

APPENDIX 1

DISCLOSURE & BARRING SERVICE POLICY – effective 10.09.12*.

1. Purpose and scope

Peterborough City Council is committed to protecting the well being of the public and those individuals in its care who are considered to be especially vulnerable or at risk - children, and vulnerable adults. We will undertake:

- not to knowingly employ in regulated activity or use as a volunteer a barred person
- to refer individuals who have been dismissed, or we cease to use, to the Disclosure & Barring Service** if we believe they have harmed or pose a risk of harm to children or vulnerable adults

The principles of this policy apply to all employees, volunteers, applicants, and others engaged in council service provision with children or vulnerable adults including foster carers and adopters.

The council has a statutory duty of care to vulnerable members of society; this duty will be carried out with due regard to all other relevant legislation, and the council undertakes to treat all individuals fairly.

2. Responsibilities

A DBS check is a very important part of safeguarding, alongside robust recruitment procedures which include face to face interviews and checking identity, qualifications, references, medical and career history.

The city council will check the status of each employee, volunteer, and applicant working or applying to work in the new definition of regulated activity against the government barred lists; it will also undertake an enhanced DBS check. Other posts may be eligible for a DBS check but not a barred list check. DBS check results are not currently portable.

It is the responsibility of each manager to confirm which of the posts in their team are eligible for a DBS check and the level of the check. The manager must maintain this information. The [‘How to’](#) Guide provides more detailed guidance on the eligibility for DBS checks.

3. DBS Checks

- The council will carry out its own DBS check on all applicants who will be engaged in regulated activity. This may be a paper check or an electronic check and will be at the relevant level.
- A risk assessment of each DBS result will be undertaken and all applicants for DBS checks will be asked to sign a consent form to allow the council to retain the risk assessment.
- There are three types of check – basic, standard and enhanced. Certain enhanced checks may also include a check against one of the government barred lists:-

Type of check	Applicable Legislation	Police National Computer	Police Information	Barred Lists
Basic (This check only provides details of unspent convictions under the Rehabilitation of Offenders Act 1974)	Via Disclosure Scotland	√	X	X
Standard	Rehabilitation of Offenders Act (Exceptions Order)	√	X	X
Enhanced	Police Act 1997	√	√	X
New definition of Regulated Activity	Safeguarding Vulnerable Groups Act 2006 as amended by Freedoms Bill 2012	√	√	√ (Can be Barred list Children, Barred List Adults or Barred List Children & Adults)

- The council will follow guidance from the relevant authorities regarding re-checks and portability of checks and may undertake re-checks to strike a balance between the appropriate level of safeguarding and the efficient management of risk, or if a concern arises.
- If a person moves jobs in the same organisation a new DBS check will be carried out if :
 - the new job gives greater access to children or adults or has more responsibility; (including where e.g. a child care worker moves into a senior child care worker role)
 - there has been a break of more than three months between leaving the old post and taking up the new post,
 - there are concerns about the person, which may affect their suitability/fitness.
- A Standard DBS check will continue to be available for positions covered by the Exceptions Order 1975 to the Rehabilitation of Offenders Act 1974 that are not defined as regulated activity in either the Safeguarding Vulnerable Groups Act or the Freedoms Bill.
- DBS disclosures will not generally show offences committed by people whilst living overseas. The council insists on additional checks as outlined in point 10 below.

4. DBS Check Results – Risk Assessment

- Serco Business Support (HR) will undertake a risk assessment on the results of every DBS check received for all employees and volunteers.

- The manager will continue to complete the risk assessment where a positive trace is returned from the DBS. If necessary the manager may convene a panel to make a joint decision on whether or not the individual can be offered employment or continue in their post. The risk assessment form must be completed and authorised in full.
- Where local police records contain additional information that might be relevant to the post an applicant is being considered for/is doing, then the chief police officer may contact the council with further information. This will be sent under separate cover to the council via Serco Business Support (HR). The applicant should **not be alerted to its existence under any circumstances**. The council should never reveal or discuss the information with the applicant or any other person without the permission of the chief police officer.

All employees, volunteers and applicants will be treated fairly and consistently, and kept informed of progress, in accordance with council policy. This process must be dealt with by all those involved in a timely manner.

5. Barred Individuals

Individuals who are barred from regulated activity with either children or vulnerable adults must not work, or seek to work, in regulated activity with that group. Automatic barring arises where a person has been convicted of, or cautioned, in relation to a serious offence (as defined by law). **It is a criminal offence to employ an individual who is barred to engage in regulated activity.**

The barred lists will only be checked for those engaged in the new definition of regulated activity.

Most people will only be barred if they have engaged, are engaging, or might in the future engage in regulated activity.

6. Referral to the Disclosure & Barring Service

The council will refer any employee, volunteer, or applicant who it believes has harmed or may pose a risk of harm to children or vulnerable adults, to the Disclosure & Barring Service.** This will include if the individual resigns, a short term contract expires, if they cease to be used, or if they are absent. This may precede the conclusion of any internal disciplinary process.

7. Data handling

The council will comply fully with the DBS code of practice, the Data Protection Act, and other relevant legislation regarding the correct handling, use, storage, retention and disposal of DBS disclosures and disclosure information.

8. Existing employment

Failure to disclose warnings/cautions or convictions to the employer may result in disciplinary action. Employees and volunteers have a responsibility to report any relevant changes of circumstance to their employer. These include any criminal investigations, convictions or warnings they may become the subject of and/or if a family member becomes involved in any child protection related concern. All employees must comply with the council's [Self Disclosure Policy](#).

The following will usually amount to gross misconduct and be dealt with under the council's disciplinary procedures:-

- failure to comply with the council's policy on Disclosure & Barring,
- failure to comply with the council's policy on Self Disclosure, and/or
- refusal to undertake a DBS check.

Any employee or volunteer engaged in regulated activity who becomes barred by the DBS is likely to be dismissed under section 98(2)(d) of the Employment Rights Act and will be removed from this activity as soon as the council is aware of the position.

9. Recruitment

This section applies to employees, volunteers and applicants.

In **exceptional circumstances** an internal or external applicant may start work without the results of their DBS check provided a [pre-employment risk assessment](#) has been completed and fully signed off. The process which must be followed is detailed in the manager's guide. Supervisory measures will be introduced which must be followed and failure to adhere to the controls will constitute gross misconduct. Any applicant who has disclosed any criminal information must not start prior to their DBS check results being received.

The council undertakes to treat all candidates for positions fairly and not to discriminate unfairly against any candidate who is subject to a disclosure on the basis of conviction or other information revealed. The information will be objectively assessed taking account of safeguarding issues and the requirements of the job.

All information sent to applicants for relevant posts will include information regarding whether a post is covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, whether it is subject to a DBS check and a Barred list check. Both spent and unspent convictions must be declared on application forms.

The council's [Employment of Ex-Offenders](#) policy will be available to applicants for jobs with the council along with full details of the vacancy. Having a criminal record will not necessarily bar an individual from working with the council.

Failure to disclose convictions on an application form will usually result in the withdrawal of an offer of employment as outlined in the Employment of Ex-Offenders policy.

Recruiting managers must ensure that they have checked and signed off each of the recruitment checks including the results of the DBS check, qualifications, references, professional registration, identity, right to work in the UK, and medical checks before an applicant commences employment. The applicant should be asked to sign a consent form.

Managers must exercise caution in relying on checks of those with little residence in the UK and/or those where there is any gap in their career record.

10. Applicants who have worked overseas or been resident overseas in the past five years

In addition to each of the standard recruitment requirements, including a DBS check, a Statement of Good Conduct to cover the time period spent in a country/ies outside of the UK must also be provided by the applicant.

Where the applicant is:-

(a) unable to provide all the documentation requested

OR

(b) the information contained within the documentation gives cause for concern

AND

(c) a risk assessment identifies any risk

Then the decision must be taken not to appoint.

11. Commissioning services

All judgements taken when services are being commissioned will refer to and incorporate this policy which follows the Key Safe Employment Standards adopted by the Cambridgeshire & Peterborough Safeguarding Board.

12. Agency, Contract, Interim or other workers

Heads of Service must ensure that where agency, contract or interim workers are supplied to carry out duties within the council the manager obtains written confirmation from their employer (an agency, employment business, or contractor) that the relevant DBS disclosure check along with all the other required employment checks have been carried out and are satisfactory before the individual commences work with the council.

Where there is a positive trace on the DBS check then the manager must obtain a copy of the DBS disclosure from the employer before the individual commences work with the council to allow a proper risk assessment to be undertaken.

Where there is 'soft information' provided by the Chief Police Officer then the employer cannot provide the council with a copy of that information, and therefore in these circumstances the Head of Service must carry out a repeat disclosure if they still wanted to use that person.

Managers must check that the individual is not barred from working with children or vulnerable adults.

Heads of Service must ensure that the contract with the agency/employment business or contractor imposes an obligation on them to carry out the same checks as the council would for its own employees in advance of the work starting. It is essential that these checks are up to date and renewed in accordance with this policy.

Identity checks should be carried out by the manager to confirm that the individual who arrives for work is the individual that they were expecting and have already checked. Please contact the Training and Development Team, if you require training on identity checking.

** The Independent Safeguarding Authority merged with the CRB in December 2012 to become the Disclosure & Barring Service (DBS). This policy will be amended further to take account of all future statutory changes.

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