



DBS Policy

Disclosure and Barring Checks



People and Development

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1. INTRODUCTION

Brent undertakes relevant checks on all candidates applying for jobs with the Council. The purpose of this policy is to describe how the Council will undertake DBS checks and checks against barred lists as part of recruitment checks and thereafter during the course of each person's employment in order to protect adults and children. It also provides guidance on the use, storage and disposal of the disclosure information obtained from the checks in order to protect vulnerable adults and children and also to ensure that candidates who may have offended in the past are not discriminated against.

From December 2012, the work of the Criminal Records Bureau and the Independent Safeguarding Authority has been merged into a single, new public body called the Disclosure and Barring Service (DBS).

The DBS is an Executive Agency of the Home Office. It acts as a central access point for criminal records and lists people barred from working in schools (List 99), and the Department of Health's lists of people considered unsuitable for work with children or vulnerable adults (POCA and POVA lists). The DBS provides the information that Brent needs to help assess the suitability of applicants for certain positions. This service is known as 'Disclosure'.

There are two barred lists administered by the Independent Safeguarding Authority (ISA) (the Children's List and the Adults List). Checks against these lists apply to any regulated activity (as defined in Section 5) that involves the individual working or volunteering with children or adults. The lists are administered by the Disclosure and Barring Service (DBS).

The Council is a Registered Body with the Disclosure and Barring Service and information gained during the recruitment or rechecking process will be treated in accordance with the Disclosure and Barring Service Code of Practice.

2. SCOPE

This policy applies to:

- Candidates applying for various roles within the Council where the role requires a DBS check;
- Current Brent employees who are:
 - Employees of Brent not based in schools;
 - Employees of Brent based in schools where either the school's delegated budget has been suspended or where the governing body elects to adopt this procedure.

In order to protect certain vulnerable groups, many Brent posts are exempt from the Rehabilitation of Offenders Act 1974. These include posts working with children or young people and where care services are provided to vulnerable adults. Some administrative posts also fall within this category, for example where someone supervises or manages staff who work with children or young people.

Applicants offered jobs that are exempt from the Rehabilitation of Offenders Act may still be subject to a DBS check, including POVA, POCA and other lists as may exist from time to time.

New staff

All offers of appointment to the Council will be subject to appropriate disclosure of criminal records where it is required for the post.

Existing employees

All staff whose posts require a disclosure will be required to renew their application every three years.

In cases where a criminal record is disclosed or a DBS check indicates that the person may be unsuitable to continue in employment, the Head of HR will decide whether the employee should be suspended from work or transferred temporarily to another post whilst this is under investigation. This may affect the employee's continuing employment with the Council.

Transfers, promotions and employees with a second job with another local authority

Internal transfers, promotions, or staff who have a second job with other local authorities where a current suitable DBS check exists in like for like work will not need a new DBS check if the check was undertaken within the last three years. All other internal appointments are subject to the procedures outlined above.

Agency staff

Agency staff may not begin work without an original disclosure and this will be overseen by the HR Contracts Manager who must see an original, satisfactory disclosure for all agency staff engaged and must not rely on an agency's confirmation of having undertaken this task. The disclosure must be the correct level for that post obtained by the agency within the last year. If a criminal record is disclosed, the Head of HR should be notified prior to commencement of work.

If, whilst the worker remains in post, the disclosure expires (i.e. becomes over a year old) the HR Contract Manager must ensure that the agency renew the disclosure or the agency worker ceases work.

Members of the Association of Social Work Employers Businesses (ASWEB) have DBS portability and Brent does not therefore need sight of the original satisfactory disclosure. ASWEB members already have enhanced DBS disclosures in place that are subject to independent audit. The PC will obtain confirmation from the providing agency that all portability checks have been carried out, and that the DBS risk assessment framework has been implemented.

Contractors

The Council will ensure that contractors have robust systems in place for ensuring that all contracted staff who may have unsupervised access to children or adults have been DBS checked. This should be set out in tender and SLA documentation. Managers of contractors should be aware of the responsibility for the contractors to obtain appropriate checks. The HR Contract Manager will oversee this.

Volunteers

Managers should inform the Recruitment Team that checks will be required prior to someone undertaking voluntary work. The CRB will issue a disclosure free of charge to volunteers.

Staff recruited from abroad

Overseas candidates must produce a police check from their country of origin dated within the last six months. They should also be asked to sign and return the declaration included in their contract of employment. Advice should be obtained from HR where an overseas candidate has declared a criminal conviction/ caution/ reprimand/ final warning/ bind over that does not automatically bar them from the work for which they have applied.

Once the candidate has been in the UK for six months, they will also need a satisfactory disclosure. It is the Recruitment Team's role to ensure the employee does this.

3. TYPES OF DISCLOSURES

There are three types of Disclosure available:

Standard Disclosure: This sets out all convictions held on the Police National Computer, including 'spent' convictions, together with cautions, reprimands or final warnings. For work with children, it includes checks on the Department of Health and Department for Education lists of people who should not work with children. A standard disclosure is applied in relation to a specific job or role only. It is required for jobs with regular contact with children or vulnerable adults.

Enhanced Disclosure: This contains all information provided by a standard disclosure, but also includes information held on local police records, and which the police consider relevant to the post to be held. Like standard disclosures, they relate to a specific job or role only. An enhanced disclosure is required for jobs that involve regularly caring for, training, supervising, or being in sole charge of children or adults. If the person is to carry out regulated activity (see below) the enhanced disclosure will include any information held on the Independent Safeguarding Authority's (ISA) barred lists (Disclosure and Barring Service from December 2012).

Basic Disclosure: These are the lowest level of disclosure and only contain details of unspent (current) convictions. Basic disclosures are recommended for verifying information from applicants for posts that are not exempt under the Rehabilitation of Offender Act (Exemptions) Order, but where the individual is appointed to a 'position of trust'. Basic disclosures can currently only be obtained through Disclosure Scotland.

Regulated activity

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. No distinction is made between paid and voluntary work.

Regulated activity relating to children

The definition of regulated activity relating to children (from 10 September 2012) comprises of:

- 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 and ii is regulated only if done regularly.

- iii. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
- iv. Registered child-minding and foster carers.

Regulated activity relating to adults

The new definition (10 September 2012 onwards) 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):

i. Providing health care

Any health care professional providing health care to an adult, or anyone who provides health care under the direction or supervision of a health care professional.

ii. Providing personal care

- 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 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 of social work 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 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.

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.

4. CHECKING AS PART OF THE RECRUITMENT PROCESS

It is illegal to carry out a DBS check on any post that is not exempt under the Rehabilitation of Offenders Act (Exceptions) Order except for the basic disclosure in certain circumstances as described in section 3. Posts that are not covered by the Exceptions Order are defined as those who do not have access to children or adults in the course of their normal duties. For example this

would include administration or management staff that have minimal access to children or vulnerable adults.

The Council will use the Disclosure and Barring Service as part of the pre-employment checks during the recruitment process. The information provided by the DBS will help those involved with recruitment to make informed decisions about the suitability of candidates for certain types of work.

Appointment of staff – pre offer administration

All recruitment literature where disclosure is required will state that successful applicants will be required to apply for DBS Disclosure. This will also be stated in the job description.

Appointment of staff - offers of appointment and contracts of employment

All offers of appointment to posts which require a DBS check will be made conditional on the receipt of a satisfactory DBS check in addition to references, verification of qualifications and medical clearance.

Where a DBS check is required, all applicants, regardless of their status, will be expected to apply for a new DBS check. Portability is not acceptable regardless of status.

Subject to those exceptions set out in the procedure, employment cannot commence without the original disclosure being sighted. The Recruitment Team will be responsible for ensuring that the original disclosure is seen. The employee's offer letter will contain a clause stating that the offer of employment is subject to receipt of a satisfactory disclosure (renewable every three years) from the Disclosure and Barring Service. If an unsatisfactory disclosure is received, the offer will be withdrawn.

A Disclosure undertaken by another organisation will not be accepted (other than those exceptions stated in the procedure). If an applicant refuses to give their signed consent to a disclosure application being undertaken, they will not be appointed to the post.

If an applicant believes the information provided by DBS is not correct, the applicant can contact the DBS to dispute the result.

5. RECRUITMENT OF EX-OFFENDERS

Roles suitable for individuals with a criminal record will vary according to the job and the details and circumstances of any criminal conviction. Once the applicant's criminal record has been obtained by the Recruitment Team it will be assessed in relation to the tasks that the candidate will be required to carry out and the circumstances in which the work will be carried out. Advice from the Operational Director, HR may need to be sought.

6. REGULAR CHECKS ON EXISTING STAFF

All staff whose posts require a disclosure will be required to renew their application every three years. If a disclosure is returned with nothing found there will be no further action until the next review date.

In cases where a criminal record is disclosed or a DBS check indicates that the person may be unsuitable to continue in employment, their Head of HR will decide whether the employee should

be suspended from work or transferred temporarily to another post whilst this is under investigation. This may affect the employee's continuing employment with the Council.

Employees are required to disclose to their Head of HR details of any criminal conviction/ caution/ reprimand/ final warning or bind-over they acquire during their employment with Brent.

In circumstances where the police become involved with an employee, and where an employee is charged with a criminal offence, the matter should be dealt with under the Disciplinary Policy and advice sought from their Head of HR (and Head of Safeguarding if appropriate).

Refusal to have a CRB check, providing false information on a CRB form or any failure to declare a conviction, caution, reprimand or warning will be regarded as an act of gross misconduct under the Disciplinary Policy which could potentially result in dismissal.

If an applicant believes the information provided by DBS is not correct, the applicant can contact the DBS to dispute the result.

7. SECURE STORAGE AND ACCESS

The Council complies fully with the DBS Code of Practice regarding the correct storage, handling, use, retention and disposal of disclosures and disclosure information. The Council also complies with its obligations under the Data Protection Act and has a written policy which is available to those who request to see it.

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

Once recruitment or other relevant decision has been made, the information will not be retained for any longer than is absolutely necessary. This will generally be for a period of six months to allow the consideration or resolution of any dispute or complaint. If in exceptional circumstances it is considered necessary to retain disclosure information for longer than six months, the CRB/DBS will be consulted.

Once the retention period has elapsed, any disclosure information will be destroyed by shredding. No photocopy or any other representation of the content of the disclosure will be retained.

8. PROCEDURE

Responsibility

The Recruitment Team are responsible for DBS checks for all new recruits into the establishment. As part of the recruitment process, a DBS check is built into the on-boarding process for eligible roles after a provisional offer of employment is sent. The Recruitment Team will also carry out DBS checks for all existing staff.

Posts for which Brent requires disclosure checks can be found at **APPENDIX 1**. These checks are even if the post holder is a volunteer.

DBS checks returned

The DBS aims to process 90% of Standard checks in 10 days and 90% of Enhanced checks in four weeks. The disclosure will be sent by DBS to the Recruitment Team who will act on behalf of Brent as the registered body.

The Recruitment Team will decide on the suitability of the employment of a prospective member of staff, if any issues are highlighted on the disclosure advice from their Head of HR will be sought. The disclosure will then be destroyed.

DBS check satisfactory

If the disclosure is satisfactory the line manager is informed.

Exceptional Cases

In exceptional circumstances, approval may be given by the Operational Director, HR to start a candidate with no valid DBS prior to DBS clearance. This is conditional upon:

- i. Satisfactory references/qualifications check/medical clearance
- ii. Only supervised access to clients
- iii. A signed declaration

The Core Contract of employment must contain the appropriate paragraphs to confirm the arrangements under which they are working and must be signed before they start.

Candidates who have declared a criminal conviction/ caution/ reprimand/ final warning or bind-over which does not automatically bar them from the work for which they have applied, should not be allowed to start until the DBS check has been returned and considered.

Any candidate offered a post working with children cannot begin work without a satisfactory DBS disclosure undertaken by Brent Council. Working with children means work that involves regularly caring for, training, supervising or being solely in charge of persons aged under 18.

Any candidates offered posts in care positions as defined in Section 80 of the Care Standards Act 2000 (positions involving regular contact with residents of care homes or which involve provision of personal care to vulnerable adults in their own homes) cannot begin work without a satisfactory enhanced disclosure and adults barred list check.

Third Parties

There may be circumstances where a recipient of disclosure information is asked to reveal details of a disclosure to a third party (for example, in connection with legal proceedings in a case submitted to an Employment Tribunal). In these situations, advice should be sought from the relevant Head of HR.