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difference

Disclosure and Barring Service Policy

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TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE
1.	Policy statement	3
2.	Key Points	3
3.	DBS checks and when to use them	4
4.	Validity of DBS disclosures	6
5.	Portability of DBS disclosures	6
6.	DBS disclosures for those moving position within the council	6
7.	Frequency of DBS disclosure checking	7
8.	Commencement of work prior to receipt of DBS disclosure	7
9.	Receipt of DBS disclosure	7
10.	Recruiting from overseas	8
11.	DBS disclosures for agency workers/contractors/sub-contractors/volunteers	8
12.	Equality Impact Assessment and Monitoring	9
13	Data Protection	9

1. POLICY STATEMENT

1.1 Introduction

The 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 the Exceptions Order to the Rehabilitation of Offenders Act (1975). However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act 2012, the Rehabilitation of Offenders Act (1974), the Data Protection Act (1998), the Disclosure Barring Service (DBS) Code of Practice and the Human Rights Act (1998).

This policy will apply to those seeking paid work or volunteering opportunities with the Council. In addition, certain types of voluntary or seasonal work, student placements, elected members, preferred contractors and other regulated positions will also come under the provisions of the policy, if they involve unsupervised contact with children or adults.

2. KEY POINTS

- 2.1 Wyre Council is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.
- 2.2 Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. basic, standard/enhanced/enhanced + children’s and /or adult’s barred list check).
- 2.3 Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of or accessing a service which leads that adult to being considered vulnerable at that particular time.
- 2.4 Wyre Council uses the DBS Disclosure process as part of a range of checks for assessing the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring within the Council, and the continued employment of those in specific roles which require reassessment.
- 2.5 The Council obtains and makes decisions based on information provided on DBS Disclosures in accordance with the Data Protection Act, the DBS Code of Practice and the Rehabilitation of Offenders Act.
- 2.6 This policy should be read in conjunction with the Council’s Recruitment of Ex-Offenders policy and the Secure Handling and Storage of DBS Certificate Information Policy.

3. DBS CHECKS AND WHEN TO USE THEM

3.1 It is best practice to determine the type of DBS Disclosure that is required by way of a risk assessment, which should be undertaken by the manager responsible for the activity that the individual will be undertaking. Managers should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant post, this should take place prior to the recruitment process. Managers are also responsible for the on-going reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS Disclosure. If you are unsure whether a position requires a DBS and what level may be required please consult with Human Resources.

3.2 **Regulated Activity**

Regulated activity is a term related to certain roles that involve working with children or vulnerable adults, including care work and teaching. Any individual listed on the Disclose and Barring Service (DBS) barred lists cannot work in such roles. Any organisation that recruits for roles involving regulated activities have a legal responsibility to carry out an Enhanced DBS check to ensure a job applicant is not barred from working in these roles.

All regulated activities are eligible for Enhanced DBS checks which will look at children's and/or adult's barred lists. This will uncover whether or not the applicant has committed a criminal offence that makes them unsuitable for working with children or vulnerable adults. A list of Regulated Activity can be found at the end of list policy listed as Appendix A.

3.2 There are three levels of DBS checks: basic, standard and enhanced. It is essential to know the various levels to ensure that employees go through proper screening. The checks that are available are:

Basic DBS Check

A basic DBS check is a criminal record check that individuals and employers can request. This is the lowest level check and is available for all individuals and employers living within the UK. A basic DBS will check a person's criminal history, convictions and cautions from the Police National Computer (PNC). The check will only show convictions that are not 'spent'

Standard DBS Check

Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the children's or adult's barred lists.

There is only one type of Standard DBS check, as it does not cover the children's or adults barring list checks (for this you will need an [Enhanced DBS Check](#)). A standard level DBS will check applicants for reprimands, warning, cautions and criminal convictions which are spent or unspent older convictions. Some may become filtered if they are deemed not to be relevant to the position the applicant is applying for.

Enhanced DBS Check

An [enhanced DBS check has all the information](#) contained in a standard DBS check. However, with an enhanced check, an employer can also request to see whether a potential or current employee is listed on the Children's Barred List or Adult First list. This ensures that a candidate is not barred from working with vulnerable groups but can only be requested if the candidate or employee will be involved in a regulated activity.

Enhanced DBS Checks (also known as Enhanced Disclosure & Barring Service Checks, and previously known as Enhanced CRB Checks) are the highest level of DBS Check available and are generally required for positions that involve working with vulnerable groups, such as children, or vulnerable adults and the elderly. Only roles that are included in Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 are eligible for this type of disclosure, as are those that spend more than one day a week, or 3 days in 30 days, in either a registered care home, high security psychiatric hospital, or a school or nursery.

There are two types of Enhanced DBS Check available: Enhanced with Barring List or Enhanced without Barring List. The Enhanced check with a barring list covering the relevant children and/or adults barring list checks are required for positions such as teachers, healthcare workers, taxi drivers, and dentists. If found, an Enhanced Check will disclose spent convictions, unspent convictions, cautions, warnings, reprimands and checks against ISA barred lists.

Please note:

You cannot apply for a DBS check for someone who is under 16 years old

3.3

If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a DBS Disclosure. Due to the requirements of the DBS Disclosure process the individual concerned must give their consent for the DBS Disclosure to be obtained. Human Resources must be contacted for advice in these instances.

4. VALIDITY OF DBS DISCLOSURES

- 4.1 There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date on the day it is issued as a new or further criminal conviction, caution, etc may be recorded against the individual at any time after the issue date.
- 4.2 Employees should inform their line manager immediately if following completion of a DBS Disclosure they are subsequently cautioned, charged, summonsed or convicted of a criminal offence. Failure to disclose such information may lead to disciplinary action being taken.

5. PORTABILITY OF DBS DISCLOSURES

- 5.1 Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.
- 5.2 **Update Service**

The DBS have introduced a subscription service that lets individuals keep their DBS Certificate up to date so that they can take it with them when they move jobs or roles. As an employer Wyre are able to carry out instant checks, known as Status Checks, to see if any new information has come to light since the Certificate was issued.

If the individual has not subscribed to the update service Wyre will not be able to accept portable DBS Disclosures for any positions and will therefore undertake a new DBS check as part of the recruitment process.

6. DBS DISCLOSURE REQUIREMENTS FOR THOSE MOVING POSITIONS WITHIN THE COUNCIL

- 6.1 Where an individual has undertaken a DBS Disclosure for a position with the Council and they move to another position within the organisation, the DBS Disclosure will be acceptable in the following instances:
- a. the type of DBS Disclosure (i.e. Basic/Standard/Enhanced) is the same for the old and new post; and
 - b. the individual has not had a break in service of more than three months; and
 - c. the new work does not represent a significant increase in responsibility for, and contact with, children and/or adults.

7. FREQUENCY OF DBS DISCLOSURE CHECKING

- 7.1 Where a DBS Disclosure is required, the individual will complete a DBS check as part of a recruitment and selection process to ascertain their suitability for the post. This will be reviewed every 3 years.
- 7.2 Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) HR will contact the manager to discuss and advise on the issues. Further guidance on Positive DBS Disclosures can be found below in 'Receipt of DBS Disclosure'.

8. COMMENCEMENT OF WORK PRIOR TO RECEIPT OF DBS DISCLOSURE

- 8.1 In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual commencing work with the Council. Only in exceptional circumstances can an individual commence work without the full results of the DBS Disclosure being known and this can only be authorised by the relevant Head of Service in liaison with the Head of Governance & Business Support. Prior to seeking such approval the following must have taken place:
- a. HR are in receipt of all of the other pre-employment checks and these have been confirmed as being satisfactory; and
 - b. An on-line DBS Disclosure application form has been completed; and
 - c. HR have checked and cleared the individual against the relevant barred list; and
 - d. The line manager has undertaken a risk assessment to determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or adults.

9. RECEIPT OF DBS DISCLOSURE

- 9.1 DBS issue one copy of the DBS Disclosure which is sent to the applicant (e.g. employee, volunteer etc). Depending on the outcome of the Disclosure the council may request a copy from the applicant.
- 9.2 If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received HR will contact the applicant who must ensure that they provide a copy of the Disclosure. On receipt HR will meet with the manager and advise on the next steps. The relevant Head of Service in liaison with HR must consider and approve a positive DBS Disclosure for an individual to commence/continue in employment.

- 9.3 In these instances a risk assessment is required to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards would need to be introduced to manage that risk.
- 9.4 In accordance with the Rehabilitation of Offenders Act a criminal conviction may not automatically prevent an individual from working with the Council.
- Amongst other factors, managers must consider the following:
- a. the requirements of the role and the level of supervision the individual will receive
 - b. the seriousness of the offence/issue raised and its relevance to the safety of employees, service users, clients or property
 - c. how relevant the offence is on the role to be undertaken
 - d. how much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending
 - e. whether the individual's circumstances have changed since the offence was committed making re-offending less likely
 - f. whether the individual was open and transparent about their past and declared their criminal background prior to receiving the DBS Disclosure.
- 9.5 There is no longer the requirement for the council to have a Secure Handling and Storage Policy for DBS documentation as no certificates/DBS information are held by the council.

10. RECRUITING FROM OVERSEAS

- 10.1 DBS Disclosures do not record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad, a DBS Disclosure must be obtained in the normal way and a DBS Disclosure or equivalent from the country(s) concerned may be required as well.

11. DBS DISCLOSURES FOR AGENCY WORKERS/CONTRACTORS/SUB- CONTRACTORS/VOLUNTEERS

- 11.1 Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for the council to see if a DBS Disclosure is required (please refer to Appendix 1).
- 11.2 A standard clause relating to DBS Disclosure requirements has been developed and should be introduced into any contract, which involves work with children or adults or providing services for, or in, establishments where children and /or vulnerable adults may be present.
- 11.3 It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.

12. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 12.1** The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

13. DATA PROTECTION

- 13.1** In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

APPENDIX A – REGULATED ACTIVITY

Regulated Activity With Children

Working in regulated activity with children includes:

- a. Working unsupervised with children
- b. Overseeing or supervising an individual who is working in regulated activity with children
- c. Providing advice or guidance on a child's well being
- d. Fostering/adopting a child
- e. Driving a vehicle for children i.e. school bus
- f. Supervising children

Regulated Activity Job Roles

- a. Teacher
- b. Doctor/nurse/healthcare assistant
- c. Childcare
- d. Fostering
- e. Carrying out work in the education sector
- f. Carrying out work in the healthcare sector

Regulated Activity With Adults

To determine if a job role is regulated with adults, the employer must look at the activity the individual will be undertaking and decide if this is deemed regulatory.

Eligibility for regulated activity is broken down into six categories:

- a. **Providing healthcare:** Including healthcare work, which is undertaken by (or supervised by) a healthcare professional and incorporates all form of health care relating to physical or mental health.
- b. **Providing personal care:** Involving hands-on physical assistance with washing, dressing, toileting and eating due to an adult's age, illness or disability; teaching/supervising someone to do these tasks is also included.
- c. **Providing social work:** Provision by a social care worker or a form of social work, which is required in connection with social services or any health services.
- d. **Assistance with general household matters** such as dealing with an adult's cash, bills or shopping due to their age, illness or disability, but arranged via a third party.
- e. **Supporting the conduct of an adult's own affairs** under a formal appointment i.e. lasting power of attorney under the Mental Capacity Act 2005.
- f. **Conveying adults for reasons of age, illness or disability.** This includes drivers or assistants who drive individuals to and from places where they have received or will be receiving health care, personal care or social work. Job roles include hospital porters and patient service transport drivers.

The frequency of the activity does not determine whether it is regulated or not; a person only needs to have carried out a task once to categorise it as 'regulated'.