



## **East Herts Council**

# **Managing the Disclosure and Barring Service (DBS) Process**

## **Policy Statement**

### **Policy Statement No 28 (Issue No 2) January 2013**

**This replaces the Managing the Criminal Record Bureau  
Process Policy No 28 (Issue No 1) September 2007**

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Appendix A – Recruitment of Ex-Offenders Policy Statement

Appendix B – Eligible Positions Guide – September 2012

## **1.0 Introduction**

- 1.1 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 specifies positions, professions, offices, employment, works, activities and licences that are eligible for Disclosure and Barring check (DBS). The eligibility guidance is attached to this policy or can be viewed on [www.homeoffice.gov.uk/crb](http://www.homeoffice.gov.uk/crb).
- 1.2 The Council uses the services of the Disclosure and Barring Service (DBS) to carry out disclosures on its behalf. On the 1 December 2012 the CRB and ISA merged to become the Disclosure and Barring Service.
- 1.3 Employees will have to complete a DBC disclosure if their post is identified as requiring one under the eligibility guidance.
- 1.4 Organisations should not insist that a DBS check forms part of a recruitment exercise or bid when tendering for contracts, unless the services provided meet the criteria for an eligible DBC check as defined by the exceptions, as this would breach employment law.

## **2.0 Aims and Scope of the Policy**

- 2.1 East Herts Council aims to ensure that its DBS arrangements comply with the identification checking guidelines produced by the DBS.
- 2.2 The Policy and guidelines have been drawn up in accordance with the Disclosure and Barring Services' codes of practice and the Protection of Freedoms Act 2012.

## **3.0 Levels of Disclosure**

- 3.1 The DBS has three levels of Disclosure:

**Standard checks** – To be eligible for a Standard level DBS check the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

**Enhanced checks** – To be eligible for an Enhanced level DBS check, the position **must** be included in both the ROA Exceptions Order **and** in Police Act Regulations.

**Enhanced checks with Children’s and/or Adults’ Barred list check(s)** – To be eligible to request a check of the Children’s or Adults’ Barred lists, the position must meet the new definition of Regulated Activity. There are a small number of other positions for which we can also request list checks.

- 3.2 Disclosures cannot be obtained by members of the public and are only available to organisation for those professions, offices, employments, work and occupations listed in the Exceptions Order to the Rehabilitation of Offenders Act 1974.
- 3.3 To view the eligibility guidance click on [www.homeoffice.gov.uk/crb](http://www.homeoffice.gov.uk/crb), the guidance contains links in the table which enables access to the relevant legislative definitions or refer to Appendix B Eligible positions guide.

#### **4.0 Legal Duties**

##### **4.1 Rehabilitation of Offenders Act 1974**

- 4.1.1 It is a requirement of the DSB that all registered bodies treat DBR applicants who have a criminal record fairly and do not discriminate because of a conviction or other information revealed.
- 4.1.2 East Herts is committed to equality and the authorities Recruitment of Ex-Offenders Policy Statement is an appendix to this policy.

## **5.0 Application**

### **5.1 Disclosure and Barring Service – Disclosure Process**

- 5.1.1 Where a Disclosure forms part of the recruitment process, we encourage all successful applicants to complete a DBS form and bring in their identification documents as soon as possible. Once their documents have been verified their DBS form can be processed.
- 5.1.2 A DBS check is only requested after a Job Description has been reviewed; and the review indicates that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all application forms, job adverts and recruitment details will contain a statement that a DBS check will be requested in the event of the individual being offered the position. The DBS will only provide information on ‘unspent’ convictions as defined in the Rehabilitation of Offenders Act 1974, unless the nature of the position requires the Council to ask questions about an employee’s entire criminal record. The Council will be led by the eligibility guidance.
- 5.1.3 The Council will ensure that an open and measured discussion takes place on the subject of any offences or other matters that might be relevant to the position. This discussion will be led by the Chair of the Interview Panel and Human Resources. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment; advice will be sought from the DBS.
- 5.1.3 We make every subject of a DBS check aware of the existence of the DBS Code of Practice and can make a copy available on request. We will undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.
- 5.1.5 Having a criminal record will not necessarily bar a person from working with the Council. It will depend on the nature of the position and the circumstances and background of the offence.

5.1.6 We do not accept DBS's obtained from other organisations, DBS's are not portable and the DBS does not endorse portability.

## **6.0 Volunteers/Contractors/Partnerships/Other Organisations**

**6.1** As a registered body East Herts Council is not permitted to carry out a disclosure for any external agencies or organisations. The following exceptions apply:

- **Volunteers**

East Herts may process a disclosure request on behalf of **unpaid** volunteers who may be engaged in partnership with the Council and are not in receipt of payment for their services. For the purpose of this policy **unpaid** means, not receiving a wage/salary from the Council or external agency or submitting invoices for payment in relation to time working with or for the Council. The Council may not carry out a disclosure for any volunteer in receipt of payment.

- **Licensed Private Hire, Hackney Carriage Vehicles**

The Community Safety and licensing team are responsible for administering the disclosure process for the purposes of licensing private hire and hackney carriage vehicle drivers.

- **Contractors / Partnership Arrangements**

Where contractors or agencies require clearance, the Contractor is responsible for providing the Disclosure. It is then the responsibility of the employing or commissioning service to check the disclosures before a contractor starts work.

Prior to entering a contractual or partnership arrangement the council may seek

1. Written assurance that staff employed by contractors/partnership and other bodies etc that where appropriate a disclosure has been undertaken
2. Copies of Policies and arrangements

The Council may not request individual’s details or copies of disclosures as this constitutes a breach of confidentiality

## **7.0 Secure Storage, Handling, Use, Retention & Disposal of Disclosures and Disclosure information**

7.1 As a Registered Body the Council complies by the DBS Code of Practice and follows their guidelines regarding the correct handling and safekeeping of Disclosure information.

The Council agrees to:

- Store Disclosure information securely;
- Retain Disclosure information, its content or any representation of the same in any format for no longer than is necessary and for a maximum of six months following the recruitment decision unless a dispute is raised or, in exceptional circumstances, where DBS agreement is secured;
- Ensure that no reproductions of the Disclosure or its content are made, including photocopies or scanned images, unless with the prior agreement of the DBS or as a result of a stipulated requirement relating to the e-channel service;
- Only share Disclosure information with relevant persons in the course of their specific duties relevant to recruitment and vetting processes;
- Dispose of Disclosure information in a secure manner;
- Ensure that Additional Information, including information as to its existence, is not revealed to the Disclosure applicant and is disposed of in the appropriate manner and at the appropriate time;
- Ensure that they comply with DBS guidance on the portability of Disclosures and their contents.

## **7.2 Disposal and Retention**

7.2.1 The Council does not retain any Disclosure information in paper form; only the relevant information is subtracted and the Disclosure shredded once the following details have been captured:

- Disclosure number
- Type of disclosure
- Date of Disclosure

7.2.2 East Herts keeps an DBS Electronic Register which records the:

- Date of a Disclosure
- Name of the employee
- Type of Disclosure requested
- The position for which the Disclosure was requested
- The unique reference number of the Disclosure
- East Herts renewal date, every three years

7.2.3 East Herts will not keep Disclosure information for any longer than is necessary. All DBS paperwork is shredded. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information, we will consult the employee and DBS giving full consideration to the data protection and human rights of the individual before doing so this information would not be held for longer than 6 months unless there is a dispute.

### **7.3 Handling**

7.3.1 In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. Line Manager’s are informed by email when a DBS clearance has been returned. No other information is shared.

### **7.4 Renewal**

7.4.1 The DBS does not recommend a specific renewal interval for DBS checks but the Council requires all employees occupying eligible posts to renew their Disclosure every three years. Human Resources will advise line managers when the Disclosure is due for renewal using the information recorded on East Herts DBS Electronic Register.

## **8.0 General principles**

- 8.1 As an organisation using the Disclosure and Barring Service (DBS) to help assess the suitability of applicants for positions of trust, East Herts Council complies fully with the DBS Code of Practice, the Protection of Freedoms Act 2012, Data Protection Act 1988 and other relevant legislation.

## **9.0 Usage**

- 9.1 Disclosure information is only used for the specific purpose for which it was requested, for which the applicant’s full consent has been given.
- 9.2 Any disclosure carried out where it is not required or appropriate is deemed as an illegal search and may result in the Council being subject to financial penalties or loss of registered body status. Human Resources will assess all applications and shall contact the requesting line manager to discuss the application if the search could be deemed illegal.

## **10.0 Role of Human Resources**

- 10.1 The Human Resources Officer is the lead signatory for East Herts and has overall responsibility for the execution of the disclosure process and for signing new counter signatory applications. The lead signatory is also responsible for the scrutiny of applications and managing the DBS Electronic Register.
- 10.2 The Licensing Officers are responsible for managing the CRB disclosure process for the purposes of licensing hackney carriage or private hire vehicle drivers.
- 10.3 All disclosure applications with regard to recruitment of posts must be signed by the Human Resources Officer.

## **11.0 Sources of Information and Advice**

Further advice may be obtained from the Criminal Records Bureau website at: [www.homeoffice.gov.uk/agencies-public-bodies/crb/](http://www.homeoffice.gov.uk/agencies-public-bodies/crb/)

## **12.0 Policy Review and Amendment**

This Policy shall be reviewed after two years or sooner in line with legislation and best practice to reflect the best possible level of support and management