

Disclosure and Barring Service (DBS)



Disclosure & Barring Service

Purpose

Westminster City Council is committed to ensuring children and vulnerable groups are protected from harm and that their welfare is at the forefront of the Council's work. The Council recognises that access to criminal record information must strike a balance between the rights of children and the vulnerable and an individual's right to privacy and the rights of ex-offenders to become rehabilitated.

Having a criminal record will not necessarily prevent an individual from being employed. This will depend on the nature of the role, professional suitability and the circumstances, nature and background of the offences. The Council complies fully with the Disclosure and Barring Service (DBS) Code of Practice and aims to treat all applicants fairly and not to discriminate against anyone based on conviction or other information revealed.

The aim of this policy is to provide a clear and consistent framework to manage criminal record checks.

Scope

This policy applies to all employees, workers (including casuals) and volunteers and anyone who is providing services on Westminster's behalf or is involved in doing so.

Key Definitions

Disclosure and Barring Service (DBS)- enables employers to make safer recruitment decisions and prevents unsuitable people from working with children and vulnerable adults. It does this by providing a disclosure service and maintaining a Children's Barred List and an Adults' Barred List.

Basic DBS Check – A basic check will contain details of convictions and conditional cautions considered to be 'unspent' under the terms of the [Rehabilitation of Offenders Act 1974](#).

Standard - This check will show details of all cautions, warnings, reprimands, as well as all spent and unspent convictions held on an individual's criminal record.

Enhanced Level Check - an Enhanced Level check will list cautions, warnings and / or convictions and any information that in the opinion of a Chief Constable might be relevant for the purpose and ought to be included in the certificate.

Children's Barred List - this national list contains names of individuals who are barred from working with Children in the UK.

Adults Barred List - this national list contains names of individuals who are barred from working with Adults in the UK.

Regulated Activity – Regulated Activity defines whether or not the worker or volunteer must be legally Barred List checked, based on the activities being undertaken, the supervision arrangements and the frequency (defined as 'regular') of these activities.

[Here](#) you can find guidance about regulated activity with children.

[Here](#) you can find information about regulated activity with adults.

Workforce – all standard and enhanced DBS checks must contain a workforce, and this is the legal basis for requesting the check in the first place (eligibility). There are three workforces: Children, Adults and Other. In some instances, a DBS can have both Children and Adults Workforce.

Manager responsibilities

Please note from the 13th July 2020 managers must verify ID as part of the DBS check application process via a new system called Employment Check. Therefore, it is recommended that all relevant managers complete the ID Verification

eLearning on the [Learning Zone](#) by searching 'DBS: ID Verification eLearning'. This [presentation](#) provides you with further details on these new features and provides some video tutorials to demonstrate how they work.

Recruitment and New Starters

- Ensure the appropriate DBS check is attached to the position on SAP – if you are unsure, please check the [DBS eligibility guidance](#) or these decision trees: [Children's](#) and [Adults](#). The recheck period will always be 36 months, and you will be prompted to insert this as well as the level of check, in 'vetting requirements'. No WCC positions require police vetting.
- Please note that once you update the position vetting requirements these will be automatically displayed in the job advert.
- At interview, or in a separate discussion, discuss with the applicant any offences or other matter that are relevant to the position. Failure to reveal information regarding offences could lead to withdrawal of an offer of employment.
- Check and collect the relevant documents to allow the IBC to process the DBS checks. [Click the DBS ID checking guidance](#) for further information. Following the COVID-19 pandemic, ID can be verified remotely, see guidance [here](#). ID can be verified by the line manager or a peer manager in the same team if necessary - raise an enquiry or email dbs@hants.gov.uk if someone other than the manager who requested the original check needs to verify the ID.
- Where it is agreed that an employee can start work before a DBS is in place, a risk assessment (sent to you by IBC recruitment) must be carried out beforehand. This can only be done once the candidate has completed the DBS application form, and this has been sent to DBS for clearance. In addition, an appropriate and experienced named person with a current satisfactory enhanced DBS check will need to supervise the new employee until they have completed their induction and a full disclosure is satisfactorily completed.
- For agency workers requiring a DBS, the hiring manager must liaise with the agency to ensure that the correct level of check is carried out. Under no circumstance can an agency worker commence employment pending a DBS check.

Advertising a post

For those positions where a criminal record check is required, all advertising material will contain a statement that a check will be requested in the event of the individual being offered the position. Applications will contain the "Exempt questions" under the ROA 1974 (Exceptions) Order 1975 if the role requires a standard or enhanced DBS check.

Overseas police checks

In addition to a criminal record check, an overseas police check will be undertaken where an individual has lived, worked or been on holiday outside of the United Kingdom in excess of three months (in any one country) during the preceding five years.

Recruiting to posts in schools

All teaching or support staff in schools must have an Enhanced Children's Barred List DBS check. Admin or finance officers in a school won't need to be checked against barred list unless they meet the frequency detailed in the regulated activity definition.

Risk assessment

In exceptional circumstances where an individual is required to commence employment prior to their criminal records check being received, a risk assessment will be sent to the recruiting manager by IBC and it will require Head of Service approval. Before the IBC can send the risk assessment form, the candidate must have completed the form, and this should have been sent off to DBS.

Agency workers

Agency workers brought in to cover an exempted post must hold a current DBS certificate (obtained by the agency less than 12 months ago) or their DBS Update Service Registration number and evidence of their online check. The level, type and workforce of the check on the certificate must exactly match the position requirements.

It remains the employing agency's responsibility to ensure that agency workers are appropriately checked to ensure compliance with the Council's policies in relation to vetting and criminal records checking. However, there may be departmental or national (e.g. Dept. for Education, Dept. of Health) standards that place additional responsibilities on managers to verify the identity and suitability of agency workers who work on their premises.

All managers hiring agency workers should liaise with the relevant agency to ensure the worker has the appropriate level of check and obtain written confirmation from the agency of the level and validity of the worker's check.

Portability

External appointments

Wherever possible, the Council will use the national Update Service to accept an external candidate's current certificate.

Where individuals have not subscribed to the Update Service, the Council adheres to portability rules laid down by the Department for Education and the Department of Health as follows:

For roles working with children or in a children's establishment, a disclosure is accepted from another organisation provided the candidate has no break in service between employers and the current certificate is no more than three months old at the stage where the employee commences in the new role.

For roles working with adults, a new disclosure must be applied for, regardless of the age of the certificate or whether the individual has any break in service between employers.

Internal movements and appointments

For internal movements and appointments of staff an employee's current certificate may be accepted if the employee presents the manager with a paper certificate and all the following are met:

- (a) it covers only the relevant workforce and relevant barred lists (i.e. Children's and Adult's cannot be accepted for posts requiring only Adult's as this would be over checking)
- (b) the employee has been continuously employed with the Council for the duration of their certificate / or the employee has subscribed to the Update Service and an update service check has been carried out by the hiring/new line manager
- (c) if the certificate shows convictions- the employee provides their certificate to the recruiting manager and any entries on the certificate are assessed as low risk via the [DBS Positive Disclosure Risk Assessment Form](#).

In cases where an employee's current certificate is not accepted, the manager should request a new check for the employee which can be done [here](#) (click on the green button for the check request form).

Casual workers and Volunteers

In cases where the individual is a Casual worker or Volunteer and is taking up a Temporary or Permanent post, a new criminal records check will be required prior to commencing in post. This is to ensure compliance with the DfE and DoH portability requirements.

Re-checking of Casual workers and Volunteers

A new check is NOT required for casual workers and volunteers if they present a hard copy of their certificate and the manager is satisfied that all the below are met:

- The Casual worker or Volunteer is known to the service and the break between periods of work / volunteering is no longer than three months in duration;
- The Casual worker or volunteer has a check issued in the last three years that covers only the relevant workforce and relevant barred lists
 - If the certificate shows convictions- the employee provides their certificate to the recruiting manager and any entries on the certificate are assessed as low risk via the [DBS Positive Disclosure Risk Assessment Form for non-employees.](#)

A new check will be required if:

- The break in periods of work / volunteering is in excess of three months, and/ or;
- The Casual worker or Volunteer is not known to the service and/or;
- The current check does not cover the relevant workforce or barred lists, and/or;
- The check is older than three years

Where employees TUPE into the Council and the role requires a criminal records check, the manager needs to ensure a new criminal records check is initiated [here](#).

Positive Disclosure (Convictions on the certificate)

Please complete the [DBS Positive Disclosure Risk Assessment Form](#) if a new or a re-check highlights a positive disclosure. This will be sent to you by the IBC team. To seek

further advice following a positive disclosure, please contact your HR Business Partner, or DBS@westminster.gov.uk. IBC cannot advise on this.

Regular DBS Reporting

Managers should regularly check that members of their team have valid DBS checks at the level that their position requires. You can run a real-time report on the status of the DBS checks of your team on IBC using the Statutory Employment Check Compliance report app. The '[Statutory Employment Checks app webpage](#)' and the '[DBS guidance for EmploymentCheck user's](#)' webpage will help you in understanding the report.

Remember the report will only show DBS information for employees whose positions have DBS requirements. Therefore if an employee has a DBS check but their position vetting requirements do not include DBS, their DBS will not show on the report or anywhere on IBC. Guidance on changing position vetting requirements can be found [here](#).

Rechecks

Managers will receive a notification via IBC three months, and one month prior to the employee's certificate expiry date and then again on the day of expiry, they and their manager will receive a notification.

To carry out a re-check:

- Ensure you obtain written consent to undertake a check on the employee ([see email and form template](#))
- Once consent has been obtained, upload a copy of the completed consent form onto the employee record through the '[Manage ePF](#)' App on IBC.
- **Option (a) - Employee not on Update Service, therefore new check needed**

The step by step DBS recheck process can be found [here](#).

- Manager requests a DBS check via IBC Portal using the [Statutory Employment Check App](#) and selecting 'initiate non- update service check' in the actions column.
- The employee will usually receive an online DBS application form to complete within 24 hours.
- When the application form has been completed the ID verifier (manager who requested the check) will receive an automated email from noreply@employmentcheck.org.uk. The subject line on the email will be "Admin Account Creation". They should then follow the [ID verification process](#).

- Please note, this will require the employee bringing in supporting evidence for the ID verification purposes. A list of acceptable ID documentation can be found [here](#). Following the COVID-19 pandemic, ID can be verified remotely, see guidance [here](#). ID can be verified by the line manager or a peer manager in the same team if necessary - raise an enquiry or email dbs@hants.gov.uk if someone other than the manager who requested the original check needs to verify the ID.
- **Option (b) - Employee on Update Service with same level of check as required by the position**

If the certificate is on IBC:

- Manager performs a status check through the update service [here](#). Ensure you gain consent from the employee prior to this using this [consent form](#).
- Take a screenshot of the outcome of the update service check and upload it to the employee record through the '[Manage ePF](#)' App on IBC.
- Go into the [Statutory Employment Check App](#) and select 'record update service outcome' in the Actions column. Complete the form as appropriate and press submit.
- If an employee in your team is on the update service, you will get annual reminders to ensure they maintain their annual subscription to it and to perform this process to ensure there have been no changes to their certificate.

Remember the cost of the annual update service subscription fee can be [expensed](#) by the employee via the 'My Expenses' app on ESS Lite.

Employee Responsibilities

- Where individuals are subject to criminal records checking, it is a condition of their continued employment that they notify their line manager immediately if they are convicted, cautioned, reprimanded or warned in relation to any criminal offence. Where individuals fail to notify their manager, this will be treated as a disciplinary offence and may result in dismissal.
- Employees are encouraged to [subscribe to the Update Service](#) and should take responsibility for maintaining their annual subscription. This cost can be [expensed](#) via the 'My Expenses' app on ESS Lite.

Eligibility for a DBS check

The workforce is what determines if a role is eligible for a DBS check (see [here](#))

Regulated activity is only applicable to Enhanced checks and this determines the frequency of the contact with either adult, children or both.

Tools to help managers establish if, and at what level, workers need a DBS can be found on the [gov.uk site](#), or via the IBC decision trees ([Children's](#) and [Adults](#)).

If you believe that your post does not require a check, or if you believe that you are being over checked (for instance being asked to complete an enhanced check when a standard check applies) then you should speak to your line manager or contact People Services (DBS@westminster.gov.uk) for clarification.

Supporting Information

To help with the application of this policy it may be useful to read the following:

[Rehabilitation of Offenders Act 1974 - Guidance](#)

This [consent form](#) is to be completed by the employee and uploaded by the manager via the '[Administer ePF](#)' App if:

- (a) They are going to show their manager a copy of their certificate; or
- (b) The manager is going to perform and update service check on the employee

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