

Disclosure and Barring Service (DBS) Checks Policy



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1 Introduction

The Disclosure and Barring Service (DBS) Policy sets out our approach to conducting DBS checks at the council. It includes the types of checks that can be requested and under what circumstances one would be required.

A DBS check reveals data through the issue of a certificate which will display any relevant criminal record information held, up to the level of the requested check.

DBS checks are one of many tools available that help safeguard the organisation from unsuitable people working in regulated activity

This policy can apply to job applicants, employees and casual workers.

2 Legislation

There are several pieces of legislation that support this policy:

Rehabilitation of Offenders Act 1974 – This act permits certain criminal convictions to become "spent" after a specific rehabilitation period, meaning they no longer need to be disclosed in most situations, including job applications, with the exception of roles exempt from the Act, as described below.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order – This lists jobs and roles which are exempt from the ROA Act. This is where the role or duties may involve some form of regulated activity. Individuals working in or applying for these roles must disclose all convictions, whether spent or unspent.

The Police Act 1997 – This act sets the rules for criminal record checks in the United Kingdom and led to the creation of the Disclosure and Barring Service. The Act allows for different levels of checks on an individual's criminal record and ensures that employers such as Chelmsford City Council can make informed decisions when recruiting for roles that involve regulated activity.

The Safeguarding Vulnerable Groups Act 2006 – This act helps protect children and vulnerable adults by making sure that people who are considered unsafe, cannot work with them. It created a system to check and bar individuals from certain jobs if they are found to be a risk.

3 Roles and responsibilities

The following roles and responsibilities apply in respect of this policy:

Line / Recruiting Managers will:

- Regularly review eligibility criteria for both new and existing roles to ensure that the correct DBS checks are undertaken.
- Obtain, verify and provide documentation required for the purposes of a DBS check.

- Where criminal conviction information is revealed through a check, participate in the risk assessment process to determine the subject's suitability for the role.
- Provide funding should additional checks be required (i.e. overseas checks).

Human Resources will:

- Administer the DBS check process.
- Provide applicants, employees/workers and managers, advice on the DBS check process.
- Where criminal conviction information is revealed through a check, support managers on the risk assessment process to determine the subject's suitability for the role.
- Ensure that a referral is made to the DBS in appropriate cases in accordance with the council's legal duty to refer.
- Fund the cost of DBS checks.

Employees / workers / applicants will:

- Provide appropriate documentation and complete the online application process within a reasonable timeframe of being requested to.
- If requested, present their certificate to their line / recruiting manager at the earliest opportunity.

4 When to request a DBS check

The Council will request a DBS check for eligible roles under the following circumstances.

Checks for new employees/workers

Any individual being recruited to a role that is eligible will be subject to a DBS check. A check will be undertaken for applicants at the point at which a conditional offer of employment has been made. This also includes individuals who are transferred to the employment of the council through a TUPE (Transfer of Undertakings Protection of Employment) process.

If an individual refuses to agree to the requested check, they will not be able to commence employment with the council.

Checks for existing employees/workers

Existing employees/workers moving into a role which requires a DBS check (where one was not held previously) will be subject to the appropriate check in line with the guidance above.

Where an existing employee/worker is moving into to a new position which requires the same check they already hold, no further DBS check is required provided the check is less than three years old and both the level of check and workforce are the same.

The Council requires those in an eligible position to complete a new check (known as a recheck) every 3 years. If there is concern about an individuals' behaviour in an eligible position, an updated check may be requested at an earlier date.

Reasonable notice will be given to the employee/worker of the requirement to obtain a new check. Failure to complete a new check resulting in a current check exceeding 3 years from the date of issue may result in the employee/worker being removed from some or all duties for the role. This may also result in suspension and or disciplinary action being taken against the employee. Should the individual be a casual worker, action would be taken in a fair manner in line with the ACAS code of practice, but could include the ending of their casual worker agreement.

5 Levels of DBS check

There are different levels of check that can be requested which all display different categories of criminal history information. The requirements of the role must be carefully considered when determining which check is requested. Eligibility guidance (see section 5) must be reviewed by managers prior to a check being requested. Managers should consult with their Senior HR Business Partner if they are unsure.

Basic check

A basic check will reveal unspent convictions and conditional cautions.

There are no legislative or eligibility requirements for this type of check, however the council may use this check for individuals entering roles that handle sensitive information or be required to meet the requirements of attending or working at an external premises. A minimum of a basic check is a requirement for roles that are covered by the Baseline Personnel Security Standard (BPSS).

Standard check

A standard check will reveal both spent and unspent convictions, conditional cautions, cautions, reprimands and warnings.

The use of this check is for roles which are included in the Rehabilitation of Offenders Act that do not relate to working with children or vulnerable adults (such as enforcement along with on entry certain professions).

Enhanced check

An enhanced check will reveal both spent and unspent convictions, conditional cautions, cautions, reprimands, warnings and relevant information from the local police.

This type of check is used for roles that may involve working on a premises with or handling the data of children or vulnerable adults.

Enhanced check with a barred list check

A child and or adult barred list check can be requested in addition when requesting an enhanced check, if the role involves regulated activity.

For the role to be eligible for a child barred list check, it would usually involve working unsupervised and delivering teaching, training, instructing, caring, supervising or giving guidance to children on more than 3 days in a 30-day period. This would not however apply to roles where any contact is merely incidental.

For a role to be eligible for an adult barred list check, it would usually involve providing healthcare, social work, personal care, or assistance with financial affairs to vulnerable adults on more than 3 days in a 30-day period. This would not however apply to roles where any contact is merely incidental.

It is an offence for any individual excluded from working with children and or vulnerable adults to apply for a regulated position.

6 Overseas checks

If the individual requiring the DBS check has spent a significant period of time outside the UK, or, in some circumstances, if the applicant was born abroad, an overseas check may be required.

All overseas police checks must be in accordance with the relevant country's justice system. Additional time to acquire overseas police checks must be factored into the recruitment process.

The information included on a criminal record can vary between countries, and even between jurisdictions within the same country. In the majority of cases, a check will include all criminal checks including cautions, convictions, reprimands and final warnings. It may also include traffic offences such as speeding and drink driving. In some countries the record is limited to actual convictions issued by a court of law, while others will include arrests, charges missed, charges pending and even charges of which the individual has been acquitted.

7 Assessing Eligibility

The DBS eligibility tool can be used by managers to determine whether a check is required and if so, at what level.

The tool can be accessed at: <https://www.gov.uk/find-out-dbs-check/y> For full guidance please visit <https://www.gov.uk/government/collections/dbs-eligibility-guidance>.

Not all positions will be eligible for a DBS check. Requesting a check for an individual where it may not be required can be considered unlawful. Managers must carefully assess each role, using the published government guidance and DBS checking tool. If unsure, Managers should consult their Senior HR Business Partner.

8 Portability

Applicants or employees/workers who hold an existing DBS certificate obtained through other means, may be able to use this to satisfy the council's check requirement. This is subject to the following criteria:

- The individual is currently subscribed to the DBS Update Service, a service which allows certificates to be kept up to date.
- The individual is able to present their current DBS certificate linked to the update service.
- The certificate matches both the level of check and workforce of the check required by the council.

The council does not allow portability (the practice of using a DBS check obtained through other means) of DBS certificates, unless the above criteria is met in full.

9 Reviewing the results of a check

Following a check, the council will be advised whether or not there is any criminal record information present but will not be given the details. Should criminal record information be revealed, the individual will be required to provide the copy of their DBS certificate to their manager who will arrange completion of a risk assessment as per the Criminal Convictions Policy.

The presence of a criminal record will not necessarily exclude an individual from employment with Chelmsford City Council nor necessitate action taken against an existing employee/worker. Any criminal record will be assessed by reference to the circumstances and nature of the offences and how these relate to the position they have applied for/are employed in.

10 Duty to Refer

If the individuals' contract is terminated (or would have been terminated had the individual not resigned, retired, or left the workplace) due to safeguarding concerns the Council has a duty to refer to the Disclosure and Barring Service (DBS) because they:

- Harmed or posed risk of harm to a child or adult at risk of harm or
- Satisfied the harm test or
- Received a caution or conviction for a relevant offence
- Are, or might in future be working in regulated activity

The DBS may consider it appropriate for the individual to be added to a barred list.

Version Number	Creation Date	Changes Made	Changes Made By:	Authorised/Checked?	Date of Changes
4.0	-	Policy rewritten	A Garrod		May 2026
3.0	-	General review, move to on line DBS service and updates to policy	J Corsham	Manager, employee and Unison consultation	Dec 2019
2.0	-	Several links updated, acceptable documents changed, rehabilitation periods changed, two ticks changed to Disability Confident	M Barnett	Y	17/10/16
1.9	-	Amended to reflect new HR structure	J Ferguson	Y	22/09/15
1.8	April 2011	Amended claim forms	A Cartwright	Y	27/11/2014