

Blaby District Council Guidance for Applications to the Disclosure & Barring Service

Information for current and potential employees and unpaid workers or volunteers at Blaby District Council

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1) Purpose

- a) This guidance document sets out the framework for the Council to assess criminal records of current and potential employees, and unpaid workers.
- b) The Council will obtain relevant criminal information through the Disclosure and Barring Service (DBS).
- c) The elements of this document which set out policy principles is part of the Council's commitment to safeguarding children and adults in regulated activity.

2) Scope

- a) This document applies to those seeking, or in, paid or unpaid work with the Council that involves working with children or adults or other duties that reasonably require additional employment checks.

3) Policy Principles

- a) Employees, potential employees and unpaid workers or volunteers will be subject to a DBS check if they work in a role assessed as requiring a DBS. Employees may also need a barred list check carrying out.
- b) No one should be allowed to start work in a post which requires a satisfactory DBS check before the Disclosure is received. Limited exceptions that can be considered as set out below.
- c) Employees who hold a DBS undertaken by Blaby District Council will not require further clearance if they change position within the Council, unless:
 - i) the new position gives greater access to children or vulnerable adults, or has more responsibility
 - ii) there has been a break of more than three months between leaving the old post and taking up the new post
 - iii) it has been three years since the previous DBS was undertaken
 - iv) there are concerns about the person, which may affect his or her suitability/fitness.
- d) Roles which require an Enhanced check (with/without barring list check) will be required to undergo a DBS check every three years.
- e) The Council will only meet the costs of DBS checks for employees, potential employees (including casuals), unpaid workers and elected members for the Council. Costs of DBS checks for anyone else (e.g. contractors, freelancers, agency workers etc) will not normally be met by Blaby District Council.
- f) The Council has a duty to make referrals to the DBS when someone has been removed from working in a regulated activity for allegedly causing harm or posing risk of harm to a child or adult.

- g) Existing employees and workers are cautioned, charged, summonsed, or convicted of a criminal offence should inform their line manager immediately in writing. Process for dealing with these is set out below.

4) Information: What is a DBS Check?

- a) A DBS certificate discloses convictions, cautions, warnings, reprimands, and other police intelligence.
- b) Normally, once a conviction is 'spent' the convicted person does not have to reveal or admit to its existence to an employer. However, in the context of working with children or vulnerable adults, organisations are legally obliged to ask for details through the DBS of convictions irrespective of whether they are 'spent' or 'unspent'.
- c) There are different levels of DBS checks:
 - i) a basic check, which shows unspent convictions and conditional cautions
 - ii) a standard check, which shows spent and unspent convictions and cautions
 - iii) an enhanced check, which shows the same as a standard check plus any information held by local police that's considered relevant to the role
 - iv) an enhanced check with barred lists, which shows the same as an enhanced check plus whether the applicant is on the list of people barred from doing the role
- d) Different roles require different levels of checks. Blaby District Council will use the [DBS Service's Eligibility Tool](#) to determine which level of check is appropriate for which role.
- e) Further details can be found on the [DBS Service website](#)

5) Information: Regulated Activity

- a) Regulated activities are the activities that the Disclosure and Barring Service can bar people from doing.
- b) It is a criminal offence for a barred person to seek to work, or work in, activities from which they are barred.
- c) It is also a criminal offence for employers or voluntary organisations to knowingly employ a barred person in regulated activity.
- d) Work that is regulated activity with adults will require Enhanced DBS with an adults barred list check. Further details can be found on the [DBS Service Website Regulated Activities with Adults](#)
- e) Work that is regulated activity with children will require Enhanced DBS with a children's barred list check. Further details can be found on the [DBS Service Website Regulated Activities with Children](#)

- f) If the position does not fall into one of the above categories and Blaby District Council nevertheless still requests a DBS certificate, the consequences may be:
 - i) The DBS may challenge the decision to have a particular position checked;
 - ii) the DBS may consider suspending BDC's ability to complete checks, or may de-register BDC;
 - iii) In the worst case, BDC may be found to have committed an offence relating to the disclosure of information and falsification with a penalty of imprisonment or a fine.

6) Process: DBS Checks for new starters

- a) This process applies to employees, casuals, workers and volunteers
- b) Before the role is advertised the Line Manager uses the DBS Eligibility Checker to identify the need for a DBS check. A screen shot (or multiple if required) should be kept to record the answers to the questions provided and the level of check advised. If the manager is unsure about the advice then they should speak with HR. The [Eligibility Checker can be found here](#)
- c) If a DBS check is required, the Manager must detail the level of check required on the job description and in the Vacancy Approval Form. The manager should also allow time for the check to be undertaken through the recruitment process.
- d) If a DBS check is required, after selection the Manager must also detail the level required on the "recommendation to appoint" form or the Casual Engagement form.
- e) The requirement for a DBS check for a role should be included in any job advert as well as the job description
- f) The requirement for a DBS check is confirmed in the conditional offer provided to the preferred applicant.
- g) The individual contacts HR to make an appointment to bring in the completed forms and documentation. Please see section 7 below for further information on ID validation for DBS checks
- h) An appropriate countersignatory is responsible for checking the completed DBS form and the supporting documentation. The countersignatory signs the form and HR will send the form to the DBS.
- i) A countersignatory is a person within a Registered Body who is registered with the DBS to countersign applications, making a declaration that the [position is eligible for the DBS check requested](#).
- j) The form will not be sent if it is not completed appropriately or in the correct timeframe.
- k) The offer of work may be withdrawn if the applicant does not complete the form accurately or in reasonable time frame with appropriate support and reminders

- l) Each application is different, and the completion time can vary with some checks taking longer, especially if they are at an enhanced level and are referred to the police for checks against non-conviction data. You can find out more about processing times on the DBS [performance pages](#).
- m) Once the DBS check is returned HR will record the outcome and confirm to the Manager that the check is complete.
- n) If any contra indicators come back from the check the Manager will arrange a meeting with the individual and an HR representative to discuss the record. Following the meeting the manager and HR will recommend whether or not that the offer of employment be upheld or withdrawn.
 - i) If the recommendation is that the offer of employment is upheld, the risk assessment form must be completed by the recruiting manager and assessed by the Group Manager.
 - ii) If the recommendation is that the offer is withdrawn, this should be assessed by the Group Manager. Then the recruiting manager will notify the individual of the reasons and this will be followed up with a letter from HR.
 - iii) If there are differences of opinion between the recruiting manager and HR, the Group Manager with the lead for Safeguarding will make the final decision.
- o) Where a previously undisclosed contra indicator is obtained for an existing employee, an investigatory meeting may be held in accordance with the Disciplinary Policy and Procedure. It should be noted this could lead to disciplinary action in accordance with the procedure.
- p) No one should be allowed to start work in a post which requires a satisfactory DBS check before the Disclosure is received. Approval to start a worker can exceptionally be given before the Disclosure is received if all of the following are in place:
 - (1) A full risk assessment carried out by the relevant Service Manager
 - (2) All work/tasks that requires DBS checks can only be undertaken with direct supervision
 - (3) Agreement from the relevant Group Manager
 - (4) Agreement from the HR Service Manager or Strategic HR Manager
 - (5) Approval from a Strategic Director/Chief Exec
- q) Records of DBS checks will be kept in compliance with the Council's GDPR Policy.
- r) It should be noted that the DBS Service provides a right of appeal if an individual feels that information revealed on their DBS certificate is incorrect and does not relate to them. More information can be found on the [DBS appeals and disputes page](#).

7) Process: ID validation for DBS checks

- a) When an individual applies for a DBS check BDC must ensure that their identity is properly verified.
- b) BDC will follow the [DBS identity checking guidelines](#) this includes guidance on what we must do if we unable to validate an applicant's identity, dealing discrepancies
- c) BDC will be obliged to [report suspected identity fraud on the Action Fraud website](#)

8) Process: Accepting a previously-issued DBS check

- a) BDC will normally accept appropriate checks validated through the DBS Update Service – please see section 9 below for more information.
- b) It is BDC's policy to not normally accept previously issued DBS checks unless verified through the Update Service
- c) In exceptional circumstances a previously issued DBS check may be accepted if all the below apply:
 - i) agreed by a Group Manager
 - ii) the check was issued within the last 12 months
 - iii) the applicant signs a declaration that their criminal record or other relevant information hasn't changed since the check was issued.
Misrepresentation may be considered as gross misconduct
 - iv) that the previously issued DBS check is appropriate for the BDC role, specifically considering:
 - (1) the level of check
 - (2) the position and workforce (eg adult, child, other etc)
 - (3) the police disclosed information on an enhanced DBS certificate is for an appropriate workforce
 - v) the information revealed on the previously issued was based on the identity of the applicant, which was validated by another Registered Body
 - vi) that the identity details on the certificate match those of the applicant
 - vii) all other Right to Work checks are completed and satisfactory

9) Information: Update Service

- a) Individuals can join the [Update Service](#) which allows them to reuse their DBS certificates when applying for similar jobs.
- b) Should an individual indicate that they have registered with the Update Service BDC will use the following link to check [DBS certificate status online](#) and get a result straight away.
- c) BDC will ensure that we are [legally entitled](#) to carry out a check and that we have the applicant's consent.
- d) The recruiting manager will ask the individual for a copy of their certificate and follow the DBS guidelines on using the updating service.

- e) If there are any changes to the certificate a full check in line with current guidelines will need to be carried out
- f) [More information about the Update Service can be found on GOV.UK.](#)
- g) The Council will normally pay the costs for the Update Service for an individual who works in a role which requires an Enhanced DBS. It is an individual's choice to join this service.
- h) The Council will not normally meet any costs for use of the service for individuals whose roles do not require Enhanced DBS.
- i) The Council will follow the [DBS Employers Guide to using the Update Service](#)

10) **Process: Renewing DBS Checks**

- a) Roles which require an Enhanced check (with/without barring list check) will be required to undergo a DBS check every three years.
- b) Where appropriate Blaby District Council will accept confirmations from the Update Service. For more information please see the [Update Service information on the DBS Website](#)
- c) HR will run a report once a quarter and highlight to managers where a DBS needs rechecking.
- d) When notified that the DBS needs rechecking the Line Manager uses the [DBS Eligibility Checker](#) to re-confirm the need for a DBS check. A screen shot (or multiple if required) should be kept to record the answers to the questions provided and the level of check advised. If the manager is unsure about the advice then they should speak with HR.
- e) If a DBS check is required, the Manager must
 - i) ensure that this is recorded on the job description
 - ii) confirm the requirement with the HRMailbox human.resources@blaby.gov.uk
 - iii) write to the employee to confirm that the recheck is required and attach relevant documents (template available)
- f) The employee completes the form
- g) The Line Manager checks the ID documentation and completes section W of the DBS form.
- h) An appropriate counter signatory is responsible for checking the completed DBS form and the supporting documentation. The counter signatory signs the form and HR will send the form to the DBS.

- i) A counter signatory is a person within a Registered Body who is registered with the DBS to countersign applications, making a declaration that the [position is eligible for the DBS check requested](#).
- j) The form will not be sent if it is not completed appropriately or in the correct timeframe.
- k) The employee is expected to complete the form appropriately and in the correct timeframe with help and support if needed. If the employee unreasonably fails to do so, the disciplinary policy may apply and/or the Council may need to terminate employment as they employee may no longer be legally able to undertake the duties of their role.
- l) Each application is different and the completion time can vary with some checks taking longer, especially if they are at an enhanced level and are referred to the police for checks against non-conviction data. You can find out more about processing times on the DBS [performance pages](#).
- m) Once the DBS check is returned HR will record the outcome and confirm to the Manager that the check is complete.
- n) If any contra indicators come back on from the check the Manager will arrange a meeting with the employee and an HR representative to discuss the record. Following the meeting the manager will decide whether the employment in the relevant role can be maintained or if there are significant concerns about this.
 - i) If the Manager recommends that employment is maintained, the risk assessment form must be completed and assessed by the Group Manager.
 - ii) If there are significant concerns about maintaining employment, the Manager will notify raise these immediately with an appropriate Group Manager and HR to consider what actions need to be taken.
 - iii) If there are differences of opinion between the recruiting manager and HR, the Group Manager with the lead for Safeguarding will make the final decision.
- o) Where a previously undisclosed contra indicator is obtained for an existing employee, an investigatory meeting may be held in accordance with the Disciplinary Policy and Procedure. It should be noted this could lead to disciplinary action in accordance with the procedure. Alternatively, the Council may need to terminate employment as they employee may no longer be legally able to undertake the duties of their role.
- p) Records of DBS checks will be kept in compliance with the Council GDPR policy.
- q) It should be noted that the DBS Service provides a right of appeal if an individual feels that information revealed on their DBS certificate is incorrect and does not relate to them. More information can be found on the [DBS appeals and disputes page](#).

11) Process: DBS risk assessment

- a) A risk assessment form must be completed when:
 - i) The position requires a DBS check, but BDC want the candidate to start work whilst awaiting the return of a certificate.
 - (1) Please note: Managers should allow enough time for the DBS check to be completed before the individual is due to start work and therefore a risk assessment should only be used in exceptional circumstances and will not be approved if enough time is not allowed. Examples of when a risk assessment would be acceptable would be due to an unforeseen delay in the DBS process or to unforeseen business need which requires an immediate start.
 - ii) Offences have been declared by the individual or through the DBS disclosure. In these cases the risk assessment should be used to establish whether or not the offer of work should remain or in the cases of existing employees whether any further appropriate action should be taken.
- b) The risk assessment must be fully completed and agreed by the Manager, and Group Manager and if agreed signed off by the person concerned.
- c) The DBS Risk Assessment can be found here

12) Process: Staff and workers who have lived overseas

- a) Where staff or workers have lived overseas we will follow the guidance provided on how to [get a criminal record check for overseas applicants](#), or on the Home Office website.

13) Process: Self-employed workers

- a) A self-employed person who is eligible for a standard or enhanced DBS check can ask BDC to apply for their check.
- b) A self-employed person who needs a basic check can apply through the DBS' [online application route](#) if they live or work in England or Wales
- c) BDC will also accept previous DBS checks validated by the DBS update service.
- d) BDC will not normally cover the costs of DBS checks for self employed workers

14) Process: Volunteer applications

- a) BDC will use the [DBS Check Application Process for Volunteers](#)
- b) All other elements of this document apply to volunteers.

15) Process: Agency Workers

- a) The appointing manager should use the eligibility service to determine the level of check required for the role and communicate this with the Agency
- b) Written notification of compliance with all necessary employment checks, including DBS checks, is required from the agency or relevant employer for all agency staff, third party staff or contractors who meet the regulated activity requirements.
- c) Employment Agencies and businesses putting a person forward for a role which requires a Barred List Check must also show that the person has been checked against the relevant list of those barred from working with children and vulnerable adults held by the Disclosure and Barring Service within the last 12 months
- d) If appropriate DBS checks are not provided, the recruiting manager can decline applicants or apply for checks through BDC normally at the applicants or Agency's cost.

16) Process: Work Experience

- a) Work experience students should not normally require a DBS check.
- b) No one under the age of 16 can have a DBS check.
- c) Managers should make an informed assessment as to whether the student/person interested is suitable for the placement.
- d) It is expected that that risk assessments will address safeguarding issues and control measure are put in place to prohibit unsupervised access to children or adults who meet the regulated activity criteria.

17) Process: DBS checks for Transgender Workers

- a) DBS offers a confidential checking process for transgender applicants.
- b) 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.
- c) For more information about the transgender process, email sensitive@dbs.gov.uk or see the [information on the DBS website for Transgender workers](#)

18) Process: Employment of Ex-Offenders

- a) BDCs Employment of Ex-Offenders Policy can be found here

19) Process: Criminal Warnings

- a) Existing employees and workers are cautioned, charged, summonsed or convicted of a criminal offence should inform their line manager immediately in writing.
- b) This information will be reviewed by your line manager, together with HR and the appropriate Group Manager or Strategic Director. They will consider whether such conviction or caution could affect your ability to fulfil your contract.
- c) Dependent upon the seriousness and circumstances of the criminal record, and the job the employee is employed in, the Council may consider the offence as warranting a disciplinary process which could result in actions up to and including dismissal for gross misconduct.
- d) Failure to disclose such information is likely to lead to disciplinary action being taken up to and including dismissal for gross misconduct.