



**Policy Name:**

**(DBS) CHECKS POLICY**

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## (DBS) CHECKS POLICY



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## **1 Purpose**

- 1.1 Torfaen County Borough Council is committed to safeguarding and promoting the welfare of children and vulnerable adults. The Council works with and provide services to children and vulnerable adults and recognises its duty to safeguard and promote their welfare. One of the ways of undertaking this duty is to ensure that the Council has appropriate pre-employment checks in place to prevent unsuitable persons from gaining access to children and vulnerable adults.
- 1.2 This policy and “(DBS) Check Procedure” will help to: -
- assure service users of the protection provided under legislation in relation to Council employees who work in “*regulated activity*”;
  - ensure the suitability of everyone the Council engages in whatever capacity in “*regulated activity*”. A summary of the original and revised definition of “*regulated activity*” is given in the Council’s “(DBS) Checks Procedure (Appendix 1)”.
- 1.3 This policy and “(DBS) Check Procedure” also emphasise the Council’s commitment to preventing unfair discrimination against existing and prospective employees on the grounds of offending behaviour that does not, on the basis of a careful and objective assessment, pose unacceptable risks to the safety of children or vulnerable adults.

## **2 Scope/ Application of the Policy**

- 2.1 This policy and “(DBS) Check Procedure” will apply to:-
- prospective employees of the Council;
  - all employees of the Council who work in “*regulated activity*” including those employed in ancillary services such as catering and building cleaning;
  - all other people whose work involves regular contact with children or vulnerable adults in what is defined as “*regulated activity*” e.g. agency or contractor employees; and
  - those who seek to work for the Council on a voluntary basis in “*regulated activity*” e.g. school governors.
- 2.2 The types of (DBS) checks available are given in Appendix 2 of the Council’s “(DBS) Check Procedure” i.e.: -
- standard;
  - enhanced; or
  - enhanced with a check against the appropriate barred list i.e. children and young people or vulnerable adults.

2.3 Appendix 2 of the Council's "*(DBS) Check Procedure*" also includes a number of flow charts to help Service area managers/Headteachers determine eligibility for a (DBS) check.

2.4 The Council requires, as part of its employee vetting procedure, an enhanced (DBS) check for any person to whom it is considering offering employment in "*regulated activity*" (including a person engaged through an employment agency). This will be at the point an offer of employment is made. Generally, this will mean a position that is covered by the exemption orders to the Rehabilitation of Offenders Act 1974 and/or by the Safeguarding Vulnerable Groups Act 2006. The enhanced (DBS) check will include a check against either the barred list for children and young people or vulnerable adults or against both barred lists.

### **3 Disclosure and Barring Service (DBS) Re-Checks**

3.1 Other than for posts that require standard (DBS) checks only, (DBS) re-checks will be carried out every 3-years for all posts where: -

- it is required through professional registration e.g. home carers; and
- people who are appointed to work in "*regulated activity*" with children or vulnerable adults.

3.2 Where service areas/schools engage supply cover directly they must follow the guidance given in Section 5 of this policy.

### **4 Other Pre-Employment Checks**

4.1 Whilst the (DBS) check is an important requirement that enables service areas/schools to recruit safely it is only one part of the process. It must be remembered that safe recruitment and selection means thinking about and including issues to do with safeguarding and promoting the welfare of vulnerable groups at every stage of the process. Service areas/schools must have rigorous recruitment and selection procedures in place that allow sufficient time for all the pre-employment checks such as employment references, qualifications, medical and eligibility to work in the (UK) to be completed before the prospective employee takes up their post. Prospective employees, who have worked or been resident overseas for longer than 3-months within the previous 5-years, including UK citizens who have worked or lived overseas, also require a Certificate of Good Character from the country where they resided. Details of how to obtain such a check from the relevant authorities abroad are available online at: -

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

## **5 Previously Issued Disclosure and Barring Service (DBS) Checks**

- 5.1 With the exception of supply cover staff the Council will accept previously issued (DBS) checks for new starters provided they are no more than 12-months old as long as the previously issued (DBS) check:-
- was undertaken by Torfaen County Borough Council;
  - is the right type (standard, enhanced or enhanced with barred list checks); and
  - covers the appropriate workforce (children or vulnerable adults).
- 5.2 Where service areas/schools engage supply cover staff directly they must check to see whether a satisfactory (DBS) check has been carried out by another similar organisation within the last 3-years. If not the service area/school will need to arrange for another (DBS) check to be done. If yes they can accept it by following the portability guidance given in paragraph (5.1). This will include the service area/school recording the date of the (DBS) check on their central log. They will then know that if the supply cover remains in their employ they will need to arrange for a repeat (DBS) check after a period of 3-years from the date of the previous check.
- 5.3 For all other posts, except supply cover, where (DBS) checks are required, the Council will not accept previously issued (DBS) check certificates obtained by other employers or other Registered Bodies however recently they may have been issued. (DBS) check certificates will, however, be “portable” where a Council employee changes posts from one service area/school to another provided the previous (DBS) check is at the level required. Where supply cover is concerned the Council will accept previously issued (DBS) check certificates. For guidance on supply cover and (DBS) checks please see the Council’s “(DBS) Checks Procedure”.

## **6 Disclosure and Barring Service (DBS) Check Barred Lists**

- 6.1 The Council has a legal duty: -
- not to employ someone (paid or unpaid) in “*regulated activity*” who is barred from working with children
  - been barred from working with children or vulnerable adults seeks to work or volunteer for work with these groups; and
  - to refer information to the (DBS) where an employee/volunteer has harmed a child or vulnerable adult and is dismissed/removed or would have been dismissed/removed from “*regulated activity*” had they not resigned or withdrawn their service. Further details on the referral process are given in the Council’s “*Guidance on Referral to the Disclosure and Barring Service and other Professional Bodies.*”

## **7 The Recruitment of Ex-Offenders**

- 7.1 Whilst the work of the (DBS) enables safer recruitment practices by widening the availability of criminal record information it is crucially important that people who have been convicted are treated fairly and are given every opportunity to establish their suitability for positions.
- 7.2 The (DBS) Code of Practice requires the Council to: -
- have a written policy on the recruitment of ex - offenders, so that a copy can be given to all applicants for positions where a (DBS) check will be requested; and
  - ensure that a body or individual at whose request applications for (DBS) checks are counter-signed has such a written policy and, if necessary, provide a model for that body or individual to use.
- 7.3 Wherever appropriate, a statement expressing a willingness to consider persons with a criminal record on their merits should be included on application forms.

## **8 Data Protection**

- 8.1 The Council will ensure that sensitive personal information is held securely and only seen by those entitled to see it. The Council's "*Policy Statement on the Secure Storage, Handling, Use, Retention & Disposal of Disclosures & Disclosure Information*" ensures that (DBS) information is kept securely and not for longer than is required.

## **9 Engagement of Agency Workers/Contractors**

- 9.1 Service areas/schools often engage agency/contractor staff to work in "*regulated activity*." It is essential, therefore, that service areas/schools have robust procedures in place to ensure that agency workers/contractor staff are adequately vetted before they are engaged to work. Where a contractor provides a service under a contract service areas/schools must ensure as part of their contract arrangements that the contractor provides evidence that appropriate checks have been undertaken as part of ongoing contract monitoring. Service areas/schools must ensure that agencies/contractors provide written confirmation that their workers have a clear (DBS) disclosure and where they do not a risk assessment must have been undertaken by the agency/contractor in relation to the information disclosed before work is commenced. The service area/school will not need to carry out a (DBS) check but it can ask the agency/contractor worker for sight of their (DBS) certificate.
- 9.2 Where agency workers/contractor staff are supervised there is no requirement for a (DBS) check. Where agency workers/contractor staff are working unsupervised in "*regulated activity*" and they do not have a (DBS) check the service area/school will use the flow charts given in Appendix 2 of the Council's "*(DBS) Checks Procedure*" to determine whether one should be

done in accordance with this policy. The flow charts show that (DBS) checks will be appropriate for agency workers/contractor staff where “*regular contact*” occurs. This means work done by an individual: -

- once a week or more often or 4 or more days in a 30-day period or overnight for children; or
- once in a defined activity for vulnerable adults.

9.3 Where the requirements of the “*regular contact*” test are met the worker is required to have had a recent enhanced (DBS) check with a check against the appropriate barred list. The (DBS) check will have been undertaken by their employer prior to their placement in the service area/school.

9.4 Where contractor staff are working in a service area/school appropriate risk assessments must be in place identifying the risks and control measures. The risk assessment will take into account the likely amount of contact that the contractor staff will have with children or vulnerable adults given that measures to segregate and supervise should already be in place.

9.5 Identity checks must be carried out to confirm that the individual arriving is the individual that the agency or contractor intended.

## **10 Engagement of Volunteers**

10.1 Where people volunteer to work “unsupervised” with children or vulnerable adults they are required to have an enhanced (DBS) check and check against the appropriate barred list. The (DBS) check is free of charge. Where volunteers are supervised there is no requirement for a (DBS) check but the Service area manager/Headteacher may request an enhanced (DBS) check that will not include a check against the barred list.

## **11 School Governors**

11.1 The Government of Maintained Schools (Wales) Regulations 2005 set out the requirements for a governing body to request that a governor undertake a (DBS) check. This changed with the enactment of the Protection of Freedoms Act 2012 which redefined “*regulated activity*” and it is no longer a requirement.

12.2 School governors will be subject to an Enhanced (DBS) check: -

- with a check against the barred list where they undertake another role in school which involves working regularly and unsupervised with children; and
- only - where they previously worked and continue to work as a supervised volunteer. The Enhanced (DBS) check will not include a check against the barred list.

12.3 Where a check against the barred list is required school governors must give their consent and provide the required information for the check to be done.

12.4 Where the governing body previously resolved that members should be (DBS) checked the Enhanced (DBS) check will apply but without a check against the barred list.

### **13 Monitoring and Control**

13.1 This policy and guidance and the operating systems it describes will be kept under review and revised as required to reflect developments in relevant legislation, (HR) Management and safeguarding best practice.

### **14 The Council as an “Umbrella” Organisation**

14.1 The Council will act as an umbrella organisation for Torfaen based voluntary organisations where it is satisfied that they: -

- are voluntary;
- are Torfaen based;
- understand the implications of a (DBS) check; and
- have adopted the (DBS) Code of Practice.

14.2 The Council will charge voluntary organisations for this service. The charge will not only include the (DBS) check but also an administration fee.

### **15 Useful Contacts**

15.1 The (DBS) helpline number is (03000 200 190). Their website is <http://www.gov.uk/disclosure-barring-service> When making telephone enquiries please quote the Council's Ref. No. **201722000009**

15.2 Further help can be provided from any of the following counter signatories: -

- Tina Hulme                      Tel: 01495 766438
- Karen Price                      Tel: 01495 766569
- Hayley Williams              Tel: 01495 762249

### **16 Further Information**

16.1 This policy statement and associated “(DBS) Check Procedure” has been prepared in accordance with: -

- Welsh Government guidance 158/2015 “Keeping Learners Safe”;
- Safeguarding Children: Working Together Under the Children Act 2004, (Welsh Government 2006);
- Safeguarding of Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012);
- Rehabilitation of Offenders Act 1974 (and associated Exemption Orders);

- Data Protection Act 1998;
- (DBS) revised Code of Practice and guidance; and
- Multi-Agency Practice Guidance *“Safe Recruitment”* (2013) South East Wales Safeguarding Children Board.

16.2 In addition, please see the Council’s: -

- *“Safe Recruitment and Selection Policy”*;
- *“Safe Recruitment and Selection: Step-by-Step Guidance for Recruitment Managers in Schools”*;
- *“Safe Recruitment and Selection: Step-by-Step Guidance for Recruitment Managers in Other Council Settings”*;
- *Safe Recruitment and Selection of Volunteers: Guidelines for Headteachers/Service Area Managers”*;
- *“Policy Statement on the Recruitment of Ex-Offenders”*;
- *“Policy Statement On The Secure Storage, Handling, Use, Retention & Disposal Of Disclosures & Disclosure Information”*;
- *“Code of Conduct for School Based Employees”*;
- *“Code of Conduct for Council Employees”*;
- *“Risk Assessment in Safe Employment”*; and
- *“Safeguarding Children and Young People in Education Settings”*.