

# People Framework

## Safer Recruitment Procedure



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## Tracking

<b>Policy Title</b>	Safer Recruitment Procedure		
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	Strategy & Resources		30 January 2020 (TBC)
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<b>Service</b>			

## Revision History

Revision Date	Revisor	Previous Version	Description of Revision

## Document Approvals

Each revision requires the following approvals:

Sponsor Approval		Name	Date

## 1. Safer Recruitment

The Council is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all employees and volunteers to share this commitment. The suitability of all prospective employees or volunteers will be assessed during the recruitment process in line with this commitment.

Having a criminal record will not necessarily bar anyone from working with us. This will depend on the nature of the position and the circumstances and background of any offences.

Under the Rehabilitation of Offenders Act 1974, applicants are expected to only have to declare unspent convictions. However, if the post for which the applicants are applying is one which is an exception under this Act, they must give full details of everything on their criminal record. If this is the case it will be clearly indicated in the advert and role profile.

The criminal record information any applicant is required to provide is not used for shortlisting purposes. However, if applicants are shortlisted for interview, their criminal record information will be discussed with them if the interview panel feel it is relevant to the job for which you are applying. Only the successful candidate will be asked to complete a Disclosure & Barring Service (DBS) check application form.

Section 11, Children Act 2004, sets out the arrangements for safeguarding and promoting the welfare of children and applies to all key local bodies named under section 11(1) of the Act. One of the key features of these arrangements is ensuring safe recruitment procedures are in place. Safer recruitment' practices are in place to identify and deter people who might abuse children or are otherwise unsuitable for employment and to minimise the possibility of children and young people suffering harm from those in a position of trust.

This procedure will help employ a workforce which fulfils its roles and responsibilities with full regard to this commitment.

All vacancies will be advertised with the Council's safeguarding statement.

## 2. Principals of Safer Recruitment

The Council will meet this commitment by:

- Complying with the Disclosure and Barring Service code of practice.
- Keeping a record of key posts in each department which work with children and vulnerable adults and ensuring that these posts are subject to the DBS checks.
- Undertaking a rolling programme of review for those members of staff who are subject to DBS disclosures.
- Making judgements and decisions consistently and at an appropriate level when a positive DBS check is received.
- Ensuring that recruitment panels are competent to implement recruitment procedures
- Communicating safer recruitment requirements to all who provide services on Epsom & Ewell Borough Council's behalf, e.g. contractors and agencies.

- Ensuring that the protection of children and vulnerable adults is a condition of awards/grants and service level agreements, and is built into contracts for services to the Council.
- Monitoring external service providers' compliance with contracts, including a requirement that the provider will not sub-contract to any personnel who have not been part of a safer recruitment process.

### **3. Regulated Activity with Adults**

Regulated activity is work that a barred person must not do. However, it excludes any activity carried out in the course of family relationships, and personal, non-commercial relationships. An adult is any person aged 18 years or over. Employees only need to carry out any of the activities once to be in regulated activity with adults.

If the Council will be employing someone to do work that is regulated activity with adults an enhanced DBS with an adults barred list check, should be requested.

When an organisation request a DBS check to assess someone to carry out regulated activity with adults this means that they are a regulated activity provider (RAP) which brings obligations under the Safeguarding Vulnerable Groups Act 2006.

Regulated activities with adults are:

- Providing health care by, or under the direction or supervision of, a regulated health care professional
- Providing personal care made up of physical assistance with daily activities or prompting and then supervising or with training, Instructing, providing advice or guidance on how to physically assist an adult who can't carry this out themselves because age, illness or disability or providing social work by a social care worker to an adult who is a client or potential client
- Conveying adults to, from or between health care, personal care and/or social work services who can't convey themselves because of their age, illness or disability.
- Day to day management or supervision of anyone carrying out the above activities.

Further information can be found at the following links:

[www.gov.uk/government/publications/dbs-guidance-leaflets](http://www.gov.uk/government/publications/dbs-guidance-leaflets)

[www.gov.uk/find-out-dbs-check](http://www.gov.uk/find-out-dbs-check) (eligibility tool)

### **4. Regulated Activity with Children**

Regulated activity is work that a barred person must not do. It is defined in the Safeguarding Vulnerable Groups Act 2006 (SVGA) which has been amended by the Protection of Freedoms Act 2012 (PoFA).

A child is any person who has not yet reached the age of 18 years. However, if an activity relates solely to their employment e.g. induction training when starting work, they are only considered a child if under the age of 16 years.

If you are employing or assessing someone to do work that is regulated activity with children you could request an Enhanced DBS check with a children's barred list check.

When you request a DBS check to assess someone to carry out regulated activity with children this means that you are a regulated activity provider (RAP) which brings obligations under the Safeguarding Vulnerable Groups Act 2006.

Regulated activity with children is made up of:

- What activity a person carries out and how often the person does it; or
- Where the role takes place and how often the person will work there; or
- Working in specified positions in Wales.

Further information can be found at the following links:

[www.gov.uk/government/publications/dbs-guidance-leaflets](http://www.gov.uk/government/publications/dbs-guidance-leaflets)

[www.gov.uk/find-out-dbs-check](http://www.gov.uk/find-out-dbs-check) (eligibility tool)

## 5. Disclosure & Barring Checks

As part of the Councils commitment to 'Safer Recruitment', when recruiting to all posts for children and adults it will require an Enhanced DBS check and Barred List check. Details about posts which can ask applicants for an Enhanced DBS check and/or a Barred List check require HR advice to be sought.

For jobs working with children and vulnerable adults, plus certain other categories of job where it is required by law that the post-holder must have a DBS check, this will need to be undertaken as part of the recruitment process.

An applicant can refuse to have a DBS check but if this is required by law as part of the job role then confirmation of role appointment cannot be made unless a satisfactory 'disclosure' from the DBS is received.

A risk assessment must be completed as part of the authorisation process. (**LINK to FORM E - DBS Risk assessment**).

It is an offence for a person who is on the DBS Children or Adults Barred Lists to seek to work/volunteer with these groups and the Council will report them to the relevant Authorities.

## 6. Types of DBS Checks

There are four types of DBS checks. These are:

- Basic – these lists a potential employee's unspent convictions and conditional cautions
- Standard – these list spent and unspent convictions, cautions, final warnings and reprimands

- Enhanced – this type returns information on spent and unspent convictions, cautions, final warnings and reprimands, plus any information held by local police that's considered relevant to the potential candidate's role.
- Enhanced check with barred lists – these list spent and unspent convictions, cautions, final warnings and reprimands, any information held by local police that's considered relevant to the potential candidate's role, plus information on whether the applicant is on the list of people barred from doing a role in general.

## **7. Unsatisfactory DBS Checks**

If an applicant's DBS clearance is unsatisfactory, the manager should consult Human Resources at the earliest opportunity and decide whether any further information should be sought before withdrawing the conditional offer of employment.

Where information obtained by Epsom & Ewell Borough Council raises concerns about a candidate's suitability to work with vulnerable adults, or where a candidate has provided false information in support of an application the facts should be reported to the police and/or the Disclosure and Barring Service or the appropriate authority at the time.

## **8. DBS Checks with another Employer**

A satisfactory DBS check is only recognised by the DBS as clearance for an individual to work for the employer which has requested the check. It will not count as valid clearance for any other employer, who must carry out their own check.

Furthermore, a disclosure carries no formal period of validity and, of course, only reveals information available at the time of its issue.

External job applicants therefore must always undergo a DBS check even if they have recently received a satisfactory DBS check with another organisation.

## **9. Starting work prior to DBS Clearance being received**

It is a criminal offence for anyone to seek or accept work in a regulated position knowing that they are barred from working with children or vulnerable adults or for the Council to offer work to, or employ a person in a regulated position knowing that the person is barred from such work.

HR will send a reminder to individuals after one week if they have still not returned their DBS check form and it is needed to be able to confirm their appointment. At 2 weeks, the line manager will be notified and the next steps discussed.

A Head of Service can, following a risk assessment (Appendix X) and discussions with HR, appoint a candidate before a DBS check has been received on the following conditions:

- They must be able to produce evidence of a satisfactory DBS check within the past three years (or within the past year for fixed-term and agency workers)
- They must sign an agreement confirming that they have not received any convictions since their last DBS check, and that if the Council's check reveals a positive disclosure they will be dismissed without notice

- Their new Head of Service must provide written confirmation that they will ensure the applicant will not have sole access to children or vulnerable adults until a satisfactory DBS check has been received

If an ex-employee returns to work at the Council, a new disclosure must be applied for.

## 10. Checking Existing Employees

Epsom & Ewell Borough Council employees who transfer from a post which does not require clearance to one which does must undergo a DBS check before starting work in their new post.

Employees should be rechecked every 3 years as long as they remain in a post that requires clearance.

A Head of Service or equivalent may, at any time and after consulting their HR adviser, ask an employee who has contact with vulnerable clients to undergo a DBS check if they have cause for concern about the employee's suitability to work with this client group. Other than in the circumstances detailed above, a manager may not ask an existing employee, who is not in a post eligible for a DBS check, to undergo a disclosure.

When DBS checks are renewed on a 3-yearly cycle, HR will send a series of reminders to individuals after two weeks and three weeks if they have still not returned their DBS check form. At 3 weeks, this reminder will be copied to the employee's line manager. At 4 weeks if the form has still not been returned the issue will be escalated to the Head of Service.

If a DBS certificate is lost or destroyed, the DBS cannot provide a replacement certificate; a new one will need to be applied for and paid for again.

## 11. Management of Disclosure Information

In keeping with the DBS statutory guidance on posts which fall within the definition of "regulated activity" under the Protection of Freedoms Act 2012 and the GDPR 2018, Epsom & Ewell Borough Council will ensure the following:

**Storage and Access:** Disclosure information will never be kept on an applicant's personal file but will be stored in a secure, lockable and non-portable container with access strictly limited to relevant members of the Human Resources team.

**Handling:** In accordance with section 124 of the Police Act 1997, Disclosure information will only be accessed by the relevant members of the HR team and the manager of the post in question. Epsom & Ewell Borough Council recognises it is a criminal offence to pass this information to anyone who is not entitled to receive it.

**Usage:** Disclosure information will only be used for the specific purpose it was requested for; after the applicant's full consent has been given and in accordance with the conditions specified in this procedure. All those with access to the

information will treat it with the strictest confidentiality and security. Failure to do so could result in disciplinary action.

**Retention:** The Council will not keep disclosure information for more than 6 months after its receipt.

**Disposal:** Disclosure information will be destroyed by secure means immediately at the end of the retention period. No further copies will be retained in any form.

The only information that will be retained in a secure manner is:

Name of the subject

- Type of disclosure requested
- The position for which the disclosure was requested
- The unique reference number of the disclosure
- The details of any offence and recruitment decision taken