

# VETTING & BARRING SCHEME/ CRIMINAL RECORDS BUREAU DISCLOSURE POLICY - POST JULY 2010

## 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, older people and those with disabilities. 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 Independent Safeguarding Authority 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

The Vetting and Barring scheme (VBS) will be delivered by the Independent Safeguarding Authority (ISA). ISA registration does not replace the role of the Criminal Records Bureau (CRB) check. It enhances the safeguarding process. CRB checks will continue to be a very important part of safeguarding alongside robust recruitment procedures which include 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 regulated or controlled\* activity against the ISA database; it will also undertake an enhanced CRB check. ISA registration is portable, CRB check results are not.

Activities involving working with children or vulnerable adults are defined as either controlled or regulated. It is the responsibility of each manager to confirm which of the posts in their team are controlled, regulated, or neither, and to maintain this information. A definition of controlled and regulated activity is given in the 'How to' Guides.

\*A review of controlled activity is ongoing and the government will announce the outcome during 2010

### 3. CRB Checks

- The council will carry out its own CRB check on all applicants to regulated activity whether they are registered with ISA or not.
- Standard checks no longer reveal information held on the old or new barred lists, therefore the council will always request an enhanced CRB check when recruiting someone to work or volunteer in a regulated or controlled activity.
- 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.
- Where an enhanced CRB check indicates a caution, conviction, charge or other record (positive trace), managers must undertake the Positive Trace Risk Assessment process and convene a panel that will reach a decision on whether or not the individual can be offered employment or continue in their post. There will be a right of appeal against decisions made at this panel.
- 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 release information for inclusion in an enhanced disclosure. This will be sent under separate cover to the counter-signatory and 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.
- A Standard CRB 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 or controlled posts under the Vetting and Barring Scheme.
- CRB disclosures will not generally show offences committed by people whilst living overseas. The council insists on additional checks as outlined in point 11 below.

### 4. CRB Checks - Consideration of Conviction information

When a CRB check is returned showing a positive trace, then managers must follow the Positive Trace Risk Assessment process. All employees, volunteers and applicants will be treated fairly and consistently in accordance with council policy.

### 5. Registration with the Independent Safeguarding Authority

From November 2010 anyone applying to work in Regulated activity (either external or internal applicants) or, from 2015 in Controlled Activities, will be expected to be ISA registered prior to starting work in these roles. The council will not allow an external or internal applicant to commence their duties without first confirming and checking their registration status.

## **6. Barred Individuals**

It will be a criminal offence to employ an individual who is barred to engage in regulated activity.

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).

Individuals who are barred from regulated activity with either children or vulnerable adults who apply to work in controlled activity must only be considered for employment following a comprehensive risk assessment and decision by the panel before a decision is made. All appropriate safeguards must then be in place prior to the individuals start date.

## **7. Referral to the Independent Safeguarding Authority**

The council will refer any employee, volunteer, or applicant who we believe has harmed or may pose a risk of harm to children or vulnerable adults to the Independent Safeguarding Authority (ISA). 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.

## **8. Data handling**

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

## **9. 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, or any other relevant information which a reasonable employer might consider to impact on their employment. All employees in regulated and controlled activity must comply with the council's Self Disclosure Policy.

Any failure to comply with the council's policy on Vetting and Barring, CRB disclosure, and Self Disclosure, including employees or volunteers refusing to undertake a CRB check or to register with the ISA will usually amount to gross misconduct and be dealt with under the council's disciplinary procedures.

Any employee or volunteer engaged in regulated or controlled activity who becomes barred by the ISA 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.

## 10. 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 CRB check provided (a) they are ISA registered and (b) a risk assessment has been completed and the panel have agreed to their commencement. The process which must be followed is detailed on the manager's guide. Supervisory measures will be introduced which must be followed and failure to adhere to the controls will constitute gross misconduct.

The council undertakes to treat all candidates for positions fairly and not to discriminate unfairly against any candidate subject to a disclosure on the basis of conviction or other information revealed.

All information sent to applicants for relevant posts will include information regarding ISA registration and where a post is covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 both spent and unspent convictions must be declared on application forms.

The council's Employment of Ex-Offenders policy statement will be sent out with job application packs. 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 there is a screen print of the ISA registration, CRB check, qualifications, references, identity, right to work and medical checks in place before an applicant commences employment.

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.

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

All applicants for regulated activity must be ISA registered. In addition to each of the standard recruitment requirements, including ISA registration, and CRB 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.

## **12. Commissioning services**

All commissioning judgements will refer to and incorporate the Key Safe Employment Standards adopted by the Children's Trust.

## **13. 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 CRB disclosure check has been carried out and is satisfactory before the individual commences work with the council.

Where there is disclosed information on the CRB check then the manager must obtain a copy of the CRB disclosure from the employer before the individual commences work with the council to allow a proper 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. The Head of Service would need to carry out a repeat disclosure if they still wanted to use that person.

Managers must also check themselves that the individual is ISA registered using the online service before the individual commences work with the council. The manager must also register an interest in the person and carry out a screen print as proof.

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.

This page is intentionally left blank