

Appendix A

Disclosure and Barring Policy

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1. Introduction

- 1.1 Reading Borough Council is committed to safeguarding the welfare of people who access our services. One aspect of this is the effective use of the criminal record checking process for all relevant groups of staff and volunteers.

2. Scope

- 2.1. This policy refers to staff, casual staff/workers, and volunteers working for Reading Borough Council. A separate Safer Recruitment and Employment Policy is in place which applies to those working in Reading Borough Council maintained schools.
- 2.2. The principles of the policy equally apply to agency and contingent labour workers. However, it is the responsibility of the agency concerned to undertake the necessary DBS checking and ensure that all necessary checks are completed before the worker commences work.
- 2.3. As an employer, Reading Borough Council may request a DBS check as part of their recruitment process. These checks are processed by the Disclosure and Barring Service (DBS).
- 2.4. All information related to DBS is sensitive and should be dealt with appropriately in line with GDPR and with the Council's Data Protection Policy and relevant associated policies and stored in line with the Council's Record Management Policy.
- 2.5. For certain roles, the check will also include information held on the Children's and Adults' Barred Lists, alongside any information held by local police forces, that is considered relevant to the applied-for post.
- 2.6. DBS checks assist us in making safer recruitment, however a check is just one part of recruitment practice. When a check has been processed by DBS, a DBS certificate is produced and issued to the applicant.
- 2.7. The DBS is also responsible for placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland.
- 2.8. Certain areas of employment are exempt under the Rehabilitation Of Offenders Act 1974 (Exceptions) Order 1975 (ROA), and employers may ask about spent convictions - this is known as asking an exempted question. When answering, the applicant has a legal obligation to reveal spent convictions.
- 2.9. All staff and volunteers currently working in Reading Borough Council undertaking "regulated activity" must have an enhanced DBS check plus a

relevant barred list check. Details of Regulated Activity are set out in the Appendix to this policy.

- 2.10. There are also a limited number of roles and circumstances in which it may be appropriate to request other levels of check. Further information is provided below.

3. Types of Criminal Record Checks and eligibility

The different types of check that can be completed are described below.

- 3.1. Enhanced Check for Regulated Activity (Children and / or Adults)
Used when someone is undertaking regulated activity relating to children, adults or both. This check is a legal requirement and involves a check of the police national computer, police information and the children's and / or adult's barred list.
- 3.2. Enhanced DBS Check
To be eligible for an enhanced level DBS check, the position must be included in both the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 and in the Police Act 1997 (Criminal Records) regulations. This may be appropriate, for example, for roles which would be regulated activity but are not because they do not work unsupervised with children or do not do so on a regular basis. This level of check involves a check of the police national computer and police information. Human Resources (HR) can advise as to the appropriateness of this for particular roles as necessary.
- 3.3. Standard DBS Check
To be eligible for a standard level DBS check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975. This would include people entering professions such as law and accountancy. The Standard check contains details of all convictions held on the PNC including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings and does not include a check of local police information or the children's or adults barred lists.
- 3.4. Basic Check
Anyone can apply for a Basic Disclosure in their own name. The check is not job-specific or job related and may be used more than once. Disclosures contain only convictions considered unspent under The Rehabilitation of Offenders Act (1974). This could be used for roles who have access to sensitive data for vulnerable groups; this is called a controlled activity.
- 3.5. If a manager is uncertain whether a post undertakes "regulated activity" or believes a different level of check may be appropriate (for posts which have access to children or are in a position requiring an extraordinary level of trust) they should seek advice from the HR and Organisational Development team. If it appears there may be a legitimate case for a check, the manager will be

asked to complete a risk assessment form and return this to HR and Organisational Development who will confirm their advice based on all the information available and having sought guidance from the DBS if appropriate. Checks that cannot be justified within legislation and DBS regulations will not be processed.

- 3.6. The HR and Organisational Development team will hold the evidence of a DBS completion in the form of the summary memo from the online service. This also contains details of any trace found by the check.

4. Pre-Employment Checks

- 4.1. Reading Borough Council uses the DBS check as one of a range of measures for assessing the suitability of preferred prospective employees, casual staff/workers, self-employed contingent workers, volunteers and agency workers. These checks include verifying an individual's identity, checking gaps in employment history, references, work health checks, eligibility to work in the UK and professional registration and qualification checks. Only where managers take this holistic approach can they ensure effective and safe recruitment practices.
- 4.2. Prior to a recruitment campaign taking place, the hiring manager, with advice from HR and Organisational Development if required, must determine whether there is the need to request a DBS check. If a DBS check is considered necessary for a post, then this should be clearly stated on the advert and job description and must be undertaken following a conditional offer of employment and prior to starting work.

5. Overseas workers

- 5.1. Whilst a DBS check is a check of a criminal record in the UK, this cannot currently assess criminal records held overseas. Consequently, if an applicant/employee lives or has lived outside of the UK for a continuous period of more than 6 months in the past 5 years a criminal record check should be sought from the country/countries the individual resided in. This is commonly referred to as a Certificate of Good Conduct. Overseas workers must still apply for a DBS check. HR and Organisational Development will provide advice as to how to obtain a certificate of good conduct. For more information please see the following Home Office guidance: [Criminal records checks for overseas applicants](#).

6. Transgender process for DBS checks

- 6.1 DBS offers a confidential checking process for transgender applicants. This process is for transgender applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS check.

7. Employment prior to a satisfactory check being completed

7.1. Every effort should be made to ensure that a DBS Disclosure has been received prior to the commencement of an individual's employment. Although the usual timescale for this to happen is no more than five working days, it is recognised that there may be occasions where it is necessary for an individual to commence their employment before a Disclosure has been received. In exceptional circumstances and if it is clear that there is no alternative action which can be taken to avoid this, the following steps should be taken:

- HR and Organisational Development must confirm that they are in receipt of all other pre employment checks and are able to confirm that these are satisfactory;
- The DBS Disclosure has been correctly completed and sent to the DBS;
- HR and Organisational Development have checked the individual against the relevant barred list(s);
- The relevant Assistant Director has approved a risk assessment of the situation, is satisfied that sufficient safeguards are in place and that the individual will not have unsupervised access to children or vulnerable people.

8. DBS rechecks

8.1. There is no legal requirement to renew DBS checks and Reading Borough Council will only conduct a recheck in the following circumstances:

- Where the individual has transferred to a post requiring a higher level of DBS check
- Where concerns exist about an individual's suitability to continue working within a regulated activity. (see Concerns during employment below)

9. DBS update service & portability of DBS checks

9.1. Any DBS applicant can apply to join the update service. If the applicant/employee is subscribed to the Update Service, employers can undertake a status check on their DBS certificate free of charge to establish whether the individual's current certificate remains valid or if there is new information present which will make it necessary to request a new Disclosure certificate.

9.2. Applicants can register online as soon as they have an application form reference number when submitting a DBS online application or applicants can wait and register within 19 days of their DBS certificate being issued.

- 9.3. Criminal convictions are immediately added to DBS record. “Soft information” from police intelligence is updated every 9 months.
- 9.4. Employees and volunteers requiring an enhanced check are strongly encouraged to register to join the Update Service to avoid the requirement for future DBS applications; information is provided direct to applicants when they apply. There is an annual charge for membership of this service (£13 as at 2021), which is payable by the individual applicant/employee. Employees can reclaim the cost as a work expense via iTrent. Membership of this scheme is free of charge for volunteers.
- 9.5. Employees must inform HR and Organisational Development that they have joined the update service when they are notified that a DBS check is required. If responsibilities have changed and a higher level of check is required, the full process will need to be followed.
- 9.6. If an external applicant informs HR that they belong to the Update Service, if the level of check is appropriate to the role and the current certificate remains valid, it will be accepted as a portable check. However, HR and Organisational Development will undertake a further status check after 9 months so that any changes can be picked up.

10. Declaration of criminal convictions

- 10.1 A DBS Disclosure is only valid on the day on which it is issued. In addition to periodic rechecking to ensure that individuals in relevant roles are continuously assessed for their suitability, it is a requirement that employees and other types of worker inform their manager of any cautions, charges or convictions at the earliest opportunity. Please note this includes motoring offences other than those dealt with by fixed penalty notices’. Failure to do so may result in disciplinary action. Managers should contact HR for further guidance if necessary.

11. Responding to positive DBS disclosures

- 11.1. Reading Borough Council actively promote equality of opportunity for all with the right mix of talent, skills and potential. Having a criminal record alone should not automatically bar an individual from a role. The disclosed information should be fully risk assessed by managers in a timely manner to identify and consider any potential risks of hiring or continuing the employment of an individual.
- 11.2. There are a number of factors that should be considered when undertaking the risk assessment before a final decision can be made. These include:
 - The seriousness of the offence/concern raised and the subsequent impact for those who use Reading Borough Council services

- The relevance of the offence to the individual's role
- Statutory requirements, for example, complying with the Barred Lists
- When the offence was committed/time elapsed since
- Any further explanation regarding the offence provided by the individual
- Whether the individual declared the offence on their self-declaration

11.3. The manager should send the risk assessment to their Assistant Director for endorsement

12. Concerns during employment

12.1 If there are concerns about an individual's suitability to continue working with children or adults then there is the discretion to undertake a further DBS Disclosure. Due to the requirements of the DBS Disclosure process, the individual concerned must give their consent for the DBS Disclosure to be obtained. HR and Organisational Development should be contacted in this situation. If the DBS Disclosure identifies a concern, the manager should adopt the same process as that outlined for positive disclosures above, undertaking a thorough risk assessment of the situation.

13. Roles and responsibilities

13.1. The Assistant Director of HR and Organisational Development is responsible for ensuring that processes and systems are established and maintained to undertake vetting checks and for ensuring the policy is updated in response to any changes in government policy and DBS regulations which occur.

13.2. Assistant Directors are responsible for ensuring that:

- appropriate consideration is given to which other roles should have vetting checks and that advice is sought from HR
- for all employees in their workforce, vetting checks consistent with the activities they are undertaking and with this policy have been completed and risk assessments have been completed and approved.

14. Regulated Activity

14.1. Regulated Activity is work that a barred person must not do. Any individual listed on the Disclosure and Barring Service (DBS) barred lists cannot work in such roles. It is a criminal offence for a barred person to seek work, or work in, activities from which they are barred. It is also a criminal offence for employers to knowingly employ a barred person in regulated activity.

14.2. Regulated' Activity – Children

Regulated activity in respect of work with children is:

- Unsupervised activities on a frequent basis; teaching, training or instruction; care or supervision; advice or guidance on well-being; or driving a vehicle for children.
- Work in a 'specified place' on a frequent basis with opportunity for contact including; schools, children's homes, childcare premises. This does not include work by supervised volunteers. Schools need to refer to guidance on supervision of children as published by the Department for Education.
- Relevant personal care, for example washing or dressing; or health care by or supervised by a professional. This activity does not need to meet the frequency threshold.
- Registered child minding and foster carers. This activity does not need to meet the frequency threshold.

14.3. Further details can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739154/Regulated_Activity_with_Children_in_England.pdf

14.4. Frequency

'Frequent' is once a week or more often; or on four or more days in a 30 day period (or overnight).

14.5. Regulated Activity – Adults

The legal definition of regulated activity for adults no longer uses the term 'vulnerable adults' and no longer requires the activity to meet a minimum frequency threshold. The definition now focuses on the nature of activities, which if required by an adult, will define them to be at risk from abuse or neglect. Staff and managers of staff providing the following activities will be conducting regulated activity:

- Health care – any health care professional providing health care to an adult or anyone who provides health care to an adult under the supervision of a health care professional.
- Personal care – providing assistance, supervision or advice in relation to activities including eating and washing.
- Social care
- Assistance with cash, bills or shopping
- Assistance in the conduct of a person's own affairs
- Transporting an adult because of their age, disability or illness to or from their home and a place where they will receive health care, personal care or social care.

14.6. Further details can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739152/Regulated_Activity_with_Adults_in_England.pdf

Related Policies

Data Protection Policy [Data protection policy | Reading](#)

Records Management Policy [Records management policy | Reading](#)