

# Criminal Record Checks Policy and Procedure



EAST RIDING

OF YORKSHIRE COUNCIL

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## **Criminal Record Checks Policy**

### **I. Background and Scope**

This policy applies to all employees and volunteers of the Council including school-based employees where it has been adopted by the respective school governing bodies.

The policy outlines the Council's commitment to safeguarding those children and vulnerable adults for whom it has a duty of care by using appropriate criminal record vetting procedures during recruitment and employment or use as a volunteer.

The policy recognises the legal obligations in safeguarding vulnerable groups under the Police Act 1997, the Rehabilitation of Offenders Act 1974, the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Care Standards Act 2000, the Criminal Justice and Court Services Act 2000, the Protection of Children Act 1999, the Education Act 2002, the School Staffing (England) (Amendment) (No 2) Regulations 2006, the Further Education (Providers of Education) (England) Regulations 2006, the Safeguarding Vulnerable Groups Act 2006, the Protection of Freedoms Act 2012 and the guidance 'Keeping Children Safe in Education' (January 2007).

The policy recognises the Council's obligations under the Disclosure and Barring Service (DBS) Code of Practice that any information released will be used fairly and handled and stored securely.

The policy aims to ensure that criminal record checks are used in a fair, consistent and cost-efficient way to support safe recruitment practice in line with the corporate priorities

- Supporting vulnerable people, reducing inequalities.

- Reducing costs, raising performance.

### **2. Definitions for the Purposes of this Policy**

#### **Disclosure and Barring Service (DBS)**

The body was created on 1 December 2012 to combine the Criminal Records Bureau and Independent Safeguarding Authority into one organisation offering criminal record checks and maintaining the lists of those barred from working with children and/or vulnerable adults.

#### **Regulated Activity**

Regulated Activity (as defined in the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012) August 2013.

#### **Regulated activity relating to children**

Unsupervised activities:

- Teaching, training, instructing.
- Care or supervision.
- Providing advice or guidance on physical, emotional or educational well-being.
- Driving a vehicle being used specifically to transport children.

The activities above are only regulated activity if carried out frequently (once a week or more often), intensively (four or more days in a month) or overnight (2am to 6am). Those below are not subject to this criterion.

- Personal care - washing, dressing, toileting etc.
- Health care given by or supervised by a health professional.
- Registered childminding.
- Foster care.

- Day to day management/supervision of any person engaging in regulated activity or activity that would be regulated if unsupervised.

**Work in a Specified Place with the opportunity for contact with children:**

- School/academy.
- Pupil referral unit.
- Nursery school.
- Children’s detention centre.
- Children’s centre.
- Children’s home.
- Childcare premises.

Supervised volunteers in these locations are specifically excluded and are not regulated activity.

Work in specified places must also meet the frequent/intensive/overnight criterion to be regulated activity. NB - contact with children must be on the same site to meet the criterion, so someone who visits different schools frequently but not the same one is not carrying out regulated activity.

**Regulated activity relating to adults**

The definition of a ‘vulnerable adult’ has been removed from the legislation and the focus is on activities which, if needed by any adult, mean the adult is considered vulnerable at the point of receiving them:

- Health care given by or supervised by a health professional.
- Personal care for adults involving hand-on physical assistance with washing and dressing, eating, drinking and toileting; prompting and supervising an adult with any of these tasks because of their age, illness or disability; or teaching someone to do one of these tasks.

- Social work - provision by a social care worker of social work which is required in connection with any health services or social services.
- Assistance with an adult’s cash, bills or shopping because of their age, illness or disability arranged via a third party.
- Assisting in the conduct of an adult’s own affairs under a formal appointment.
- Conveying adults for reasons of age, illness or disability to, from, or between places, where they receive healthcare, personal care or social work arranged via a third party.

These activities are not subject to the frequent/intensive/overnight criterion and are regulated activity even if only undertaken once.

NB ‘Teaching’ is not a regulated activity in relation to adults, except teaching personal care skills.

**Disclosure Certificate**

The certificate issued by the DBS, Disclosure Scotland or UK Police including details of an individual’s criminal record. The table below shows the different levels of disclosure, issuing body, eligibility criteria and the information they include:

<b>Disclosure Type</b>	Enhanced with Barred List checks.
<b>Issuing Body</b>	Disclosure and Barring Service.
<b>Criminal Record Information Included</b>	<ul style="list-style-type: none"> <li>• Policy National Computer - all.</li> <li>• Local Police information.</li> <li>• Barred Lists.</li> </ul>
<b>Eligibility Criteria</b>	Regulated Activity only (2012 definition). Minimum age 16.

<b>Disclosure Type</b>	Enhanced without Barred List checks.
<b>Issuing Body</b>	Disclosure and Barring Service.
<b>Criminal Record Information Included</b>	<ul style="list-style-type: none"> <li>• Police National Computer - all.</li> <li>• Local Police information.</li> </ul>
<b>Eligibility Criteria</b>	Posts classed as Regulated Activity under 2009 definition* but excluded from 2012 definition. Minimum age 16.

<b>Disclosure Type</b>	Standard.
<b>Issuing Body</b>	Disclosure and Barring Service.
<b>Criminal Record Information Included</b>	<ul style="list-style-type: none"> <li>• Police National Computer - all.</li> </ul>
<b>Eligibility Criteria</b>	Posts on the Exceptions Order to the Rehabilitation of Offenders Act but not regulated activity under 2009* or 2012 definitions. Minimum age 16.

<b>Disclosure Type</b>	Basic.
<b>Issuing Body</b>	Disclosure Scotland.
<b>Criminal Record Information Included</b>	<ul style="list-style-type: none"> <li>• Police National Computer - unspent only.</li> </ul>
<b>Eligibility Criteria</b>	No restrictions - used for airport staff, security industry, alcohol licences.

<b>Disclosure Type</b>	Subject Access Request.
<b>Issuing Body</b>	Local Police.
<b>Criminal Record Information Included</b>	<ul style="list-style-type: none"> <li>• Police National Computer - all.</li> </ul>
<b>Eligibility Criteria</b>	Any individual can request this information under the Data Protection Act.

<b>Disclosure Type</b>	ACRO Police Certificate
<b>Issuing Body</b>	Association of Chief Police Officers Criminal Records Office.
<b>Criminal Record Information Included</b>	<ul style="list-style-type: none"> <li>• Police National Computer - all.</li> </ul>
<b>Eligibility Criteria</b>	For those emigrating, working abroad or holiday in USA.

\* 2009 definition of regulated activity is given at Appendix B.

NB The practice of local police forces issuing 'sensitive' additional information to employers only in a separate letter to the disclosure certificate was abolished from 10 September 2012.

### DBS Update Service

This service is available at a cost of £13 (free for volunteers), when they next have a criminal record check. Once an individual has registered, an employer can then carry out a free, online, instant check to see if any new information has come to light since the individual's disclosure certificate was issued - a Status check. This Status check provides the employer with the information required to make an informed decision to either re-use an existing disclosure or request a new one. This allows disclosure certificates to become portable between employers and valid indefinitely.

To carry out a Status check, the employer must:

- Have the consent of the individual.
- See the original disclosure certificate.
- Check the individual's identity and that their name matches the disclosure certificate.

- Be legally entitled to apply for a DBS disclosure of the same type and level.
- Confirm that they comply with the DBS code of practice.

The result of the Status check will be instant and there are four possible results:

Online Result	Meaning/Action
This Certificate did not reveal any information and remains current as no further information has been identified since its issue.	<ul style="list-style-type: none"> <li>• Certificate was 'clear'.</li> <li>• No new information.</li> <li>• Accept as current and valid.</li> </ul>
This Certificate remains current as no further information has been identified since its issue.	<ul style="list-style-type: none"> <li>• Certificate was 'clear'.</li> <li>• No new information.</li> <li>• Carry out risk assessment on information on certificate to determine suitability.</li> </ul>
This certificate is no longer current. Please apply for a new DBS check to get the most up-to-date information.	<ul style="list-style-type: none"> <li>• New information since issue of certificate.</li> <li>• Request a new DBS check.</li> </ul>
The details entered do not match those held on our system. Please check and try again.	<ul style="list-style-type: none"> <li>• Individual has not subscribed to Update Service.</li> <li>• Individual has removed this disclosure from the Update Service.</li> <li>• Information has been incorrectly entered.</li> </ul>

There is a tight timescale for individuals to register with the Update Service when they next renew their DBS disclosure (within 28 days of submitting a new

disclosure application form or within 14 days of receiving their disclosure).

Portability will be limited to moves within the same work sector as the original disclosure, ie if someone was moving from work with children to work with vulnerable adults and their previous disclosure was only for work with children, a new DBS disclosure would be needed.

For home-based roles such as fostering and adoption (where Local Police carry out a third-party search for any information they hold for anyone connected with the home address), portability can only be used for a move to a non home-based role as the home-based element of the check is not kept updated. Thus three-yearly renewals will still be required for foster parents.

### 3. Policy Statement

East Riding of Yorkshire 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. Criminal record checks will be used to assess the suitability of prospective employees and volunteers in safeguarding roles during the recruitment process and throughout their employment or volunteering in line with this commitment.

### 4. Policy Development including Consultation

This Policy has been developed by People Services in consultation with the Corporate Management Team, Organisational Development, East Riding Supply Service, East Riding Safeguarding Children's Board and recognised Trade Unions to ensure compliance with legislation.



The contact officer welcomes feedback on this policy from all interested parties, to be considered when the policy is next reviewed or to prompt a review.

## **5. Links with other Policies**

Recruitment Policy and Procedure.

Volunteer Policy.

Policy on the Recruitment of ex-offenders.

Policy on the secure storage, handling, use, retention and disposal of criminal record disclosures and disclosure information.

## **6. Desirable Outcomes**

The Council complies with safeguarding legislation in its recruitment and selection procedures.

All recruitment practices support the Council's duty of care to safeguard children and vulnerable adults.

## **7. DBS Counter-Signatories**

The Council's lead counter-signatory with the Disclosure and Barring Service is the Director of People Services. The lead counter-signatory is responsible for ensuring the eligibility of all checks requested. The named counter-signatories are the only individuals authorised to request disclosure information from the Disclosure and Barring Service on behalf of the Council. Requests for additional counter-signatories must be authorised by the Lead Counter-signatory.

## **8. Posts requiring criminal record checks**

Posts which fall within the 2012 definition of 'regulated activity' carry a statutory duty (in some cases) that the employer check the individual is not barred from this type of work prior to

commencement. This statutory duty is currently in place for all school staff via Department for Education regulations and for care providers registered with the Care Quality Commission via Department of Health regulations. The Government has implemented a duty that ALL organisations must check that a new entrant to regulated activity (paid or unpaid) is not barred.

The Council will require an Enhanced Level Disclosure with Barred List checks prior to commencement for all posts (paid and unpaid) which fall within the definition of regulated activity.

To promote good safeguarding practice, where posts (paid and unpaid) are eligible for an Enhanced Level Disclosure without Barred List checks or a Standard level Disclosure, the Council will require such a check to be carried out prior to commencement, subject to the provisions for specific roles given below

All school governors will be subject to an Enhanced Level Disclosure without Barred List checks prior to commencing their role.

All regular school volunteers will be subject to an Enhanced Level Disclosure without Barred List checks if they are supervised and with Barred List checks if they are unsupervised. The eligibility situation for all regular Council volunteers and school governors is summarised below:

<b>Post Title</b>	<b>Supervised/ Unsupervised</b>	<b>Type of Check (Eligibility)</b>
School Governor	Not relevant	<b>Enhanced with no Barred List checks</b> (Eligible under 2009 definition of Regulated)

		Activity - office holder)
Volunteer in school (or at any children's site)	Supervised	<b>Enhanced with no Barred List checks</b> (Eligible under 2009 definition of Regulated Activity - specified location)
Volunteer in school (or at any children's site)	Unsupervised	<b>Enhanced with Barred Lists</b> (Eligible under 2012 definition of Regulated Activity - work at children site)
Volunteer at adult location (Eligibility is dependent on activities being carried out not supervision)	Not relevant	<b>Enhanced with Barred Lists</b> (Eligible under 2012 definition of Regulated Activity - specified activity)  <b>Enhanced with no Barred List checks</b> (Eligible under 2009 definition of Regulated Activity - specified location)

Work experience placements in schools which meet the frequency criteria for regulated activity, where the individual is aged 16 or over and is not undertaking a one or two week supervised placement as part of the school work experience programme, will be subject to an Enhanced Level Disclosure with or without Barred List check depending on whether supervision is in place.

Placements of trainee teachers in schools to undertake teaching practice as part of their Initial Teacher Training will be covered by the Disclosure obtained by their training provider as per DfE guidance 'Safeguarding Children and Safer Recruitment in Education' (January 2007).

Support Services staff will be checked according to the eligibility conferred by their work base as below, unless they carry out specific activities qualifying as regulated activity under the 2009 or 2012 definition which confer additional eligibility to that of their work base, in which case they will be checked at the appropriate level for these activities:

Work Base	Type of Check (Eligibility)
Adult Site, eg adult care home, day centre	<b>Enhanced with no Barred List checks</b> (Eligible under 2009 definition of Regulated Activity - work at adult site)
Children Site, eg school, children's centre, adult education centre	<b>Enhanced with Barred Lists</b> (Eligible under 2012 definition of Regulated Activity - work with children site)
Council Office	<b>No Eligible</b> (Formerly eligible for a check as controlled activity - now abolished)

The role of elected Member is not in itself eligible for a DBS check, but eligibility may arise where elected members are nominated to or undertake a role which involves regular and unsupervised contact with children or vulnerable adults or falls under the category of 'office holder' under the 2009 definition of regulated activity (see Appendix C). In such a situation Employment Services must be consulted to determine eligibility on an individual basis according to the specific duties to be undertaken.

In situations such as an adult education class or sports team where the participants include both children and adults, there is only a requirement that the course tutor or team coach/trainer/Manager is DBS checked if they are the only person carrying out the supervisory and teaching role. This is still the case in terms of Council responsibility for the course/sports activity, even in the situation where a child has their own carer present during the class or sports practice.

Where staff undertaking regulated activity will be employed under partnership arrangements with other local authorities, the partnership agreement must include details of which authority will lead in requesting DBS Disclosures, the evidence to be provided to the partners as assurance that checks are in place, any requirements for re-checks and any requirements for staff to carry with them evidence of DBS check, eg confirmation letter. Additional measures may include provision of copies of the lead authority's recruitment policy and/or criminal record checking policy as assurance of the standards/procedures in place.

The Council will **not** require a DBS disclosure for and will not be legally entitled to request one for:

- Employees who will only come into contact with vulnerable groups as part of the general public and have no specific role assigned to them with regard to children or vulnerable adults as part of this contact, eg receptionists at Council offices or leisure centres, customer service centre staff, refuse collectors, etc.
- Visitors who will only come into supervised contact with children or vulnerable adults on an ad hoc or irregular basis for short periods of time, eg those giving talks or

demonstrations in a school or care home or having meetings with members of staff on school or similar premises.

- Secondary school pupils aged 16-19, undertaking voluntary work or work experience in other schools for one period of two weeks' duration or less.
- Volunteers or parents accompanying staff and children on one-off outings or trips which are supervised by school staff and do not involve an overnight stay, or who help at a specific event, eg sports day, school fete, open day.
- Contractors who come on site only to carry out emergency repairs or service equipment and who would not be expected to be left unsupervised on school premises.
- People who are on school sites before or after school or college hours and when children are not present, eg local groups who hire premises for activities not open to children, contract cleaners not on site at any time when children are present.

There are certain other situations where there is no eligibility for a DBS check but where information can be obtained by direct contact with the local police Family Protection Unit:

- Parties to divorce, and their co-habitees or future marital partners, at the request of a court welfare officer enquiring into child welfare issues.
- Parties to care and similar proceedings involving child welfare issues who, at the request of a 'children's guardian' are required to produce a report for the court.

- Parents (and their co-habitants) to whom a local authority proposes to return a child in care.
- Parties (including co-habitees and future marital partners) to various domestic and matrimonial guardianship or wardship orders, for the purpose of welfare reports on children by probation officers or social workers.

If a Manager is uncertain whether a post requires a criminal record check, they should consult People Services. (Flowcharts are given in Appendix A to aid in identifying posts eligible for a DBS check.)

Where there is no eligibility for a DBS check, but there is contact with vulnerable groups or access to confidential information about vulnerable groups, a suitable safe working practice should be implemented to control any identified risks.

## **9. Validity of Disclosures**

All employees and volunteers in posts requiring a criminal record check must have a valid DBS disclosure at all times.

A DBS Disclosure registered with the DBS Update Service will be valid for Council employment or volunteer work indefinitely subject to an initial and thereafter annual online Status Check to confirm suitability for continued use.

A DBS Disclosure, which is not registered with the DBS Update Service, will be valid for Council employment or volunteer work for three years from date of issue, provided the employee or volunteer does not have a break in service. (A break in service is defined in common with DfE guidance for schools as 12 weeks.) Any break in service of 12 weeks or more will invalidate the Disclosure and a new

Disclosure will be required prior to undertaking any further work.

For those undertaking casual or supply work, a 12 week break between periods of employment will immediately invalidate their DBS Disclosure (if not registered with the DBS Update Service) unless they are part of a Council recruitment pool where this will be identified as part of an annual review process incorporating Disclosure renewal where such a break has taken place.

It is the responsibility of the employee/volunteer and their Manager to ensure renewal of disclosure is carried out before the expiry of the three-year period for Disclosures not registered with the DBS Update Service, with prompts from People Services to support this process.

All employees and volunteers with a Disclosure not registered with the DBS Update Service are required to register at their next scheduled DBS renewal and continue membership as long as they are employed by or volunteering for the Council in a role subject to a criminal record check.

Registration with the DBS Update Service is a mandatory requirement for entry to and continued membership of all Council recruitment pools covering posts requiring a criminal record check and for the Council's supply teaching and supply support staff lists.

It will not be normal practice to suspend employees due to late renewal of their Disclosure or missing the deadline to register with the DBS Update Service at next renewal, as long as the employee has made every effort to comply with an instruction to renew/register. However, failure to renew/register/continue registration with the Update Service will make the employee subject to disciplinary action if they are found to have knowingly

failed to renew their Disclosure on time or caused unnecessary or purposeful delay to the process to avoid registering/ continuing registration with the Update Service.

All employees and volunteers are asked to produce their original disclosure certificates promptly on receipt to allow recording of relevant details on the Council's corporate database of criminal record checks. Failure to produce a disclosure certificate within a reasonable timescale of request will make the employee subject to action under the Council's Disciplinary Policy on the grounds of not having a valid disclosure for their post, and for a volunteer will lead to suspension of volunteering until the matter is resolved.

## **10. Portability of Disclosures**

The Council will normally carry out its own DBS check on prospective new employees or volunteers where the post requires a criminal record check unless the individual is a member of the DBS Update Service with a disclosure at the appropriate level and for the correct workforce (child/adult) for the new post.

Where the individual is a member of the DBS Update Service and has a disclosure appropriate for the new post, they must produce their original disclosure certificate and evidence of identity to confirm they are the individual named in the disclosure and sign a consent form to allow the Council to undertake an initial status check and annual checks thereafter to confirm the disclosure is suitable for re-use.

For prospective new employees or volunteers who hold an existing Disclosure certificate issued after 10 September 2012 but are not registered with the DBS Update Service, this will be valid for Council employment if the following criteria are met:

- The original Disclosure certificate is produced to the Disclosure Service within People Services for verification as a genuine Disclosure certificate and recording on the corporate database.
- The Disclosure is at the level required for the post applied for, ie Enhanced with Barred List checks, Enhanced or Standard.
- If the new post requires Barred List checks, the Disclosure includes checks against the correct Barred List.
- The date of issue of the Disclosure is within 12 weeks of the expected start date, OR
- The individual has had no break in contracted employment (not casual work) or only a break under 12 weeks since the date of the Disclosure (which must be under three years old and issued on or after 10 September 2012) and their previous employer (who requested the Disclosure) has confirmed in a written reference the individual's employment dates and their suitability for the new post with regard to safeguarding and that they are not aware of any new criminal record information arising since the Disclosure date.

(Disclosures from other organisations issued before 10 September 2012 will not be valid for Council employment due to the possible existence of additional information only sent to the organisation requesting the check and not shown on the applicant's Disclosure certificate).

Where an employee moves from one safeguarding post to another within the Council, their existing Disclosure will remain valid for the new post if it meets the following criteria:

- Existing Disclosure was issued within the last three years or is registered with the DBS Update Service and a status check confirms no new information is present.
- Existing Disclosure is at the level required for the new post ie Enhanced with Barred List checks, Enhanced or Standard.
- For disclosures issued prior to 17 June 2013, there is the same level and type of contact with children/vulnerable adults in the new post.
- If the new post requires Barred List checks, the existing Disclosure includes checks against the correct Barred List.
- There has been no break in service of 12 weeks or longer with the Council since the date of Disclosure (for disclosures not registered with the DBS Update Service).
- Existing Disclosure did not require a risk assessment.
- Portability has been approved by the Employment Services Officer/Manager.

If the existing Disclosure did require a risk assessment, advice on portability must be sought from Employment Services.

Where a volunteer moves into paid employment, and has a disclosure dated prior to 17 June 2013, a new Disclosure will be required, due to the 'role-based' nature of the DBS check at that time, where a decision on whether to release Local Police information was based on the applicant's specific role and level of contact with children or adults in that role.

A flowchart is given at Appendix A to outline the criteria for re-use of an existing DBS Disclosure for a new post.

## **11. Commencement of Employment**

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For posts which are Regulated Activity (2012 definition) and where it is a legal requirement for the Council to check that the individual is not barred from this activity prior to commencement in post, the Disclosure certificate including the relevant Barred List checks must be received before commencement or a status check be carried out on an existing disclosure to confirm it is suitable for re-use.

There are no exceptions to the above due to the implementation from 17 June 2013 of applicant only disclosures, which mean the Council can only obtain the result of a criminal record check via the applicant producing their copy of the disclosure certificate.

Any Manager found to have authorised the commencement of an individual undertaking Regulated Activity prior to receipt of the Disclosure requested by the Council (or a Disclosure as specified in section 10) will be subject to action under the Council's Disciplinary Policy.

## **12. Risk Assessment**

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Where a Disclosure contains any criminal record information about an individual, a risk assessment must take place and a risk assessment form be completed to record the process and the outcome.

Where the information disclosed includes third party information or consists solely of third-party information, advice should be sought immediately from People Services before proceeding.

In every case, the Manager must discuss the information disclosed with the individual to find out the full circumstances, explanation and any mitigation from the individual's perspective. **This discussion with the individual prior to any suitability decision being made is a requirement of the DBS Code of Practice and the Council's Policy on the Recruitment of Ex-Offenders.**

For a prospective employee or volunteer, the Manager or Headteacher must then conduct a risk assessment using all the knowledge they have of the applicant (application form, references, interview notes, discussion of information disclosed and whether the applicant had previously disclosed the information during the recruitment process) to determine whether the applicant poses a risk to children or vulnerable adults if appointed.

In deciding the relevance of convictions, cautions, warnings or allegations a number of points should be considered:

- The nature of the offence - convictions for sexual, violent or drug offences will be particularly strong risk factors for work with vulnerable groups.
- The nature of the appointment will affect the relevance of offences, eg serious sexual, violent, drug or drink offences would be particularly concerning for a position providing care; drug or driving offences would be relevant where transport will be provided.
- The seriousness of the offence and the sentence - convictions will be stronger risk factors than cautions or warnings; a long prison sentences will indicate an offence was regarded as more serious than one in which a fine was imposed. Allegations should be treated with caution as they have not been tested in a legal process and there is the potential for them to be malicious or unfounded.
- The length of time since the offence - offences which took place many years ago may have less relevance than recent offences. However, convictions for serious violent or sexual offences are more likely to give rise for continuing concern than an isolated case of dishonesty at a young age. The potential for rehabilitation must be weighed against the need to protect.
- The age of the applicant at the time of the offence.
- Any pattern in offending - a series of offences over a period of time is more likely to be a cause for concern than an isolated minor conviction, as it indicates a pattern of behaviour.
- Any change in the applicant's circumstances since the offence was committed, eg domestic issues or financial difficulties.
- If the offence has been de-criminalised.
- Any relevant information provided by the applicant - mitigating circumstances, remorse, etc.

Advice is available from People Services to assist in reaching a suitability decision, which should be recorded on a Risk Assessment Form and sent to the relevant Director (Chair of Governing Body for schools) for approval. On approval, the original form must be emailed to People Services (following the specific instructions on the form re data protection) for storage.

The Manager can then, depending on their decision, continue with the appointment or inform the candidate that pre-

employment checks have not been successfully completed and an appointment will not be offered. Any applicant wishing to appeal the result of a risk assessment should be asked to write to the Director of People Services within 10 working days of being informed of the result.

For an existing employee, after the discussion with the employee regarding the information disclosed, the Manager must decide either that the information disclosed is minor and raises no concerns re continuing employment in the current role and was fully disclosed by the employee at the time it occurred, in which case they must complete a risk assessment form and send to their Director for approval, or that People Services should be involved to consider appropriate next steps.

If People Services become involved, an initial assessment will take place to assess the risk to children/vulnerable adults of the employee continuing in post with a move to alternative duties or suspension as available options if appropriate. A full investigation of the circumstances will then take place, including consideration of whether the employee fully disclosed the offence when it occurred as required by their terms and conditions of employment. (Caution should be exercised when the disclosed information relates solely to allegations, of which the individual may have been unaware and therefore not in a position to disclose them to the employer). The investigation will result in completion of a risk assessment form to determine if the employee can continue in post, a decision on whether disciplinary action will be taken in relation to non-disclosure of a criminal offence and if the employee cannot continue in their current post, a decision on dismissal for Some Other Substantial Reason.

If a risk assessment determines that employment cannot continue in the current post, redeployment to a post not requiring a criminal record check will be considered as an option, but depending on the individual circumstances may not be appropriate due to the difficulty in maintaining confidentiality regarding the reason for redeployment in a situation where there has been a sudden removal from post.

For an existing volunteer, the discussion regarding information disclosed must take place and a risk assessment form be completed and approved by the relevant Director. Immediate suspension of volunteering will be a standard course of action pending result of the risk assessment which will either approve volunteering to continue or a decision to cease to offer voluntary work.

Where an applicant or existing employee or volunteer is found to be on one of the Barred Lists for working with vulnerable groups or has provided false information or there are serious concerns about an applicant's suitability to work with vulnerable groups, or dismissal takes place, the facts should be reported to the police, any relevant professional body and the Barring section of the Disclosure and Barring Service as appropriate. There is a legal duty to refer any person who has been permanently removed from regulated activity because they have harmed or posed a risk of harm to a child or vulnerable adult to the Disclosure and Barring Service.

Once a suitability decision has been made, People Services will hold the risk assessment as a record; the Manager must not keep specific details of an individual's criminal record on file - this would be in breach of the Data Protection Act as Disclosure information is provided for the purpose of making a decision on suitability to be recruited to or continue in a specific post and once the decision has been



made, the Disclosure certificate must be destroyed within six months (DBS Code of Practice).

### **13. Subjects of criminal record checks**

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Applicants for employment or voluntary work will be informed at the earliest opportunity, usually at the application stage, but no later than at the interview, that a criminal record check will be requested prior to an offer of appointment and made aware of the DBS Code of Practice and the Council's Policy on the Recruitment of Ex-offenders (Appendix C) via a link to these documents online or a hard copy supplied on request.

### **14. Disputes**

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If an applicant on receipt of their Disclosure certificate, disputes the accuracy of the criminal record information included, they must raise this with the DBS directly who will then confirm to the Council in writing that the Disclosure has been disputed. The Council will abide by DBS advice in this situation, which is not to make a suitability decision without discussing the information with the Disclosure subject.

### **15. Responsibility for compliance with DBS Code of Practice**

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All employees involved in the process of requesting Disclosure information, countersigning forms and/or receiving Disclosure information will have responsibility for understanding and complying with the DBS Code of Practice. Failure to do so will be treated as a very serious matter and may result in disciplinary action.

### **16. Responsibility - Managers/ Headteachers**

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All Managers/Headteachers are responsible for ensuring the criminal record checks applicable to their employees and volunteers are carried out and repeated as required by this policy.

All blank DBS forms must be stored securely and only issued to potential employees or volunteers.

Managers/Headteachers must ensure they or their staff undertaking checking of identity documents as part of the criminal record checking process, carry out these checks according to the instructions within the form to ensure identity of the individual is verified to the standard required by the DBS.

### **17. Responsibility - People Services**

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Exception reports will be run on a monthly basis from the Employment Services database to ensure all staff in posts requiring a criminal record check have a valid disclosure and to issue reminders to employees and their Managers of three-yearly renewals. Status checks will be repeated on an annual basis for all those registered with the DBS Update Service.

### **18. Responsibility - Employees/ Volunteers**

---

All employees and volunteers are responsible for ensuring the criminal record checks applicable to their role have been carried out and are repeated as required by this policy. Failure to comply with a request to undertake a DBS check will make the employee liable for disciplinary action and possible dismissal.

All employees and volunteers are responsible for completing their DBS form and producing the required identity

documents and their Disclosure certificate on receipt in a timely fashion. They are responsible for registering with the DBS Update Service at their next DBS renewal date and maintaining that registration for the length of their employment or volunteering with the Council.

## **19. Declaration of Criminal Offences and Barred Status**

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All employees must inform their Line Manager immediately of any conviction for a criminal offence during their employment. Minor road traffic and parking offences do not need to be reported but a confirmed or potential conviction which has resulted or may result in a driving suspension/ban must be notified to the Line Manager. Failure to do so will make the employee subject to disciplinary action and possible dismissal.

Employees in roles requiring a criminal record check must in addition to notifying any convictions, also inform their Line Manager immediately if they are cautioned for a criminal offence or given a reprimand or final warning or if they are barred or disqualified from working with children or vulnerable adults or are subject to sanctions imposed by a regulatory body relating to work with vulnerable groups. Failure to notify this information will make the employee subject to disciplinary action and possible dismissal.

Employees in roles requiring a criminal record check, who undertake paid or voluntary work for another employer where they are in contact with vulnerable groups, must inform their Line Manager if they are subject to a disciplinary investigation, suspended or dismissed by their other employer as the result of an allegation of misconduct or gross misconduct in relation to children or vulnerable adults. Failure to do so will make the employee subject to disciplinary action and possible dismissal.

## **20. DBS Umbrella Service**

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Requests by organisations to use the Council's umbrella service for DBS disclosures will only be approved where the organisation has satisfied the lead counter signatory that the organisation will be entitled to request disclosures under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

Self-employed individuals cannot register with the umbrella service to obtain Disclosures on themselves as it is not appropriate for an individual to take a suitability decision on themselves.

Umbrella service requests will only be considered where additional checks can be processed within the existing staffing resources of Employment Services.

All organisations using the umbrella service must sign an agreement that they will abide by the DBS Code of Practice and the Council's guidelines for umbrella organisations.

All approved organisations will be placed on a list held by Employment Services, which will be reviewed on an annual basis by the lead counter-signatory. A charge will be made to cover administrative costs for this service and reviewed annually.

The Council reserves the right to refuse a request to process a DBS form under its umbrella service if there is concern over the eligibility of the position for the check.

Organisations using the Council's umbrella service may only request blank forms from Employment Services and must not obtain these from any other source.

## **21. Contractors**

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External sports clubs/organisations/businesses wishing to hire Council premises - schools, leisure centres, etc -

or asking schools or other Council services to distribute leaflets advertising their sessions, must meet the minimum operating standards below, either by achieving the East Riding Club Accreditation Scheme (ERCAS) for voluntary clubs or signing a business agreement if a private organisation:

- All coaches must have a current, valid DBS Disclosure.
- A minimum of one coach to have a Child Protection Training Certificate (at least Level 1).
- A minimum of one coach to be Emergency First Aid trained.
- All coaches to have a current, recognised National Governing Body (NGB) coaching qualification (at least Level 1).
- Public Liability Insurance.
- Annual risk assessments in place.

The school or service area must see evidence of the above standards rather than just accepting the word of the organisation/group. Accredited sports clubs can be checked at <https://www.eastriding.gov.uk/leisure/sport-and-play/information-for-sports-clubs/>

All external organisations hiring school premises for activities/events which will include children from the school should be subject to conditions as part of the letting agreement which allow the school to check identity and DBS checks of those who will be engaging in regulated activity with children. Ofsted will regard any activity involving children from the school taking place on school premises as part of the extended schools provision and therefore the individuals involved will need to be included in the school's Single Central Record.

Contractors on school sites, eg builders, plumbers, surveyors, play area inspectors, etc will only be eligible for a Disclosure if they meet the frequent/intensive/overnight criterion for contact with children on the same school site, so someone who visits different schools frequently but not the same one is not carrying out regulated activity. Where a contractor is not eligible for a Disclosure, safe working practice should be put in place to ensure the contractor is not given unsupervised access to children.

As part of the procurement process for a service or works where the contractor will provide staff who could potentially be undertaking regulated activity (under either 2009 or 2012 definitions), the Manager or school undertaking the procurement exercise must first determine whether the situation will be regulated activity or not (in conjunction with advice from Employment Services) in advance of issuing the quotation or tender documentation to potential suppliers, so that relevant terms and conditions requiring DBS Disclosures can be included where applicable. Where DBS Disclosure is required, the terms and conditions should ensure contractors (and any sub-contractors) will recruit staff to work on the contract to a standard of safeguarding equal to or exceeding that used by the Council, and should include as a minimum:

- Recruitment Policy vetted by Employment Services.
- What will constitute acceptable evidence of DBS checks having been carried out.
- Validity period of Disclosure certificates under the contract of three years or less.
- Requirements for re-checks every three years or more frequently.

- Any requirements for staff to carry with them evidence of DBS check, eg confirmation letter.

For example, contracts for drivers of school transport vehicles will require external companies to supply drivers who will be undertaking regulated activity under both 2009 and 2012 definitions. As part of the terms and conditions of the contract, the Council will require the company to provide evidence of the DBS checks carried out on its drivers - a list of full names, DBS Disclosure certificate number, certificate date and issuing Registered Body, and a signed statement by a senior company official that they have checked all the named individuals and they are suitable to work with children in the role of school transport driver. Disclosures will be deemed valid for three years and re-checks required every three years, in line with the requirements for Council employees.

Many smaller, local companies use the Council as an umbrella body to obtain their DBS Disclosures and the agreement signed for this purpose includes the provision that where an individual is being checked to assess suitability to carry out regulated activity for East Riding of Yorkshire Council, the disclosure result will be shared to allow both the Council and the organisation to reach a suitability decision on the individual. This allows confirmation of the accuracy of lists provided by companies to schools and service areas and consideration of the full Disclosure information in a situation where a criminal record is disclosed.

Depending on the individual contract situation, and factors such as existing information sharing arrangements, reputability of the company from Council experience, all named individuals or a random sample could be required (with their consent) to produce their copy

of the Disclosure certificate to verify number and date, or the contract could as standard include the provision that the Council reserves the right to ask for a random sample of employee's Disclosure certificates to verify the information supplied and the quality of suitability decisions taken by the organisation.

While contractors can be made aware of the Council's umbrella service to obtain their Disclosures, it should not be a condition of the contract that they are required to use this service. However, for self-employed individuals or sole traders, this can be a stipulation of the procurement process as the Council will need to take the suitability decision in these cases with the alternative that the Council will need to see the individual's Disclosure certificate (and if dated prior to 10 September 2012, seek verification that no additional information was supplied under separate cover from the Registered Body who requested it).

Contractors should be made aware of the requirement for a DBS Disclosure in the initial procurement documentation and that evidence of checks will be needed prior to award of any contract, but that expenditure in obtaining Disclosures is at their risk as they may not be successful in their contract bid, and the Council will not be liable for an expense relating to Disclosure costs.

A named Council Officer must be responsible for monitoring the contract, auditing records and carrying out spot checks to ensure only the named individuals are working on the contract.

The Service Manager or school undertaking procurement should consult Employment Services regarding appropriate record keeping for their exercise to ensure all Disclosure records are kept centrally, to allow cross-referencing of records for the same

contractor if more than one contract is held.

## **22. Policy Implementation**

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The policy will be implemented by:

- Use of the Criminal Record Checks Procedure to ensure compliance with the Council's legal obligations under the relevant legislation.
- Ensuring that all Managers responsible for the recruitment and selection of employees and volunteers are aware of this Policy and Procedure and understand their responsibilities for implementation.
- Providing training for Managers on the safeguarding issues arising during recruitment and selection, via the existing two-day course with a requirement that at least one member of every interview panel has attended training.
- Use of IT to provide the central record-keeping and reporting available on DBS check compliance and to prompt renewals.
- Including a statement on the individual responsibility to ensure criminal record checks are undertaken and repeated as required in all Statements of Main Terms of Employment.
- Managers and employees found to be in contravention of this policy will be subject to disciplinary action.

## **23. Financial Implications**

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The cost of DBS disclosures undertaken as part of the recruitment process or in ongoing monitoring of employees (£40 for enhanced disclosures as of October 2019) will be borne by the recruiting/employing

section or school. Where a contracted employee or casual worker in a post requiring a criminal record check has registered with the DBS Update Service and consented to ongoing Status checks, thereby removing the need for three-yearly renewal of their disclosure, they will be reimbursed on an annual basis the Update Service fee (£13) on confirmation by People Services of continued registration. Managers/ Headteachers must ensure their budgets include these pressures.

Applicants to join the Council's supply teaching and supply school support staff lists will be required to pay the fee for their DBS disclosure and any DBS Update Service fees.

DBS checks for volunteers are free of charge. The DBS definition of a volunteer is:

'a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative.'

Foster parents and those undertaking work placements do not qualify as volunteers.

It is the responsibility of the Manager or school requesting the check to ensure that the DBS form is clearly marked with the post title including the word 'volunteer', eg 'volunteer helper in class' before issue and the appropriate box crossed to ensure volunteer checks are processed free of charge. Failure to do this will make the Manager/school liable for payment of any charge made.

Anyone undertaking voluntary activities for the Council who does not qualify for a free of charge Disclosure under the DBS definition of a volunteer, may be asked to

pay the fee at the discretion of the section/school concerned, eg individuals who wish to undertake voluntary work specifically to gain a qualification or work experience to obtain employment.

## **24. Environmental Impact**

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East Riding of Yorkshire Council is committed to conducting criminal record checks in the most environmentally friendly way taking into consideration the resources available, and in pursuance of this aim is working towards electronic transfer of check data to the DBS.

## **25. Evaluation**

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This policy will be reviewed as part of a two-yearly rolling programme of policy review by People Services or in line with legislative changes, whichever is the earlier.

Effectiveness of this policy will be monitored at review against compliance levels with legislative requirements and with regard to any contributory element of the criminal record checking procedures being identified in safeguarding issues arising during the review period.

## Criminal Record Checks Procedure

- (a) All disclosure application forms for recruitment purposes must be obtained from the Disclosure Service within Employment Services. Forms have a unique bar code and cannot be photocopied to obtain additional copies.
- (b) The form must be completed to indicate the relevant workforce that the individual will work/volunteer with - Children, Adults, Children and Adults - and the position/role that the individual is being checked for (clearly stating if this is a voluntary role) prior to issue of the form to the individual for completion. As the position/role recorded on the form is used to check eligibility of the role for a check, it is important that meaningful information is provided which explains the type and level of contact with vulnerable groups that the individual will have (this may mean that you do not use the post title of the individual, but instead state their relevant duties), eg personal care for adults, advice and guidance to children, volunteer helper in classroom, transport of children, etc.
- (c) If the form is for a volunteer, a Volunteer Declaration, included in the form inserts (and available on the Council's intranet) must be completed to confirm the individual meets the DBS definition of a volunteer in order to qualify for a free of charge Disclosure. The declaration must also be completed to indicate whether or not the volunteer is supervised or unsupervised in order to ensure the correct DBS check is requested with or without Barred List checks.
- (d) Disclosure application forms should normally be issued after interview to the preferred candidate only. In exceptional circumstances, they can be issued prior to interview for candidates to bring their completed forms to interview and then those for unsuccessful candidates to be securely destroyed when the interview result is known (the procedure must be explained to all candidates).
- (e) A Council Officer, designated member of staff at an East Riding school, or a member of staff at an East Riding Customer Service Centre must complete the required check of identity documents as the final stage of disclosure application form completion. This must be after the applicant has completed all their parts of the form and the form must not be returned to the applicant after the document check has taken place. This person as part of the document check must also complete the Documentary Evidence sheet included in the form inserts (and available on the Council's intranet) to confirm which documents have been seen.
- (f) Identity checks will be conducted in compliance with DBS requirements. Guidance on checking documents to ensure they are genuine is available on the intranet. Any queries on acceptable documents or form completion should be raised with the Council's Disclosure Service on 01482 391219 or by emailing [disclosure.service@eastriding.gov.uk](mailto:disclosure.service@eastriding.gov.uk)
- (g) Once the identity document check is complete, the disclosure application form must be passed securely to the Disclosure Service in People Services for logging on to a central database. The name of the employing Manager to be informed of the result of the check and a cost centre to charge the cost of the check to must be enclosed.

- (h) The Disclosure Service will check the form for correct completion and for eligibility of the post to be checked and raise queries with the recruiting Manager/school or directly with the applicant as appropriate. Incorrectly completed forms will be referred back to the employing Manager/school if the problem cannot be rectified by phone contact so that the Manager is aware of the delay.
- (i) The form will then be countersigned and sent to the DBS.
- (j) Any disclosure, which is still outstanding 60 days after being sent to the DBS, will be chased with the DBS and Local Police by the Disclosure Service until complete.
- (k) Disclosure certificates are returned directly to the applicant only. Applicants are provided with instructions and an addressed envelope in blank forms to ask them to promptly provide their Disclosure certificate either directly to the Disclosure Service or, for school positions, to take their Disclosure into the school for a certified copy to be made and forwarded to the Disclosure Service. On receipt, the result will be recorded on the central database.
- (l) Where the result of a disclosure is clear, the result will be communicated to the employing Manager by letter from the Disclosure Service detailing the issue date and disclosure number of the disclosure.
- (m) Where a Disclosure certificate contains criminal record information, a confirmation letter will still be issued, but the information will be communicated by telephone to the employing Manager by an Officer from the Disclosure Service and a

record kept of the person informed and the date. The employing Manager must then discuss with the applicant or employee the offences shown on the Disclosure to get a full picture of the circumstances involved and any mitigating circumstances.

- (n) The employing Manager should then contact a People Services Business Partner for advice. A risk assessment must be completed and a decision based on this taken on whether to recruit or continue to employ the applicant. The risk assessment, once authorised by the relevant Director will be securely stored by the Disclosure Service - the recruiting Manager must not retain specific details of the offences once the recruitment/employment decision has been made.
- (o) Disclosure copies will be stored securely by the Disclosure Service for no more than six months and then disposed of securely.

**Darren Stevens**  
**Executive Director of Corporate Resources**

**Contact Officer**  
 Lynsey Linton, Director of People Services Ext 1100  
 Elaine Bates, Principal Employment Services Officer (Transactional) Ext 1208

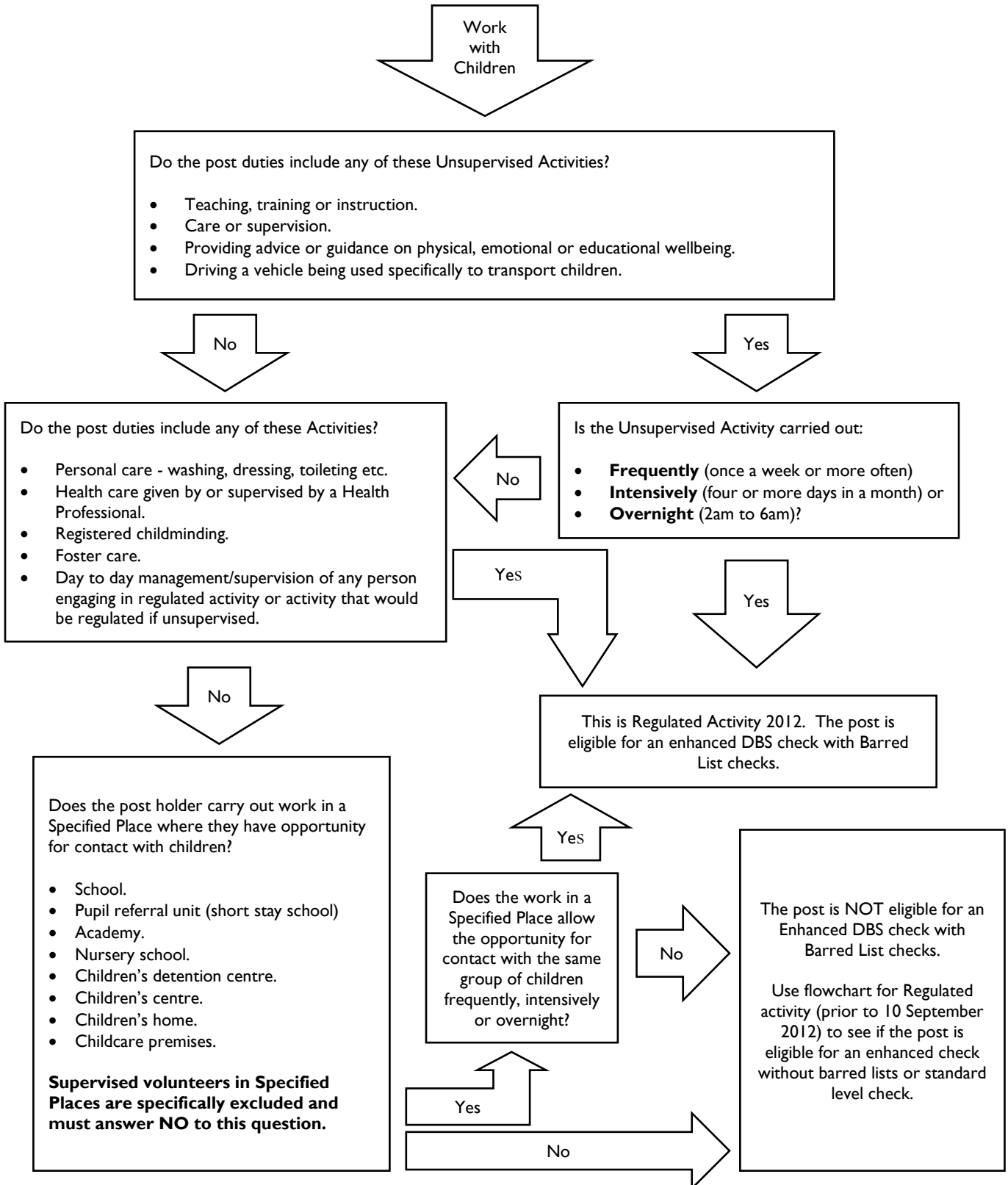
**Background Papers**  
 Appendix 1 - Flowcharts to assist in identifying posts eligible for a DBS check and portability  
 Appendix 2 - Glossary of Terms  
 Appendix 3 - Policy on the recruitment of ex-offenders  
 Appendix 4 - Policy on the secure storage, handling, use, retention and disposal of criminal record disclosures and disclosure information



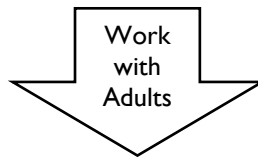
**APPENDIX I**

**Flowcharts**

**Flowchart to determine eligibility of a post for an Enhanced DBS check with Barred List checks (from 10 September 2012)**

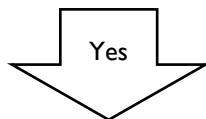


## Flowchart to determine eligibility of a post for an Enhanced DBS check with Barred List Checks (from 10 September 2012)

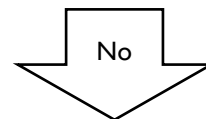


Do the post duties include any of these **Activities or day to day management or supervision of a person undertaking these Activities?**

- Health care given by or supervised by a Health Professional.
- Personal care
  - Physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails provided because of an adult's age, illness or disability (hairdressers excluded and providers of manicures/beauty treatments unless needed for health reasons).
  - Prompting or supervising 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 that prompting or supervision.
  - Training, instructing or offering 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.
- Social work required in connection with any health care or social services to an adult who is a client or potential client.
- Assistance with cash, bills and/or shopping because of an adult's age, illness or disability if that includes managing the person's cash, paying their bills or shopping on their behalf.
- Assistance in the conduct of a person's own affairs, eg power of attorney.
- Conveying - a person who transports an adult because of their age, illness or disability to or from their place of residence and a place where they have received/will receive health care, personal care or social care or between places where they have/will receive such care (not including family, friends or taxi drivers).



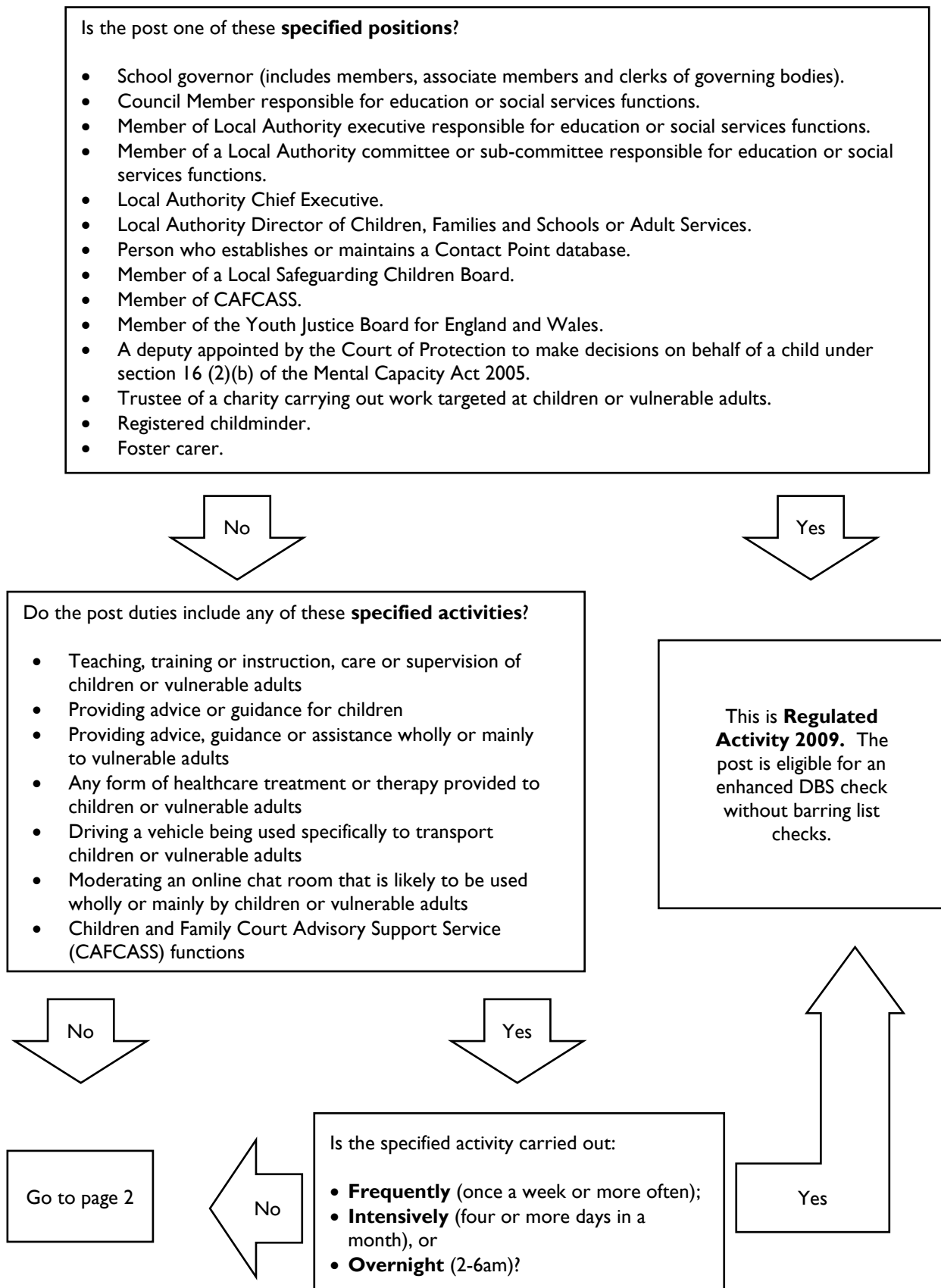
This is Regulated Activity 2012. The post is eligible for an enhanced DBS check with Barred List checks.

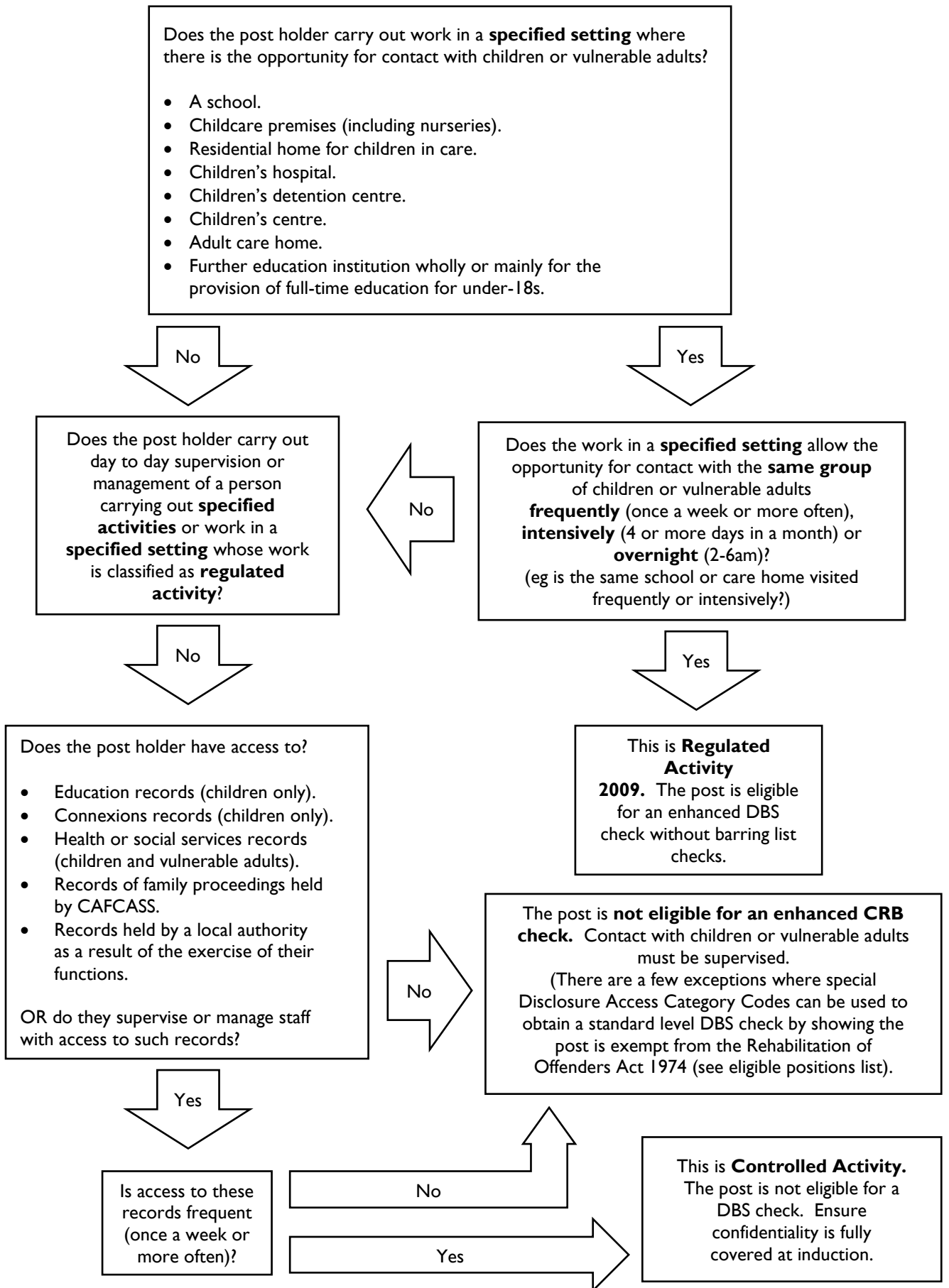


The post is NOT eligible for an Enhanced DBS check with Barred List checks.

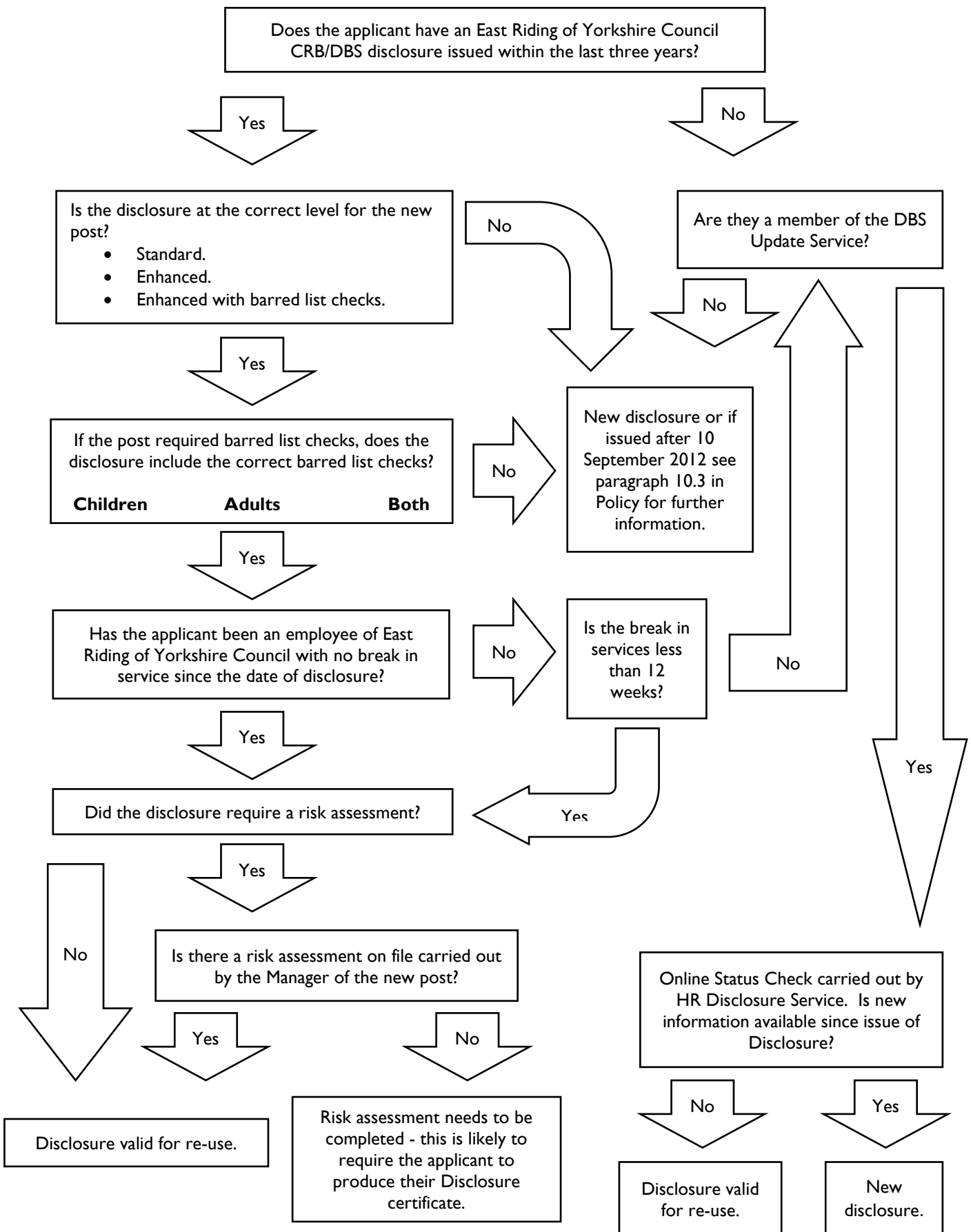
Use flowchart for Regulated Activity (prior to 10 September 2012) to see if the post is eligible for an enhanced check without barred lists or standard level check.

## Flowchart to determine eligibility of a post for a DBS check (criteria prior to 10 September 2012)





**Flowchart to determine validity of a CRB/DBS disclosure for re-use**



**APPENDIX 2**

**Glossary of Terms**

**2009 Definition of regulated activity**

Below is the summary definition, please also see Appendix A for a flowchart which covers the full 2009 criteria.

Involves contact with children or vulnerable adults and is:

<p>Of a <b>specified nature</b> (eg teaching, training, care, supervision, advice, treatment, website moderation or transport) <b>AND</b></p>	<p>Takes place:</p> <ul style="list-style-type: none"> <li>• <b>frequently</b> (once a week or more often, once a month or more for healthcare and personal care);</li> <li>• <b>intensively</b> (on four or more days in a month), and/or</li> <li>• <b>overnight</b> (between 2-6am).</li> </ul>
<p>In a <b>specified place</b> (eg schools, children’s homes, care homes, prisons, sheltered housing etc) <b>AND</b></p>	

Also includes fostering/childcare and certain defined ‘office holders’ (eg Executive Director of Children, Families and Schools, trustees of children’s charities, school governor).

No distinction is made between paid and voluntary work.

Controlled Activity (now abolished) was a tightly defined category of activities including:

- Frequent or intensive support workers in general health settings, the NHS and further education (eg cleaner, caretaker, catering staff, receptionist).
- Those working for Local Authorities with frequent or intensive access to sensitive records about children or vulnerable adults.
- Frequent or intensive support work in adult social care settings (eg day centre cleaners and those with access to social care records).

**Police National Computer**

The national computer system used by all police forces to hold details of ‘recordable’ offences convictions, cautions, reprimands and final warnings.

## APPENDIX 3

### Policy on the Recruitment of Ex-Offenders

#### 1. Background and Scope

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This policy applies to all applicants for employment or volunteering opportunities and existing employees and volunteers of the Council including school-based employees where it has been adopted by the respective school governing bodies.

The policy outlines the Council's commitment to complying with the Rehabilitation of Offenders Act 1974 while also safeguarding those children and vulnerable adults for whom it has a duty of care by using appropriate criminal record vetting procedures during recruitment and employment or use as a volunteer.

East Riding of Yorkshire Council is committed to promoting equality and diversity in its workforce and recognises the wide range of contribution that can be made by all sections of the population, including those with a criminal record who may be reluctant to apply for work (paid or unpaid) with the Council due to concerns over disclosure of their offence(s).

The policy aims to ensure that criminal record information is used in a fair and consistent way to support safe recruitment practice but avoid discrimination against ex-offenders in line with the corporate priority:

- Supporting vulnerable people, reducing inequalities

#### 2. Policy Statement

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A criminal record will only bar an individual from working for East Riding of

Yorkshire Council if the circumstances and background of their offence(s) are incompatible with the duties of the post.

#### 3. Use of Criminal Record Information

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All criminal record information will be dealt with in accordance with the DBS Code of Practice (a copy of which will be supplied on request).

All information provided by an applicant/employee/volunteer or in a criminal record Disclosure will be confidential and only shared with those directly involved in the suitability decision. The information will be considered only in relation to suitability for the post applied for/held.

Applicants, employees and volunteers will only be asked to disclose convictions which are spent under the Rehabilitation of Offenders Act 1974 where the post they hold or are applying for is exempt from this legislation.

Where a post is exempt from the Rehabilitation of Offenders Act, 1974 by virtue of the Rehabilitation of Offenders Act, 1974 (Exemptions) Order 1975, the Council will require applicants for the post and employees or volunteers holding the post to consent to a criminal record Disclosure as part of pre-employment checks and ongoing monitoring once in post. Such criminal record Disclosures will include details of cautions, reprimands, final warnings and convictions held on the Police National Computer and may include such local police information as the Police believe to be relevant.

Applicants will be informed at the earliest opportunity, usually at the application stage, but no later than at the interview, that a criminal record Disclosure will be required prior to an offer of appointment and made aware of the existence of this

policy (a copy will be provided on request).

Self-disclosure of criminal record information is requested in application forms but will only be considered by recruiting Managers if the applicant is the preferred candidate for the post. In this situation, the recruiting Manager may wish to discuss the circumstances of the offence(s) declared to determine provisional suitability and then pre-employment checks will be undertaken, (which, for posts exempt from the Rehabilitation of Offenders Act 1974, will include a criminal record Disclosure to confirm the information provided) to reach a final recruitment decision.

Any information revealed in a criminal record Disclosure certificate will be discussed with the applicant/employee/volunteer prior to a recruitment/employment decision being made.

Existing employees who are found to have an undisclosed criminal record will not be dismissed as a matter of course. An investigation of the situation will be undertaken under the Council's Disciplinary Policy to determine appropriate action.

#### **4. Policy Development Including Consultation**

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This Policy has been developed by People Services in consultation with the Corporate Management Team, Organisational Development, East Riding Supply Service, East Riding Safeguarding Children Board, the Council's Youth Forum and recognised Trade Unions to ensure compliance with legislation.

The contact officer welcomes feedback on this policy from all interested parties, to be considered when the policy is next reviewed or to prompt a review.

#### **5. Links with other Policies**

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- Criminal Record Checks Policy.
- Policy on the secure storage, handling, use, retention and disposal of criminal record disclosures and disclosure information.
- Recruitment Policy and Procedure.
- Volunteer Recruitment Guidelines.

#### **6. Desirable Outcomes**

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The Council uses criminal record information in a fair and consistent way to support safe recruitment practice but avoids discrimination against ex-offenders.

#### **7. Policy Implementation**

---

The policy will be implemented by:

- Use of the Criminal Record Checks Policy and Procedure to ensure compliance with the Council's legal obligations under the relevant legislation.
- Ensuring that all Managers responsible for the recruitment and selection of employees and volunteers are aware of this Policy and Procedure and understand their responsibilities for implementation.
- Providing training for Managers on the safeguarding issues arising during recruitment and selection, via the existing two-day course with a requirement that at least one member of every interview panel has attended training.
- Managers and employees found to be in contravention of this policy will be subject to disciplinary action.



## **8. Financial Implications**

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There are no financial implications.

## **9. Environmental Impact**

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There is no environmental impact.

## **10. Evaluation**

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This policy will be reviewed as part of a two-yearly rolling programme of policy review by People Services or in line with legislative changes, whichever is the earlier.

Effectiveness of this policy will be monitored at review against compliance levels with legislative requirements and with regard to any complaints made by ex-offenders in relation to this policy during the review period.

**Darren Stevens**  
**Executive Director of Corporate Resources**

### **Contact Officer**

Lynsey Linton, Director of People Services Ext 1100  
Mike Bruschi, Service Development Officer Ext 1296

## APPENDIX 4

### Policy on the Secure Storage, Handling, Use, Retention and Disposal of Criminal Record Disclosures and Disclosure Information

#### 1. Background and Scope

This policy applies to all employees of the Council including school-based employees where it has been adopted by the respective school governing bodies.

The Policy outlines the Council's commitment to complying with the Data Protection Act 1998, the Police Act 1997 and the Disclosure and Barring Service (DBS) Code of Practice in relation to the storage, handling, use, retention and disposal of criminal record Disclosure information, which the Council uses in pre-employment vetting of prospective employees and volunteers and in ongoing monitoring of existing employees and volunteers to support the Council's commitment to safeguarding those children and vulnerable adults for whom it has a duty of care.

The policy aims to ensure that criminal record information is used in a fair and consistent way and stored, retained and disposed of securely, to support safe recruitment practice in line with the corporate priority:

- Supporting vulnerable people, reducing inequalities.

#### 2. Policy Statement

East Riding of Yorkshire Council is committed to the fair and consistent use of criminal record Disclosure information in recruitment/employment decisions and to ensuring Disclosure information is securely stored and disposed of and that access is limited to those directly involved in suitability decisions.

#### 3. Storage and Access

Disclosure certificates or copy Disclosures will be kept securely by Employment Services in locked, non-portable, storage containers with access strictly controlled and limited to those entitled to see them as part of their duties.

Limited information about Disclosures (but not including any details of criminal offences) will be stored on the Council's People Services database to maintain a record of checks completed. This will include:

- Individual's name and address.
- Date of birth and National Insurance number.
- Date of request and receipt of Disclosure.
- Disclosure certificate number.
- Post for which Disclosure was requested.
- Level of Disclosure.
- Barred list checks included (if applicable).
- Suitability decision taken.

Risk assessment forms recording the result of a recruitment/employment/volunteering decision will be stored electronically on a secure networked IT drive by Employment Services with access available to named staff only.

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those authorised to receive it in the course of their duties. A record is maintained of all those to whom Disclosure certificate information has been revealed. It is a criminal offence to pass Disclosure information to anyone who is not entitled to receive it.

#### **4. Usage**

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Disclosure information is only used for the specific purpose for which it was requested and for which the applicant/employee/volunteer's full consent has been given - determining suitability for recruitment/employment/volunteering in regulated activity (under either 2009 or 2012 definitions) or in a post exempt from the Rehabilitation of Offenders Act 1975 by virtue of the Exceptions Order 1975.

#### **5. Retention**

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Disclosure certificates or copies of Disclosures are retained for a maximum of six months from date of receipt to allow a recruitment/employment/volunteering decision to be made and to allow for consideration and resolution of any disputes or complaints.

In exceptional circumstances, if it is considered necessary to retain a certificate for longer than six months, the DBS will be consulted as well as considering the Data Protection Act and Human Rights of the individual before doing so.

Information about Disclosures on the Employment Services database as detailed in section 3 and risk assessment forms will be retained for the length of employment/voluntary work of the individual plus an additional six years for consistency with the retention of personal files.

#### **6. Disposal**

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Once the retention period has elapsed, all Disclosure certificates and copies of Disclosures will be destroyed by secure means, ie by shredding, pulping or burning. While awaiting destruction, Disclosure certificates or copies of Disclosures will

not be kept in any unsecure receptacle (eg waste bin or confidential waste sack).

Information about Disclosures on the Employment Services database and risk assessment forms will be securely deleted from these IT systems at the end of the retention period.

#### **7. Copies of Disclosure Certificates**

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A photocopy of a Disclosure will only be made in order to pass the result of a check from the applicant to the Disclosure Service where a Council/school officer has certified the copy as genuine or in other exceptional circumstances, eg for use in a Disciplinary hearing.

Any photocopy, image or representation of the contents of a Disclosure will be treated as if were an original Disclosure certificate and be subject to the same conditions of storage, access, use, retention and disposal.

#### **8. Acting as an Umbrella Body**

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As part of the approval process for organisations wishing to use the Council's umbrella service to undertake criminal record Disclosure checks, an agreement must be signed to confirm that the organisation will comply with the DBS Code of Practice and that they will handle, use, store, retain and dispose of Disclosure information in full compliance with the Code and this policy. To assist organisations in meeting this requirement, a sample policy will be supplied for the organisation to use or adapt for this purpose.

#### **9. Policy Development Including Consultation**

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This Policy has been developed by People Services in consultation with the Corporate Management Team,

Organisational Development, East Riding Supply Service, East Riding Safeguarding Children Board, the Council's Youth Forum and recognised Trade Unions to ensure compliance with legislation.

The contact officer welcomes feedback on this policy from all interested parties, to be considered when the policy is next reviewed or to prompt a review.

## **10. Links with other Policies**

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- Criminal Record Checks Policy.
- Policy on the Recruitment of Ex-offenders.
- Recruitment Policy and Procedure.
- Volunteer Recruitment Guidelines.

## **11. Desirable Outcomes**

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The Council uses criminal record information in a fair and consistent way and stores, retains and disposes of it securely.

## **12. Policy Implementation**

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The policy will be implemented by:

- Use of the Criminal Record Checks Policy and Procedure to ensure compliance with the Council's legal obligations under the relevant legislation.
- Ensuring that all Managers with access to Disclosure information are aware of this Policy and Procedure and understand their responsibilities for implementation.
- Managers and employees found to be in contravention of this policy will be subject to disciplinary action.

## **13. Financial Implications**

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Suitable secure storage and disposal facilities are currently in place within

People Services. The only financial impact would be future replacement or upgrade of these.

## **14. Environmental Impact**

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East Riding of Yorkshire Council is committed to conducting criminal record checks in the most environmentally friendly way taking into consideration the resources available, and in pursuance of this aim will use electronic storage methods and environmentally friendly disposal methods as the preferred option.

## **15. Evaluation**

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This policy will be reviewed as part of a two-yearly rolling programme of policy review by People Services or in line with legislative changes, whichever is the earlier.

Effectiveness of this policy will be monitored at review against compliance levels with legislative requirements and with regard to any incidents in relation to fair use, secure storage or disposal of Disclosures during the review period.

**Darren Stevens**  
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