retain and dispose of disclosure information in full compliance with the DBS Code of Practice and in full accordance with this policy. The Council will also ensure that any body or individual, at whose request applications for disclosure are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

14. Referral to the Disclosure and Barring Service

- 14.1 The Safeguarding Vulnerable Groups Act (SGVA) 2006 places a duty on employer's, to refer individuals working with Children and vulnerable adults to the DBS in certain circumstances.
1. When an employer has dismissed someone, or where they have been removed from working or volunteering with children and or vulnerable adults, or where the individuals have resigned, retired or otherwise removed from working with children or vulnerable adults because for one of the following reasons the employer has a statutory duty to refer the individual case to the DBS for consideration of barring that person from working with these vulnerable groups.
 2. Where they have received a caution or conviction for a relevant offence
 3. Engaged in a relevant conduct in relation to children and or/vulnerable adult that has harmed a child or vulnerable adult or put them at risk of harm.
 4. Satisfied the harm test in relation to children and or/ vulnerable adults even when there has been no relevant conduct issue, but where the individual is still considered to be a risk of harm to a child or vulnerable adult.

15. Cautions and Convictions

15.1 Where an employee engaged in a regulated activity with a child and or vulnerable adult receives and or received a caution or conviction for a relevant offence the employer must refer details of the case to the DBS. The referral must be made immediately as soon as details of the caution / conviction become known.

16.1.1 Information regarding relevant offences that would bar someone from working with children and/or vulnerable adults can be found within the linked factsheet on the DBS website.

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

[dbs-factsheet—when-to-refer\[1\].pdf](#)

16 Further information

16.1 For further information on the operation of this procedure, please contact the Agency & Recruitment Team in the first instance.

Version Number	Changes	Date
1	Previous version launched	Jul 13
2	Inclusion of paragraphs 3.44 & 3.45	Feb 2015
3	Inclusion of paragraphs 5.5, 5.6, 5.7, 5.8, 9.1 & 9.2	Oct 2016