ST PETER'S RC
PRIMARY SCHOOL

Disclosure and Barring Service Policy

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Version	Effective Date	
Version 2	2014 – December 2021	
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Version 4	May 2025	Minor changes in line with DBS recommendations.

SECTION 1 - INTRODUCTION, ROLES AND RESPONSIBILITIES

INTRODUCTION - POLICY STATEMENT

1.1 Cardiff Council is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and this duty must be carried out with due regard to The Rehabilitation of Offenders Act 1974 (Exceptions Order 1975 (Amendment) (England and Wales) Order 2013. Additionally, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act (2012), the Data Protection Act (2018), the DBS Code of Practice and the Human Rights Act (1998).

1.2 This policy is concerned with the application of the DBS process. This is a key part of the safe recruitment process, but safe recruitment should be seen in a wider context, with the advert, job description, person specification, scrutiny of the application form, selection interview and rigorous vetting process that are also key components. This is set out fully in the Recruitment & Selection Policy.

ROLES AND RESPONSIBILITIES

1.3 The safe recruitment of people to work with children, young people or adults with care and support needs, is of the utmost importance and demands due diligence. It is important that everyone
clearly understands their roles and responsibilities within this process. All those involved in the process are required to maintain confidentiality at all times.

1.4 Manager/Headteacher Responsibilities:

For Posts which Require a DBS Certificate

- Ensuring that the DBS and Barring List checks are justified and required when the DBS criteria are satisfied.
- Ensuring that the correct level of DBS check is requested.
- Informing applicants that all relevant checks will be carried out.
- Satisfying themselves of the identity of the person applying for a disclosure.
- Ensuring they have sight of the original DBS certificate. (Original certificates/copies must not be kept).
- Satisfying themselves that the evidence presented is genuine and in line with DBS requirements and complete the DBS Certification Pro-forma.
- Recording DBS certificate details on DigiGOV once the original certificate has been seen by the manager/headteacher. In the case of new starters, recording the details on DigiGOV using the DBS Certificate Pro Forma and in the case of renewals record the details directly on DigiGOV.
- Where appropriate, ensuring that DBS checks are renewed in accordance with statutory requirements.

- Ensuring that agency workers/contractors have had a satisfactory DBS check and where appropriate, checks against the Children and/or Adult's Barred List.

1.5 DBS Lead Signatory Responsibilities:

- Acting as the principal point of contact for the DBS.
- Ensuring that the Council's practices and counter signatories comply with the DBS Code of Practice.

1.6 DBS Counter Signatory Responsibilities:

- Counter signing disclosure forms/online application.
- Ensuring the mandatory fields on the application are completed to the satisfaction of the DBS and that data supplied is accurate.

1.7 HR People Services Responsibilities:

- Ensuring regular reviews and updates of the policy and guidance in line with legislation and best practice.
- Providing advice and guidance on the policy and associated procedures.
- Processing renewals for those employees who are not members of the update service and are required to have rechecks as part of a regulatory requirement.
- Providing advice to managers/headteachers when a DBS certificate contains information on convictions/cautions or police intelligence.
- Recording details of records of discussions or risk assessments on the Employee Document Repository in DigiGOV.

1.8 Employee Responsibilities:

- Adhering to the terms and conditions of this policy, and to seek clarification where necessary from their line manager/headteacher in the first instance.
- To act upon any suspicion or disclosure that may suggest a child or vulnerable adult is at risk of harm.
- Informing their manager/headteacher in writing of any criminal convictions, cautions or allegations that occur whilst employed by the Council. (This excludes fixed penalty notices whilst driving their own car).
- Informing their manager/headteacher if they are subject to any practitioner and position of trust concerns, where the concerns have been substantiated or unsubstantiated concerns which satisfy Section 5 of The All Wales Safeguarding Procedures-Professional Concerns.

1.9 DBS Applicant's Responsibilities:

- Providing the necessary evidence for identity checks in a timely manner and in person.
- Disclosing all of the necessary information to enable a DBS certificate application to be processed.
- Disclosing all information that could be relevant to the DBS throughout the duration of their

employment/work/ services for the Council.

- Informing the manager/headteacher and HR People Services of any convictions, cautions, arrests or other allegations of criminal behaviour that have occurred since obtaining their DBS certificate (excluding minor traffic offences).
- Allowing the manager/headteacher to have sight of their original DBS Certificate.
- Providing their consent to enable the Council to undertake checks using the DBS update service (if applicable). In cases where registration with statutory bodies is required, permission at any time to check their status will be required.
- Providing evidence of a DBS check to the headteacher on request if engaged, employed or working within a school.
- Informing their manager/headteacher if they are subject to any practitioner and position of trust concerns, where the concerns have been substantiated or unsubstantiated concerns which satisfy Section 5 of The All Wales Safeguarding Procedures-Professional Concerns.

1.10 Contractors/ Agencies Responsibilities:

- Ensuring that disclosures have been obtained for work involving access to children under the age of 18 and/or vulnerable groups as defined by the Safeguarding Vulnerable Groups Act.

1.11 This policy and procedure will be reviewed in the light of legislative changes and/or operational experience.

SECTION 2 - POLICY

PURPOSE

2.1 The Council, through its managers and employees, has a duty of care to protect the safety and wellbeing of the people of Cardiff, in particular, those groups or individuals in its care who are considered especially vulnerable or at risk, such as children, older people, and those with disabilities. All employees and volunteers working with these groups are expected to share a commitment to this and adhere to this policy.

2.2 This policy and procedure will ensure that the Council:

- Identifies and reviews, on a regular basis, posts that involve regular contact with children under the age of 18 and vulnerable groups.
- Ensures Directorate managers/headteachers are aware of, and apply, this policy and procedure.
- Undertakes DBS disclosures on prospective employees where required.
- Ensures that agency/contract workers have an appropriate DBS level of disclosure.
- Complies with relevant legislation.
- Makes safe and informed decisions.
- Repeats disclosures on existing employees who are not members of the update service and who require renewal checks in line with statutory requirements.
- Deals appropriately with information provided in respect of convictions.
- Manages disclosure information accordingly.

- Ensures a process is in place for all relevant pre-employment checks to be carried out prior to the commencement of employment.

WHO IS COVERED BY THIS POLICY?

2.3 This Policy and Procedure applies to all employees of the Council including school employees irrespective of age, disability, gender reassignment/affirmation, marriage and civil partnership, pregnancy and maternity (including same sex), race, religion or belief, sex, sexual orientation and Welsh language.

DISCLOSURE AND BARRING SERVICE CRIMINAL RECORDS CHECK

2.4 This section provides guidance to managers/headteachers on how to manage the Disclosures and Barring Service (DBS) certificate process to positions that will typically have access to children or vulnerable groups.

2.5 DBS certificates are not a substitute for any of the full range of pre-employment checks, including checking previous employment history and taking up references. Disclosures are complementary to other pre-employment checks and will only be sought after a candidate has been offered a post with the Council/ school. A robust approach to pre-employment should be maintained at all times.
Looking at employment history, gaps in employment, references and asking appropriate questions at interview will help to provide this.

2.6 DBS certificates will be required specifically for the following categories:

- existing employees where a disclosure is required,
- all new appointments where a disclosure is required,
- employees promoted, a change of position or additional post where the level of disclosure required for the new post is higher than their existing post,
- positions that may provide access to children or vulnerable groups and fall under the definition of regulated activity,
- work with children which is outside the definition of regulated activity but may be eligible for Enhanced DBS check - without a check of the children's barred list,
- certain types of seasonal/relief work.

2.7 The following are not covered by the policy but details are provided for information.

DBS Checks for Contractors/Agency Workers

2.8 The Council expects all contractors/agency workers engaged in the provision of services which involve access to children under the age of 18 and/or vulnerable groups to have a satisfactory disclosure where they meet the definition under the Safeguarding Vulnerable Groups Act. No agency or contract workers will be allowed to commence work without the appropriate disclosure.

2.9 Where services are delivered through contractors, and the contractors have access to vulnerable groups (children and/or adults) this policy applies to those contractors
i.e. they will be subject to the same level of DBS check as if the service were being provided directly by the Council. This requirement should be clearly stated in the procurement information when published.
2.10 Managers who are engaging into contracts with contractors/sub-contractors must ensure that the contractual agreement requires appropriate checks to be in place prior to carrying out any work where they meet the DBS eligibility criteria. DBS requirements must be included in specifications/contracts/service agreements as appropriate depending on the type of service being procured. Advice can be sought by contacting Corporate Procurement or Legal Services, in addition of recourse to the corporate guidance contained in this policy.

DBS Checks for School Governors

2.11 As school Governors do not undertake regulated activity, there is no requirement for them to be subject to vetting and barring checks. However, where governors are undertaking some form of regular contact (as defined by the Act; 'regular' means carried out by the same person frequently (once a week or more often) or on 3 or more days in a 30-day period (or in some cases, overnight) with pupils, they are subject to a risk assessment and possible vetting and barring checks unless adequately supervised.

DBS Checks for Fostering and Adoptive Parents

2.12 Fostering and adoptive parents are required by statute to have an enhanced DBS certificate which includes a check against the Children's Barred List. The fostering checks are the responsibility of Children's Services.

DBS Checks for Licensing

2.13 DBS applications for taxi drivers must be made under the Other Workforce. Taxi drivers who are transporting children under arrangements with the Council or a school under contract require a second DBS check using the Child Workforce. This will ensure appropriate matches and searches are carried out.

DBS Checks for School Based Employees

2.14 There is an expectation that this policy and procedure will be adopted in its entirety, by all School Governing Bodies as it is essential to the safeguarding of children and young people in schools. Posts which meet the criteria for regulated activity or specified establishment rule will be eligible for an enhanced check plus a check of the children's barred list. Some roles may fall under work with children or work with adults which are eligible for an enhanced check with a barred list check.

DBS Checks for Volunteers

2.15 All volunteers engaged by the Council will be subject to the same level of DBS certificate as if they were an employee of the Council.

DBS Checks for Student Placements

2.16 All student placements (age16+) will be subject to the same level of DBS check as if they were an employee of the Council.

KEY PRINCIPLES

2.17 The aim of a disclosure certificate is to help prevent unsuitable people from having access to jobs and positions that provide opportunities to harm children under the age of 18 and/or vulnerable groups and to assist the Council and schools in making safer recruitment decisions. In addition, posts may have a requirement for a DBS certificate which are not related to working with children or vulnerable groups, for example, some financial positions.

2.18 Managers and employees should be aware that even the most careful selection process cannot identify all those who may pose a risk to vulnerable groups (children and/or adults). Therefore, managers and employees should always be alert to inappropriate behaviour. The emphasis should be on enabling a culture that allows and provides the people we work with the confidence and mechanisms to raise any concerns they may have.

2.19 Disclosures and other vetting checks are only one aspect of the Council's commitment to procedures for ensuring that those employed in a paid or voluntary capacity are suitable individuals to work with children or vulnerable adults.

2.20 It is not always possible to issue precise guidance on eligibility. Therefore Directorates must consider each post individually when determining the need for disclosure and the level required by the post. In doing so, they should refer to the DBS Eligibility Guides and the Council's Eligibility Flowchart.

2.21 The Council/school will not accept DBS disclosure certificates that have been undertaken for the individual from other organisations unless the new starter is a member of the DBS Update Service and the original certificate has been seen.

2.22 People who have been convicted will be treated fairly and given every opportunity to establish their suitability for posts with the Council/school. A criminal record will not necessarily bar an individual from obtaining a post and the Council/school will not discriminate unfairly against an individual on the basis of convictions or other details revealed on the disclosure. The Council is also committed 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.

2.23 This policy and procedure will be implemented in conjunction with the Policy Statement on the Recruitment of Ex-Offenders (Appendix 3).

SECTION 3 - DBS PROCEDURES

TYPES OF DBS DISCLOSURE

Basic Disclosure

3.1 This is the lowest level of check that anyone can apply for and includes a check the Police National Computer (PNC) for all current criminal convictions under the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

Standard Check

3.2 The standard check is available for duties, positions and licenses included in the ROA 1974 (Exceptions) Order 1975. A standard level certificate contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) that have not been filtered in line with legislation. A standard check cannot reveal if a person is barred from working with children or adults.

Enhanced Check

3.3 The enhanced check is available for specific duties, positions and licenses included in both the ROA 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) regulations, for example, regularly caring for, training, supervising or being solely in charge of children, specified activities with adults in receipt of health care or social care services.

3.4 An enhanced level certificate contains the same PNC information as the standard level certificate but also includes a check of information held by police forces that is reasonably considered might be relevant to the post applied for.

Enhanced DBS checks without barred list check

3.5 Enhanced DBS checks must be undertaken for individuals who work with vulnerable groups (children and/or adults) and whose duties fall under the old definition of regulated activity as defined by the Safeguarding Vulnerable Groups Act 2006. These roles have contact with vulnerable groups (children and/or adults), but do not fall under the new definition of regulated activity.

3.6 An organisation can require an enhanced check without a barred list check for people who were in regulated activity before 10 September 2012 but, due to legislative changes, the activity they undertake is no longer defined as regulated activity.

Enhanced with a barred list check

3.7 The enhanced check with barred list check(s) is only available for those individuals who are carrying out regulated activity (new definition) and a small number of positions listed in Police Act 1997 (Criminal Records) regulations, for example, prospective adoptive parents and taxi and Private Hire Vehicle (PHV) licenses.

3.8 An enhanced level certificate with barred list check(s) contains the same PNC information and check of information held by police forces as an enhanced level check but in addition will check against the children's and/or adults' barred lists.

Type of Check and Eligibility	**PNC**	**Police Information**	**Children's Barred List**	**Adult's Barred List**	
Basic Anyone may apply.	Yes	No	No	No	Unspent convictions and conditional cautions considered unspent. Users of GCSX secure emails will require this check.
Standard Positions must be included in Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.	Yes	No	No	No	All spent and unspent convictions, cautions, reprimands and final warnings that have not been filtered. These checks are suitable for legal and accountancy professions.
Enhanced Positions must be included in ROA and Police Act 97.	Yes	Yes	No	No	All spent and unspent convictions, cautions, reprimands and final warnings that have not been filtered plus any relevant police information. These checks are suitable for Waste Enforcement Officers.
Enhanced with check of barred list/s. Positions must be included in ROA and Police Act 97 and specifically listed in the Police Act as to					All spent and unspent convictions, cautions, reprimands and final warnings that have not been filtered plus any relevant police information.

be able to check the appropriate barred list/s. And must satisfy the definition of regulated activity for either children's or adults' or both.					
Enhanced with check of children's barred list.	Yes	Yes	Yes	No	As enhanced plus check of children's barred list. All school posts require this level of check.
Enhanced with check of adults' barred list.	Yes	Yes	No	Yes	As enhanced, plus check of adults' barred list. Suitable for home carers.
Enhanced with check of adults' and children's barred list.	Yes	Yes	Yes	Yes	As enhanced, plus check of children's and adults' barred list. Suitable for social workers.

Barred Lists

3.9 The DBS barred lists are maintained by the DBS and exist to help organisations recruit safely. There are two lists, the Children's Barred List and the Adults' Barred List. The barred lists allow the DBS to keep a record of people who are not permitted to engage in 'regulated activity' with children and/or vulnerable adults. It is a criminal offence for a person to work with a group from which they have been barred from working. It is also a criminal offence for a person to permit an individual they know (or have reason to believe) is barred from regulated activity to engage in regulated activity.

Cost of Disclosures

3.10The cost of checks relating to appointments to Council posts is currently paid by the Council. The cost of checks undertaken by contractors/agency workers must be met by contractors/agencies. Checks for volunteers are free. (see appendix 1 for definition of volunteers)

Minimum Age

3.11 The minimum age that someone can have a DBS check is 16 years old.

Applying for a Disclosure

3.12 HR People Services will provide guidance to applicants using the on-line process and in the case of renewals, volunteer applications or applications in Welsh, the paper process.

Certificate

3.13 The DBS only issues a certificate to the applicant. This allows the applicant to dispute and make appropriate representations about information released on the certificate, without this information having been seen by the Council/school.

3.14 The Council/school will require applicants (who do not subscribe to the Update Service) to bring in their original DBS certificate (this is a condition of their contract of employment), which will be verified.

3.15 The Council can accept a previously issued certificate for those who subscribe to the Update Service, but in doing so must:

- check the applicant's identity matches the details on the certificate
- check the certificate is of the right level and type for the role applied for
- carry out a free-of-charge status check to see if new information has come to light since the certificate's issue
- ensure there has been no break in service.

DBS Update Service

3.16 Individuals are encouraged to subscribe to the DBS Update Service for an annual subscription payable by the individual. This allows the individual to take their DBS certificate from role to role, within the same workforce, where the same type and level of check is required.

3.17 The Update Service will allow the Council/school to check new recruits or those who require a check whilst employed by the Council/school without the need to submit an application.

3.18. The Council/school will need to seek the permission of the individual to use their current DBS certificate to carry out a free online check to see if any new information has come to light since its issue. The recruiting manager/ headteacher must see the original copy of the individual's DBS certificate. For new starters the DBS Certification Pro forma must be completed and returned to HR People Services. In the case of renewals, when the DBS certificate has been received by the employee and the original documents have been seen by the manager, the manager should then record the details on DigiGOV.

How to register

3.19 If an individual has not yet applied for a DBS check, they can register for the Update Service using the DBS application reference number. The DBS must receive the application form within 28 days.

3.20 If an individual has already applied, they register for the Update Service using their DBS certificate number. This must do this within 30 days of the certificate being issued.

3.21 The Update Service will show one of the following results:

a) This DBS Certificate did not reveal any information and remains current as no further information has been identified since its issue. This means that the DBS certificate when issued was blank, i.e. it did not reveal any information about the person and no new information has been found since its issue and can therefore be accepted as being still current and valid.

b) The DBS Certificate remains current as no further information has been identified since its issue. This means that the DBS certificate revealed information about the person and no new information has been found since its issue and can therefore be accepted as being still current and valid.

c) This DBS Certificate is no longer current. Please apply for a new DBS check to get the most up to date information. New information has come to light since the DBS Certificate was issued and you will need to apply for a new DBS check to see this new information.

d) The details entered do not match those held on our system. Please check and try again. This means either the individual has not subscribed to the Update Service or the DBS certificate has been removed from the Update Service; or you have not entered the correct information.

"Portability" of DBS Checks

3.22 Portability refers to the re-use of disclosure information that has been obtained for the same (or different) post in a different organisation. As a DBS disclosure check only contains information at the date the check was produced by the DBS, there are risks in relying on portability.

Frequency of DBS Checks

3.23 There is no legal requirement to 'repeat' or 'renew' a DBS disclosure check for any employees, other than those for whom a specific statutory or contractual requirement applies e.g. Bailiffs, Social Workers.

Employees who are required to be registered with Social Care Wales

3.24 Social Care Wales is a statutory regulatory body covering employees working within social services environments. It is a requirement that some employees working for the Council in these environments are registered with Social Care Wales. Part of the registration process requires that DBS disclosure checks are repeated on a 3 yearly basis for employees registered in specific posts, namely:

- Social workers.
- Social work students.
- Children's care home managers and staff.
- Adult care home managers.
- Home care managers.

The exception to this is employees who are registered with the Update Service.

3.25 All other posts will have been subject to a robust initial vetting system. Employees will only be required to renew their DBS certificate as a result of a concern, complaint or information regarding a conviction that has been received. The employee will complete a DBS application on request if there is a concern, conviction, arrest, allegation, complaint or information regarding a conviction provided by the employee or other agency/person. When an employee is requested to submit a renewal application, and fails to do so, any repeated failure of the employee to return the DBS form within a 4 week period may result in termination of employment. The employee will be given 10 working days to complete the application form. If the form is not completed within those 10 working days, an email reminder will be sent out to the employee and copied to their manager. At this stage the employee will be given a further 5 working days to complete the forms otherwise they may be subject to disciplinary action.

3.26 Existing employees will be asked to undergo a DBS check if they have not previously been eligible for a DBS and have moved to a post that requires one. In addition, if there are concerns about an existing employee's (who has previously had a DBS certificate) suitability to continue working with children and/or vulnerable adults then there is the discretion to undertake a DBS check/Update Service status check. Due to the requirements of the DBS checking process the individual concerned must give their written consent for the DBS disclosure/Update Service status check to be obtained. HR People Services must be consulted for advice in these instances prior to requesting the DBS.

3.27 Any employee in a school with a break in service of 3 months or more must have a new DBS check.

School Based Employees

3.28 There is no ESTYN requirement to "repeat" or "renew" DBS disclosure checks for school based employees. Therefore, there is no legal basis for renewal checks to be completed. Council employees working on behalf of ESTYN will require renewals in line with ESTYN's policy.

Assessing the Relevance of Criminal Records

3.29 The suitability for employment of a person with a criminal record will vary, depending on the nature of the job and the details and circumstances of any convictions. Deciding on the relevance of convictions to specific posts is not an exact science.

3.30 To facilitate this process, an applicant's criminal record should be assessed in relation to the tasks they will be required to perform and the circumstances in which work is carried out. It is recommended that the following is taken into consideration when deciding on the relevance of offences to particular posts:

- Does the post involve one to one contact with children or other vulnerable groups as employees, customers and clients?
- What level of supervision will the post holder receive?
- Does the post involve direct responsibility for finance or items of value?
- Does the post involve direct contact with the public?
- Will the nature of the job present any opportunities for the post holder to re- offend in the place of work?

3.31 The answers to such questions should help determine the relevance of convictions to specific posts. For example paedophile, or child pornography offences would almost certainly disqualify any person required to work with children; some violent offences would be relevant to positions involving unsupervised contact with the public; fraud should be considered in relation to posts involving the handling of significant amounts of money; and theft in relation to posts involving the handling of stock.

3.32 It should also be remembered that no two offences are exactly alike. Whilst it will not be possible to carry out a thorough risk assessment on each individual, it is recommended that the following issues are taken into consideration as a minimum requirement:

- The seriousness of the offence and its relevance to the safety of other employees, customers, clients and property.
- The length of time since the offence occurred.
- Any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties.
- Whether the offence was a one off, or part of a history of offending.
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely.
- The country in which the crime was committed, some activities are offences in Scotland and not in England and Wales and vice versa.
- Whether the offence has since been decriminalised by Parliament.
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change.

3.33 If a decision to consider an offer of appointment has been made and the applicant has disclosed information regarding criminal convictions, they shall be given the opportunity to discuss the circumstances surrounding their conviction(s). The recruiting manager should have a separate meeting with the candidate and then report to the recruiting panel for a final decision. Notes taken about disclosed criminal convictions should be recorded separately. Before any action is taken the manager must seek advice from HR People Services.

3.34 A criminal conviction will not debar anyone from appointment unless the chair of the selection panel specifically considers that the conviction renders the person unsuitable for appointment. If this is the case, the chair of the panel will record their reasons and consult with the HR People Service, if necessary.

3.35 Overall managers must remember that criminal record checks are only one part of robust recruitment practices and should be undertaken with other pre – employment checks, to assess the suitability of an individual. Other checks include: confirming identity; eligibility to work in the UK; verification of relevant qualifications; taking up and verifying references; medical clearance and establishing full employment histories.

MISCELLANEOUS INFORMATION

Handling DBS Checks/ Confidentiality

3.36 The Council/school will not retain disclosure certificates or take copies of certificates or record in any way details of convictions or any information recorded on a certificate.
3.37 Disclosure information is only passed to those who are authorised to receive the information in the course of their duties. It is a **criminal offence** to pass information to anyone who is not entitled to receive it.

3.38 It must be clearly understood that disclosure information is sensitive and highly confidential; abuse of this information by any Council employee is unacceptable and may lead to disciplinary action.

Retention of Disclosure Information (See Appendix 2)

3.39 Once a recruitment (or other relevant) decision has been made, the Council do not keep disclosure information for any longer than is absolutely necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep the information for longer than six months, the Council will consult the DBS about this and will give full consideration to the Data Protection and Human Rights Acts before doing so. Throughout this time the usual conditions regarding safe storage and strictly controlled access will prevail.

3.40 The Council will retain a record of the following disclosure information:

- name of the employee and the DBS unique identifying number
- date and type of disclosure
- date of renewal. (only where this is a requirement for the post)

3.41 Images or photocopies of the disclosure must not be retained.

Disclosure Disputes

3.42 Where an individual disputes the information provided in a DBS disclosure check, it is their responsibility to resolve the dispute with the DBS. The dispute must be raised with the DBS within three months of the date the disclosure was issued.

3.43 Where there is information contained on the DBS disclosure check which potentially affects the

decision to employ/appoint the individual to the post and the information is disputed, the Council/school can consider postponing a decision to employ/ appoint until the dispute is resolved. However, depending on the timescales for resolution of the dispute, the Council/school may need to consider whether or not to withdraw the offer of employment.

3.44 Where the information contained on the check does not affect the decision to employ/ appoint the individual to the post, the appointment may proceed – the dispute is a matter between the employee and the DBS. On conclusion of the dispute, the Council/school will request (if applicable) to see a revised DBS disclosure check from the individual.

Referral to The Disclosure and Barring Service (DBS)

3.45 The Safeguarding Vulnerable Groups 2006 Act sets a legal duty for the Council to refer information to the DBS if an employee is dismissed or removed as a member of staff/volunteer from working with children and/or adults (in what is legally defined as Regulated Activity) where they meet the referral criteria. The Council has a duty to refer information to the DBS as both a Regulated Activity Provider and as a Local Authority.

Gender Recognition Certificates

3.46 The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be the acquired gender.

3.47 If the person is required to undergo a DBS check as part of the recruitment process they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contact officer to maintain confidentiality. (email sensitive@dbs.gsi.gov.uk)

3.48 Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names.

Checking Overseas Applicants

3.49 The DBS is currently not able to conduct overseas criminal record checks. Some countries, including most in the EU, have arrangements allowing their citizens to obtain "Certificates of Good Conduct" or extracts from the criminal record to show to prospective employers.

3.50 The level of information provided varies from country to country. Guidance on specific countries can be obtained on DBS web site or further advice is available from HR People Services.

3.51 If you are recruiting people from overseas and wish to check their overseas criminal record,

you should contact the embassy or High Commission of the country in question. Contact details for embassies and High Commissions in the UK can be found on the Foreign & Commonwealth Office (FCO) website.

3.52 It is the responsibility of the appointed candidate to obtain a "Certificate of Good Conduct" and to provide this document to HR People Services.

3.53 The DBS advises employers seeking to make use of disclosure information to consider carefully before deciding whether to request a disclosure in respect of an applicant with a substantial record of overseas residence.

3.54 The Police National Computer contains a limited number of overseas convictions but this data is by no means comprehensive. Therefore, it may be of limited value to ask for a disclosure in respect of a person with very substantial gaps in their United Kingdom residence or of individuals with little or no previous residence in the United Kingdom. Additionally the standard of foreign police checks varies.

3.55 However, if someone with a substantial record of overseas residence applies to work in the regulated childcare sector, then the DBS Children's Barred List must be checked, even though there may be little, if any, criminal record information revealed. Likewise, if someone seeks to work with vulnerable adults then the DBS Adults' Barred List must be checked.

3.56 A substantial period of overseas residency should not preclude the Council from considering applicants with such backgrounds. Disclosure is only part of the overall recruitment process. In these situations, as for all other appointments, the Council will engage in a full range of pre-appointment checks.

SECTION 4 – RELEVANT DOCUMENTS

The following are relevant to this policy:

- Recruitment and Selection Policy
- Recruitment and Selection Managers Guide
- Guidance for Safer Working Practice with Children, Young People and Vulnerable Adults.
- DBS Certificate Proforma
- DBS record of Discussion with Individual
- Authorisation to Work prior to Receipt of DBS Check
- Disciplinary Policy and Procedure

Appendix 1

RELEVANT DEFINITIONS

Regulated Activity

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012).

Regulated activity excludes family arrangements, and personal, non-commercial arrangements.

Regulated activity relating to children

The definition of regulated activity relating to children comprises:
(i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/ guidance on well-being, or drive a vehicle only for children;
(ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers
Work under (i) or (ii) is regulated activity only if done regularly.

(iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
(iv) Registered childminding; and foster-carers.
(v) Regular is defined as –once a week or more, or on four or more days in a 30 day period or overnight.

Regulated activity relating to adults

The definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity (and so will anyone who provides day to day management or supervision of those people). A broad outline of these categories is set out below. For more information please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

(i) Providing health care
Any health care professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for

further details about what is meant by health care and health care professionals.

(ii) Providing personal care Anyone who:

- provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability;
- prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting or supervision; or
- trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability.

(iii) Providing social work

The provision by a social care worker which is required in connection with any health care or social services to an adult who is a client or potential client.

(iv) Assistance with cash, bills and/ or shopping

The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person's cash, paying their bills or shopping on their behalf.

(v) Assistance in the conduct of a person's own affairs

Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example by virtue of an enduring power of attorney. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for the further categories which are covered here.

(vi) Conveying

A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.

Volunteer

For DBS purposes, the definition of a volunteer is set out in the Police Act 1997 (Criminal Records) Regulations 2002. If a role is eligible for a Standard, Enhanced, or Enhanced with Barred List(s) DBS check, the charity/organisation must ensure it meets the criteria set out in the definition below, before submitting a free-of-charge DBS application:

• a person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something

which aims to benefit some third-party other than, or in addition to, a close relative.

If the role satisfies both parts of this definition, the ‘volunteer’ box on the application can be marked and the application will be free-of-charge.

Someone carrying out unpaid work as part of a course of study that would lead to a qualification is not considered to be a volunteer for DBS purposes. Work experience which is intended to make someone more employable is also not classed as voluntary work.

Appendix 2

POLICY STATEMENT ON THE HANDLING OF DISCLOSURE INFORMATION

General principles

As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Cardiff Council complies fully with the code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information.

It also complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

Storage and access

Certificate information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

To note: Establishments which are inspected by the Care and Social Services Inspectorate for Wales (CSSIW, now Social Care Wales) may be legally entitled to retain the certificate for the purposes of inspection.

In addition, organisations that require retention of certificates in order to demonstrate 'safer recruitment' practice for the purpose of safeguarding audits may be legally entitled to retain the certificate. This practice will need to be compliant with the Data Protection Act, Human Rights Act, General Data Protection Regulation (GDPR), and incorporated within the organisation's policy on the correct handling and safekeeping of DBS certificate information.

Usage

Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment (or other relevant) decision has been made, we do not keep certificate

information for any longer than is necessary. This retention will allow for the consideration and resolution of any disputes or complaints, or for the purpose of completing safeguarding audits.

Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, for example by shredding, pulping, or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

Appendix 3

POLICY STATEMENT ON THE RECRUITMENT OF EX OFFENDERS

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), Cardiff Council complies fully with the Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed.

The Council has a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the outset of the recruitment process.
The Council actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications for a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.

The Council can only ask an individual to provide details of convictions and cautions that the Council are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations
as amended)

The Council can only ask an individual about convictions and cautions that are not protected.

The Council is committed to the fair treatment of its employees, potential employees or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background.

The Council has a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the start of the recruitment process.

A DBS check is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all application forms, job adverts and recruitment briefs will contain a statement that a DBS check will be requested in the event of the individual being offered the position.

Where a DBS check is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within Cardiff Council and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

Unless the nature of the position allows the Council to ask questions about your entire criminal record, we only ask about 'unspent' convictions as defined in the rehabilitation of offenders Act 1974.

We ensure that all those in the Council who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offence. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the possession sought could lead to withdrawal of an offer of employment.

We make every subject of a DBS check aware of the existence of the Code of Practice and make a copy available on request.

We undertake to discuss any matter revealed in a DBS check with the person seeking the position before withdrawing a conditional offer of employment.