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DISCLOSURE & BARRING SERVICE (DBS)

POLICY

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1.0 DOCUMENT SUMMARY

This Policy provides guidance on the effective use of the DBS Disclosure process to prevent unsuitable persons from obtaining employment with the Council and to safeguard the vulnerable groups that access its services.

2.0 INTRODUCTION

The Disclosure and Barring Service (DBS) was established under the Protection of Freedoms Act 2012 and undertakes the function previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

Rhondda Cynon Taf Council is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure checking process for all relevant employee groups.

The Council complies fully with the **DBS Code of Practice** which enables the Council to make safer recruitment decisions.

The guidance set out in this DBS Policy applies to employees, volunteers, agency workers, elected Members and contractors / sub contractors who are engaged in regulated activity with vulnerable groups.

The Council will also undertake DBS checks on individuals in other non-employment situations, such as foster care / adoption, licensing and home to school transport arrangements.

This policy should be read in conjunction with the Council's **Recruitment of Ex-Offenders Policy** and the **Secure Storage, Handling, Use, Retention and Disposal of Disclosure and Disclosure and Barring Information Policy**.

3.0 REGULATED ACTIVITY

The Council is legally required to undertake DBS checks for all employees who undertake a certain type of work, known as "Regulated" activity. The definition of this would depend on whether you are working with children or adults and are set out on the DBS website, summarised below.

3.1 REGULATED ACTIVITY - CHILDREN

The definition of regulated activity relating to children applies to individuals undertaking the following:

Unsupervised activities

These activities are teaching, training, instructing, caring for or supervising children or providing advice/guidance on wellbeing or driving a vehicle solely for

children as detailed in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006

Supervision means day to day supervision as is reasonable in all the circumstances for the purpose of protecting any children concerned.

The Department for Education has produced statutory guidance on supervision to describe the considerations an organisation should make when determining whether or not an individual is supervised to a reasonable level for the role.

Work for a limited range of establishments (specified places)

These establishments are as detailed in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 with the opportunity for contact with children, including schools and children's homes

Work carried out by volunteers supervised to a reasonable level, in accordance with the statutory guidance on supervision, in these establishments is not regulated activity. However a supervised paid employee working for a specified establishment does come under regulated activity.

Work carried out involving either an unsupervised activity or in one of the listed establishments is only regulated activity relating to children if done regularly.

Regularly means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30 day period (or in some cases overnight between 2am and 6am).

Health care

Health care for children provided by, or under the direction or supervision of a regulated health care professional

This is regulated activity even if the activity is only carried out once.

Personal care

Personal care for children involving hands-on physical assistance with washing and dressing, eating, drinking and toileting; prompting and supervising a child with any of these tasks because of their age, illness or disability; or teaching someone to do one of these tasks

This is regulated activity even if the activity is only carried out once.

It also applies to registered childminders, foster carers, and those involved in the day-to-day management or supervision of any person engaging in regulated activity.

3.2 REGULATED ACTIVITY – ADULTS

The definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead the definition identifies the activities that are being undertaken, on an adult, which may lead to them being considered as vulnerable at that particular time. Such activities include:

Healthcare for adults provided by, or under the direction or supervision of a regulated health care professional

Personal care for adults involving hand-on physical assistance with washing and dressing, eating, drinking and toileting; prompting and supervising an adult with any of these tasks because of their age, illness or disability; or teaching someone to do one of these tasks;

Social work provision by a social care worker which is required in connection with any health services or social services.

Assistance with an adult's cash, bills or shopping because of their age, illness or disability arranged via a third party.

Assisting in the conduct of an adult's own affairs under a formal appointment.

Conveying adults for reasons of age, illness or disability to, from, or between places, where they receive healthcare, personal care or social work arranged via a third party but does not include family, friends or taxi drivers.

An adult is defined as a person aged 18 years or over.

A person whose role includes the day-to-day management or supervision of any person engaging in regulated activity, is also in regulated activity.

Regulated activity relating to adults excludes any activity carried out in the course of family relationships, and personal, non-commercial relationships.

4.0 LEVELS OF DISCLOSURE CHECKS

There are 6 types of check that are available

Basic DBS Check:

This is used for those who share personal information but have no regular contact with service users. Information contained in this check provides information only on unspent convictions.

Standard DBS Check

This is used primarily for those employed in specific professions such as members of the legal and medical professions. Information contained in this check is that held on the Police National Computer (PNC) but does not include local police information.

Enhanced DBS Check:

This is used when someone meets the pre September 2012 definition of regulated activity. Information contained in this check includes that held on the PNC and local police force information but does not include a check against the barred lists.

Enhanced DBS Check - Children's Barred List: used when the postholder is required to undertake regulated activity in relation to children. This level involves a check against the PNC, local police information and a check against the children's barred list.

Enhanced DBS Check – Adult’s Barred List: used when the postholder is required to undertake regulated activity in relation to adults. This level involves a check against the PNC, local police information and a check against the adult’s barred list.

Enhanced DBS Check - Children’s and Adult’s Barred List: used when the postholder is required to undertake regulated activity in relation to both children and adults. This level involves a check against the PNC, local police information and a check against the children’s and adult’s barred list.

5.0 ELIGIBILITY

The Rehabilitation of Offenders Act 1974 (ROA) prevents offenders from having to disclose ‘spent’ criminal convictions. It is an offence to require someone to apply for a DBS disclosure unless the position they are being considered for is defined as ‘regulated activity’ or is otherwise exempt from the provisions of the ROA by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended). See:

The Council will only request a DBS disclosure application from those who are being considered for posts (paid or unpaid) exempt from the provisions of the ROA. Those individuals will be required to disclose their ‘spent’ criminal background by applying for a DBS disclosure.

If a service area has a vacant position which they believe to be eligible for a DBS check they should verify eligibility by reference to the guidance mentioned above and in conjunction with the Director of Human Resources. This should be confirmed before the recruitment process commences, i.e. before the vacancy is advertised.

In addition to the guidance provided the DBS has developed an online eligibility tool which can be found at: <https://www.gov.uk/find-out-dbs-check>

6.0 VOLUNTEER / FREE OF CHARGE CHECKS

The DBS definition of a volunteer is defined in the Police Act 1997 (criminal records) Regulations 2002 as:

“Any person engaged in an activity which involves spending, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party and not a close relative.”

To qualify for a free-of-charge criminal record check, the applicant must not benefit directly from the position the DBS application is being submitted for. The applicant must not:

- benefit directly from the position for which the DBS application is being submitted
- receive any payment (except for travel and other approved out-of-pocket expenses)
- be on a work placement
- be on a course that requires them to do this job role

- be in a trainee position that will lead to a full time role / qualification.

Please note that DBS may recover the application fee if a volunteer application is successfully challenged.

7.0 THE ROLE OF THE COUNCIL AND THE LEAD / COUNTERSIGNATORIES

The Council as a Registered body is an organisation which, in the course of its business, is likely to and, entitled to, ask “exempted” questions under the Rehabilitation of Offenders Act 1974. An exempted question is a question that one is not normally allowed to ask...

“Have you ever been convicted of any offence, or received a caution, warning or reprimand”?

Each Registered body will have one “Lead” signatory and an unlimited number of “Counter” Signatories who will sign DBS application forms.

The Council as a Registered body can also act as an “umbrella” organisation and sign Disclosure application forms on behalf of other organisations who are not themselves, registered to do so, but will, nevertheless, need to use the Disclosure and Barring Service.

A Registered body will be a legal point of access, identify the level of DBS check required, comply with the DBS Code of Practice and, ensure that those for whom it acts as an “umbrella” also complies with the Code. It is also responsible for information accessibility; security; storage and, identity verification.

8.0 DBS ONLINE UPDATE SERVICE / PORTABILITY

Portability refers to the transferring and / or re-use of disclosure information which has been obtained for a similar post, in the same or different organisation. There are risks on relying on the portability of DBS certificates as the information contained on a certificate is only as current as the date the check was undertaken, and for this reason the DBS and the Council, does not support the use of portability.

Individuals however, can now subscribe to the DBS online “Update Service”, which allows an individual to take their DBS certificate between roles, within the same workforce, where the same level of check is required.

The Council is able to check the status on an individual’s criminal record without undertaking a new DBS check, as long as the individual has registered with the DBS for the Update Service, gives permission to the Council to undertake the update, and can provide the Council with their original DBS Certificate.

The process for undertaking an update on an individual’s criminal record can be found at: <https://secure.crbonline.gov.uk/crsc/check?execution=e1s1>

9.0 PROCESSING APPLICATIONS

The Council has introduced an electronic application system (e-bulk) which allows applicants to apply online, without the need to complete a paper application form.

During the selection process the applicant will be provided with the link to the e-bulk website, along with log in details. This can be accessed by any tablet, telephone, PC, laptop etc. that has an internet access facility.

When the application has been completed the applicant will be prompted to contact the officer dealing with their application to facilitate verification of their identity. This would involve the applicant providing personal documents that confirms their identity and the documentation would have to satisfy the DBS Code of Conduct list of suitable documentation.

When satisfied with the documentation received the officer responsible for the appointment would access the application online and process the application as directed by the e-bulk system and refer to countersignatory for authorisation, when completed.

The applicant and officer dealing with the appointment can keep a progress of the application by using the DBS tracking system at:
<https://www.gov.uk/guidance/track-a-dbs-application>

When the process has been completed the Council no longer receives a copy of the DBS certificate, the individual only received the certificate. This is to allow the applicant the opportunity to challenge any incorrect information that is contained within the certificate.

Before an appointment can be confirmed it is essential that the officer dealing with the application has sight of the original certificate. On the rare occasion where an appointment can be confirmed before sight of the certificate, it has to be agreed by the appropriate Group Director / Governing Body, in conjunction with the Director of Human Resources.

The DBS e-bulk system for applicants and officers can be accessed at:

<https://disclosure.capitarvs.co.uk/rctcbc/>

If you are an applicant and mis-laid your login details or have not been provided with log in details please contact the officer dealing with your DBS application.

10.0 RECRUITING FROM OVERSEAS

Individuals who are recruited from overseas or have only been in the country for a short period of time, may not have a history that can be checked within the UK. DBS certificates do not list convictions that were carried out abroad.

Where an individual is undertaking regulated activity in roles requiring a DBS check, the Council still needs to be satisfied that the applicant is fit to work with that vulnerable group/s.

It may be necessary, on occasions when the individual has spent 3 months or more living or working outside of the UK, a Disclosure should be obtained in the normal way. In addition, a 'certificate of good conduct' (or equivalent), should be obtained from the country/ies where they have lived / worked.

On occasions where such information is not available or not possible to obtain from the country require, advice should be sought from the HR Officer dealing with the application, so that additional safeguarding can be agreed.

Further information is also available on the DBS website:
<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

11.0 DEALING WITH DISCLOSURE ON CERTIFICATES

When a DBS certificate has been presented by an applicant and it contains disclosure, initially the information should be checked against personal information obtained through the recruitment and selection process, such as the application form, during interview etc. to ensure consistency.

When information is contained on a DBS certificate, consideration should be given to the following;

- the requirements of the role and level of supervision,
- the seriousness of the offence/s and the relevance to the job applied for,
- when did the offence/s take place, was it on more than one occasion and the time elapsed since,
- the age of the applicant at the time of committing the offence/s,
- was the applicant open and transparent about the offence/s during the application and selection process
- the applicants attitude towards the offence/s

After considering the above and / or if the DBS certificate reveals conviction information that means the applicant is deemed unsuitable for the position applied for, the Head of Service / Governing Body, should liaise with the HR Officer dealing with the appointment, who will refer to the DBS Code of Practice and to the Council's Rehabilitation of Offenders Policy.

12.0 WORK EXPERIENCE / VOLUNTEERS

Individuals enrolling in work experience or volunteering with the Council / schools should also be subject to a DBS Certificate if they are undertaking a role or activity that meets the criteria for "Regulated" activity. Again, consideration should be given to the level of supervision and support the individual is expected to receive during their unpaid work.

For any queries relating to DBS Checks for work experience and volunteers should be referred to the HR Officer dealing with the placement.

For volunteers working within schools the process should be adopted as set out in the Schools Volunteering Policy.

13.0 AGENCY / CONTRACT WORKERS

Agency and contract workers must be assessed against the same criteria as those employed by the Council and working directly with vulnerable groups, in Regulated activity.

The agency / contractor as the employer is responsible for undertaking the DBS check and this should be confirmed at the earliest point of the recruitment / procurement tender process.

Service area's / Governing Bodies engaging agency / contract workers through such arrangements must ensure that they are provided with written details from the agency / contractor, that a worker has been subject to the appropriate DBS check and are satisfied that they are fit to work with the necessary vulnerable group.

For further assistance relating to any DBS matters please contact your dedicated Human Resources team.

14.0 FURTHER INFORMATION

- **RCT Council Recruitment and Selection Policy**
- **RCT Recruitment of Ex-Offenders Policy**
- **RCT Secure Storage, Handling, Use, Retention, Disposal of Disclosures and Disclosure & Barring information Policy**

RCT e-bulk online application process:

<https://disclosure.capitarvs.co.uk/rctcbc/>

DBS Website:

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

DBS Update Service:

<https://www.gov.uk/dbs-update-service>

DBS Eligibility guidance:

<https://www.gov.uk/government/collections/dbs-eligibility-guidance>

