



## Disclosure and Barring Policy

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**Approved by Corporate Management Team / Appointments and Staffing**

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Classification: SEC1 - Routine

## Document Location

This document is held by Tamworth Borough Council, and the document owner is HR.

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## Revision History

Revision Date	Version Control	Summary of changes
January 2020		A complete refresh of the DBS Procedure, GDPR, Equality and Diversity, Ban the Box, updated DBS Guidance, updated organisational roles and the organisational position not to refresh DBS checks on a 3 year rolling basis.
April 2022		Updated with new job titles

## Key Signatories

### Approvals Creation and Major Change

Name	Title	Approved
Appts & Staffing		

### Approvals Minor Change and Scheduled Review

Name	Title	Approved
Anica Goodwin		
TULG		

### Approval Path

#### Major Change

Originator  
 Owner  
 TULG  
 CMT  
 Appts & Staffing Committee

#### Action

HR  
 Head of Paid Service  
 Consultative Group  
 Corporate Approval  
 Council Approval

#### Minor Change

HR  
 TULG  
 Director

Submission  
 Consultative Group  
 Delegated Approval

### Document Review Plans

This policy/ procedure will be reviewed on a 3 yearly basis unless it has:

- A monetary value included within it, in which case an annual review will be required, and/ or
- A legislative change is required as directed by government.

### Distribution

The document will be distributed through Astute as a MANDATORY policy and will also be available on the Intranet.

### Security Classification

This document is classified as SEC 1 Routine with access restricted to Tamworth Borough Council Staff and business partners.

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## **1 Introduction and Purpose**

- 1.1 This policy sets out the Council's approach to using Disclosure & Barring Service (DBS) checks and the implications arising from the use for employees and applicants. It relates to checks carried out upon recruitment and during the lifetime of their employment.
- 1.2 To ensure Tamworth Borough Council (TBC) complies with its obligations under the General Data Protection Regulations (GDPR) and other relevant legislation in respect to the safe handling, use, storage, retention and disposal of disclosure information.

## **2 Scope**

- 2.1 This policy and guidance applies to all employees and candidates to whom a conditional offer of employment has been made.
- 2.2 The guidance from the Disclosure and Barring Service and Government's "Finding out which DBS check is right for your employee tool" was applied to each role within the organisation. Appendix 1 details the roles within the organisation and the various levels of vetting required for each role.

## **3 Equality Statement**

- 3.1 This procedure will be applied fairly to all employees regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sex.
- 3.2 DBS offers a confidential checking process for transgender applicants. This process is for transgender applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS check. More information about the transgender process can be found on [sensitive@db.gov.uk](mailto:sensitive@db.gov.uk) and Transgender Applications Guidance.

## **4 "Ban the Box" (Fair chance recruitment)**

- 4.1 There are over 11 million people in the United Kingdom with a criminal record; employment reduces reoffending by up to a half so it is critical to reduce barriers to work for individuals with convictions. TBC supports the "Ban the Box" initiative which removes the criminal record section from the application form and candidates' criminal convictions will be asked at a later stage in the recruitment process. Its aim is to provide a fairer opportunity for people with convictions to compete for jobs with employers considering applicants' skills and abilities before asking for a criminal record declaration.
- 4.2 Objective and transparent recruitment practices give people with criminal convictions, who are skilled and able to work, the opportunity to compete fairly for roles and move on from their past mistakes, increasing the diversity of the talent pool and reducing the unnecessary exclusion of talented individuals from roles.
- 4.3 Collecting criminal record data from all applicants, when many will not be shortlisted could be construed as excessive data collection. Instead, TBC will

request criminal record details at the point when it is really needed, at the conditional offer stage rather than at the initial recruitment stage.

- 4.4 TBC is committed to ensuring criminal records check by job role is undertaken at the correct level. Knowingly requesting a higher level check is a criminal offence under the Police Act 1997.

## 5 Disclosure and Barring Service (DBS)

- 5.1 The Criminal Records Bureau (CRB), an Executive Agency of the Home Office, as established under Part V of the Police Act 1997. The service was launched in March 2002 as a service for disclosure checks, replacing the old Police Check. The Independent Safeguarding Authority (ISA) was created to help prevent those with certain criminal records from working with children and adults at risk of harm by working in partnership with the Criminal Records Bureau (CRB) to assess individuals working or wishing to work in regulated activities who are referred to them on the grounds that they have caused harm or incited harm, or pose a risk of harm to vulnerable groups in order to make independent barring decisions.
- 5.2 On 1<sup>st</sup> December 2012 the CRB and the ISA merged to create the Disclosure and Barring Service (DBS). The DBS provides controlled access to criminal records and related information through its Disclosure Service, enabling employers to make safer recruitment decisions by identifying candidates who may be unsuitable for work involving direct contact with children and adults at risk of harm, and/or have access to sensitive and/or confidential information about Children and Vulnerable Adults.
- 5.3 Under the Rehabilitation of Offenders Act 1974 a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the Act. Therefore, TBC has a legal responsibility to ensure we have a relevant exemption before requesting this from an applicant, employee or worker.
- 5.4 The DBS Code of Practice sets out the obligations that must be met by recipients of disclosure information, a copy of which is available on the Home Office website on the DBS home page.
- 5.5 There are four levels of DBS disclosure; Basic, Standard, Enhanced and Enhanced with barred list:
- 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.
  - A **Standard** check shows current and spent convictions, cautions, reprimands and warnings held on the Police National Computer.
  - An **Enhanced** check contains the same information as the Standard Disclosure plus any relevant and proportionate information held by local police forces as well as a check of the new Children and/or vulnerable Adults barred list where requested.

- An **Enhanced check with barred list**, which shows the same as an enhanced check plus whether the applicant is on the list of people barred from doing the role.
- 5.6 Appendix 1 outlines the level of vetting required for every role within the organisation. The list will be updated on a quarterly basis to ensure all new roles are added and deleted roles removed.
- 5.7 The level at which disclosure is processed depends on whether the individual is working in a “Regulated Activity” or not. A DBS basic or standard check is £18, a DBS enhanced check and enhanced check with barred is £38. (Price as at April 2022). It is free for a volunteer check. TBC will meet the cost of the check.
- 5.8 TBC complies fully with the DBS Code of Practice regarding the fair use and handling of disclosure information in assessing applicant’s suitability for positions of trust.
- 5.9 All roles outlined in Appendix 1 were assessed on the following basis:

**Enhanced Check with Children’s Barred list check** - The roles were identified as requiring an enhanced check with children’s barred list check. This is because the post holder’s will be teaching children in a non-school environment and this will not be supervised by a teacher or parent. The Casual Technician and Technician role are included in this group because they will be involved in technical workshops:

**Enhanced check without barred list check** - The roles were identified as requiring an Enhanced Check without barred list check. This is because the Scheme Manager and Sheltered Co-ordinator will be providing guidance to tenants. Castle staff will be teaching children, but this will be under the supervision of teachers or parents.

**Basic Check** - The roles were identified as requiring ‘Basic DBS’ owing to the post-holders using Government information systems which requires a Baseline Personnel Security Standard’(BPSS) check or managing those staff. BPSS requires a check on identity, nationality, immigration status, employment history (3 years), criminal record (unspent convictions only). Additionally, prospective employees are required to give a reasonable account of any significant periods (6 months or more in the past 3 years) of time spent abroad or because the postholders undertake visits or work in Tamworth resident’s homes or for safeguarding reasons.

The remaining roles do not require a DBS check.

## 6 Referrals and Barring

- 6.1 TBC has a legal duty to refer to the ISA individuals who have enhanced disclosures that have recorded offences that fall within Protection of Children’s Act (PoCA) and Protection of Vulnerable Adults (PoVA) sections and/or have current or pending cases under investigation for offences that fall within the PoCA and PoVA sections.

- 6.2 The DBS is responsible for decisions regarding the suitability or otherwise of such an individual to work with vulnerable groups or to be listed on one or both the PoCA and PoVA barred lists.

## 7 Definitions

- 7.1 **Regulated Activity** Work which involves close and unsupervised contact with vulnerable groups and children.

**Adult at risk of harm** - The new definition of regulated activity no longer labels adults as vulnerable; instead the definition identifies the activities which, if any adult requires them lead to that adult as being vulnerable at that particular time.

**Disclosure** - Describes the service provided by the DBS and the document issued to the applicant and Registered Body when a DBS check has been completed.

**PoCA** - Protection of Children's Act.

**PoVA** - Protection of Vulnerable Adults.

**Registered Body** Organisations that have registered directly with the DBS to use its services.

## 8 Safer Recruitment

- 8.1 Safer Recruitment principles emerged from the Children's Act. It is designed to help identify and deter or reject individuals who are deemed to be at risk of abusing children or adults at risk of harm through appropriate recruitment processes.
- 8.2 TBC is committed to Safer Recruitment principles which requires; a job description clearly outlining the remit of the role, a statement of commitment to safeguarding on the advertisement, a shortlisting stage, an interview, seeking a criminal record check, references, examining gaps in employment history and checking proof of identity.

## 9 Employment Checks

- 9.1 A DBS check has no official expiry date; any information included is accurate at the time the check was carried out. Whether or not to carry out a subsequent check is up to TBC policy. TBC in line with many regional Councils, has determined it will check upon appointment and not undertake a new check unless the employee transfers into a new role which requires a different level of check.
- 9.2 TBC's 'Code of Conduct' and 'Statement of Particulars' explicitly states that employees are required to disclose to their manager immediately upon conviction or caution the fact that they have been convicted or cautioned for any offence during their employment. Any new caution or conviction, or a failure to disclose any conviction or caution may be deemed as gross



misconduct. Safeguarding matters may be discussed with the Local Authority Designated Officer (LADO).

- 9.3 TBC reserves the right to seek a new DBS check if there is a concern the employee is not being truthful about a conviction or caution arising during their employment or to undertake audit spot checks.
- 9.4 All job adverts and recruitment information contain a statement that, for relevant roles, a DBS disclosure will be sought if an offer of employment is made.
- 9.5 All interviewees are required to produce ID and address verification documents as instructed in the invitation to interview email. The same will be checked for authenticity, verified and retained on file.
- 9.6 For relevant roles, successful candidates will be required to complete an on-line disclosure application form, and once processed, they will receive a Disclosure and Barring Service Certificate to their home address.
- 9.7 Where there is information recorded on the Certificate, the candidate must present the original document to HR for verification of the information recorded. In the event that a paper application has been processed, the candidate is required to present the Certificate to HR for verification, regardless of whether there is information recorded.

## **10 International Recruitment**

- 10.1 Where a candidate is currently living overseas or has declared that they have spent a significant period of time outside the UK, then they will be asked to provide evidence of a police certificate or certificate of good conduct from the relevant country or countries. A DBS check will then be carried out as normal.

## **11 Existing Staff – new check**

- 11.1 Existing staff will be subject to a new check if they move to a role requiring a new level of check. HR will advise staff when they will need a new check during the recruitment process and give instructions on what they need to do.

## **12 Agency Worker**

- 12.1 For Agency Workers, the agency must provide a Certificate of Completion which will confirm in writing that the relevant DBS check has been completed. If anything is declared by the agency worker prior to employment or comes up on the Certificate, then this must be declared to HR and a risk assessment must be completed prior to the agency worker commencing.

## **13 The fair use of disclosure information**

- 13.1 TBC recognises that candidates with convictions, cautions, reprimands and formal warning can often find difficulty in obtaining employment and will only consider the relevance of these in the context of the post that is being applied for and candidates will not be rejected purely on this basis. If there is any

doubt, the matter will be discussed with the recruiting manager and a decision made about the suitability of the candidate for the post.

- 13.2 Disclosure of convictions, cautions, reprimands or formal warnings will be requested at the conditional offer stage and will be treated confidentially.
- 13.3 Individual staff have the responsibility for informing TBC if they incur any convictions, cautions or investigations that would appear on a disclosure. Failure to declare such offences may constitute a disciplinary offence.
- 13.4 Any offences will be considered by the Head of Service/Assistant Director and HR and will be measured on the basis of a risk assessment and consideration given to issues listed in paragraph 14.5.

#### **14 Handling disclosure information for potential new employees**

- 14.1 Disclosure information will only be shared with relevant persons in the course of specific duties relevant to recruitment, vetting processes and appointment decision.
- 14.2 Disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 14.3 Any positive disclosures will be noted and any discussions held with the employee around this will be recorded and filed on the individual's HR file. No other record of the DBS check will be held on the HR file.
- 14.4 It should be noted that there are some offences which effectively ban individuals from working with children and/or adults at risk of harm. It is a criminal offence to knowingly employ such individuals in such a role.
- 14.5 If any matters are revealed in disclosure information that have not been previously declared on application, TBC will discuss these matters with the candidate before a decision is made about the job offer, this will be reviewed by the recruiting manager and Head of HR & OD on a risk assessment basis (Appendix 2), with consideration being given to:
  - The Council's legal responsibilities,
  - The seriousness of the offence and its relevance,
  - The length of time since the offence occurred,
  - Whether the offence was a one off, or part of a history of offending, and efforts to avoid re-offending,
  - Any relevant information offered by the applicant about the circumstances which led to the offence being committed,
  - The degree of remorse, or otherwise, expressed by the applicant and their motivation to change.
- 14.6 The applicant must be given the opportunity to discuss the disclosure information before the final employment decision is made.
- 14.7 TBC will pay for all elements of the DBS process where costs are incurred.

## **15 Further reading/information**

- Rehabilitation of Offenders Act 1974,
- Rehabilitation of Offenders Act 1974 (Exceptions Order), as amended,
- Independent and Safeguarding Authority (ISA) Vetting and Barring Scheme (VBS) Guidelines.
- Tamworth Borough Councils Retention Schedule

## **16 Websites and Links**

- Information and access to services for DBS applicants and the general public [www.directgov.uk/db](http://www.directgov.uk/db)
- Information for registered bodies and other associated businesses and organisations using the DBS service – [www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service)

## Appendix 2 Positive DBS Disclosure Decision Form (Risk Assessment)

Name of individual	
Post applied for	
Disclosure reference number	
Recruiting manager	
Decision	Employ Do not employ Suspend (if employed) Allocate to other work
Date discussed with the individual	

### Section A – To be completed during the discussion between recruiting manager, HR and applicant

Question	Answer	Comments (please complete as fully as possible to inform risk assessment)
Did the applicant declare the offence(s) on the declaration form?	Yes No	
Does the DBS listing bar the appointment? If the answer is yes then the appointment is automatically unlawful.		
Are you satisfied with the candidate's / employee's explanation of the circumstances of the offence?		
How serious do you consider the offence to be?		
Did the offence occur recently? For example, minor offences that occurred a long time ago may be less relevant than ones that are very recent		
Does the disclosure show a pattern of	One off Repeat/Frequent	

behaviour, or was the offence a one off?	Repeat/Infrequent	
Have the circumstances that contributed to the applicant committing the offence or behaviour in such a manner changed for the better?	Yes No Maybe	
How did the applicant regard the offence(s) with hindsight and what is their attitude towards the matters now? What would they do differently now?		
Were both employer references satisfactory?		
Does the role allow the opportunity to reoffend?	Yes No	

**Section B (to be completed by recruiting manager)**

Question	Applicable (please delete as appropriate)	Evidence relied upon to support this decision
What is the nature of the contact the individual has with children/adults at risk of harm?	Please describe	
Can any safeguards be implemented to reduce/remove any risk?	Yes/No/Not applicable Please explain	
Does the post have any direct contact with the public and how vulnerable are they?	Yes/No Please explain	
What supervision is available and how will it be used to mitigate risk?	Please explain	
Summary of evidence taken into account and rationale for this decision. Any additional comments from the recruiting manager		
Do you wish to proceed with employment? Yes/No      Date		

Name  
Signature

**To be completed by Head of HR & OD**

Proceed with employment/Withdraw job offer

Name  
Signature

Date

### Appendix 3

#### Criminal Record self-disclosure

Your name			
Role this applies to			
<p>1) Is the role that you are applying for covered by, or exempt from, the Rehabilitation of Offenders Act 1974 (ROA)</p> <p>2) If the role is covered by the ROA, do you have any offences which are currently unspent under the ROA?</p> <p>3) If the role is exempt from the ROA, do you have any convictions or cautions that would not currently be filtered by the Disclosure and Barring Service (DBS) (You do not need to disclose anything that would be filtered by the DBS)</p> <p>4) If you have answered 'Yes' to either (2) or (3)                      (a) Provide the offence dates, dates of conviction/caution, offence types and sentences received below.</p> <p>Or,                      (b) Provide further details (as above) on a separate document by ticking the box and attaching the details in an envelope attached to this completed form</p>			
<p>By signing below, I confirm that the information I have provided on this form (and attached, if applicable) is accurate. I understand that this information will not necessarily prevent me from being employed in the role above, and that I will be given an opportunity to discuss any concerns you might have before you make a final decision on my suitability for the role.</p>			
Signed		Date	
<p>Once completed, please return marked as CONFIDENTIAL to HR</p>			



Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	DBS	
Date Conducted	July 2022	
Name of Lead Officer and Service Area	Jackie Noble HR	
Commissioning Team (if applicable)	N/A	
Director Responsible for project/service area	Anica Goodwin	
Who are the main stakeholders	Employees	
Describe what consultation has been undertaken. Who was involved and what was the outcome	CMT TULG Members	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)		
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/>
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input type="checkbox"/>
	Existing	<input checked="" type="checkbox"/>
	Being reviewed	<input checked="" type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>



**Part 2 – Summary of Assessment**

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

To provide guidance on DBS and outline the levels of vetting by role and actions to be taken.

Who will be affected and how?

All employees - This policy provides guidance on the process.  
Applicants

Are there any other functions, policies or services linked to this impact assessment?

Yes  No

If you answered 'Yes', please indicate what they are?

All employees

Capability and Conduct policy

**Part 3 – Impact on the Community**

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation )
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of age
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of disability and explicitly references reasonable adjustments
Gender Reassignment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DBS checks may be sought for individuals who have changed identify. Provision is made in the policy to keep this confidential
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of marital status
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of pregnancy and maternity
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of race
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of religion or belief and explicitly references adjustments for religious observance
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sexual orientation

Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sex
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DBS form allows for 'Travelling' and the name of the Country/Area to be detailed as an alternative
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of those with caring responsibilities
Those having an offending past	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Previous convictions and cautions will be sought for appropriate roles. This will be requested at the conditional job offer stage
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those who are homeless	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DBS requires a current address
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Other (Please Detail)	<input type="checkbox"/>	<input type="checkbox"/>	

**Part 4 – Risk Assessment**

**From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications**

Impact Area	Details of the Impact	Action to reduce risk
Transgender	Applicant required to declare	DBS have a mechanism in place to keep the information confidential
Criminal Records	Prejudice may impact on recruitment decisions	Only relevant roles will require a DBS. Criminal record sought at conditional offer stage minimising disclosing past convictions unnecessarily.

**Part 5 - Action Plan and Review**

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

**If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why**

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome


Date of Review (If applicable) .....

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