

Safer Employment and DBS Policy

For employees, volunteers, and job applicants

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1 Introduction and terms of reference

Surrey County Council is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all staff and volunteers to share this commitment.

The Council is committed to the fair treatment of its employees, potential employees, and volunteers, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background. The Council will treat all applicants for employment fairly, and will not discriminate unfairly against job applicants on the basis of a conviction or other information revealed.

The Council will check the criminal records of job applicants for roles which involve working with children and/or vulnerable people prior to their appointment. Once an employee has been appointed into a relevant role, their record will be checked every 3 years in order to maintain the currency of the information. The Council will observe all relevant requirements set in legislation and, wherever possible, good practice recommendations made by the Disclosure and Barring Service (DBS).

References to 'convictions', 'offences' and 'positive disclosures' within this policy will include cautions, final warnings, reprimands, the inclusion in 'barred' lists, and any other information that the DBS considers to be pertinent to the selection/continued employment of staff and volunteers whose work includes relevant regulated activities. When reference is made to DBS 'checks' or 'clearances', it will include Enhanced DBS checks, and checks for the inclusion in barred lists, as may be appropriate for a role/set of activities.

Arrangements and requirements for volunteers and job applicants will closely mirror those that apply to Council officers, however some provisions will not be identical across the three groups.

2. Scope

This policy applies to Surrey County Council employees, including those engaged on 'bank' contracts, and applicants for vacancies within the Council, as well as the Surrey Fire and Rescue Service. This policy applies to directly-employed Council staff working in schools (commercial services), however it does not apply to teachers and school support staff working in schools under the direction of a Governing Body, nor to school Governors.

It is important to note that this policy only applies to individuals who are, or wish to be, directly engaged by the Council to carry out work duties and voluntary activities on its behalf. The policy does not cover contractors or agency workers.

Relevant sections of this policy will apply to volunteers carrying out regulated activity on behalf of the Council. Where the policy refers to 'employees' or 'staff', relevant provisions will apply to volunteers and job applicants as far as reasonably practicable.

This policy will not ordinarily apply to Members of the Council. The Council's Democratic Services department will oversee, and provide advice on, any safeguarding requirements that may apply to specific Member appointments (e.g. to Committees with responsibility for fostering and corporate parenting).

It is important to note that this policy only applies to posts and people whose duties include 'regulated activities' as defined by relevant legislation¹. The Council will only perform DBS checks on volunteers and employees in/applicants for roles that require DBS clearance, and only to the level of clearance required for the safe and effective performance of the duties of each role. The recruitment and selection of candidates for positions which do not include regulated activities is covered by the Council's Resourcing/Recruitment Policy and associated guidance. The Safer Staffing Team will be able to assist with queries on the type and level of checks that may be appropriate for a particular set of work duties.

The Council expects hiring managers to assess the requirements of each vacancy and take appropriate steps to attract and select the best candidates. The Safer Recruitment model has been designed around safeguarding needs- applying it comprehensively to posts that do not require a DBS clearance is likely to be disproportionate and counter-productive. However, a manager may decide that certain elements of the model may be relevant to the recruitment or selection process for a vacancy that does not require a DBS clearance. HR and the Recruitment Team will be able to advise on potentially appropriate selection methods.

In designing any selection process, managers need to be aware that certain posts/functions are subject to checks, restrictions, or other stipulations that are unrelated, or additional, to any DBS requirements. Examples of such stipulations would include politically restricted posts, functions that require an employee to access secure Government servers or databases, or activities that come with a statutory requirement for specific qualifications and/or professional registrations.

Guidance documents provide more detail on the process that will be followed in order to determine whether a role requires post holders to obtain DBS clearance and determine the level of that clearance. Additional advice is available from the Safer Staffing Team, Recruitment Team, and HR.

¹ The guidance documentation that supports this policy provides information on the process for determining whether a role requires a DBS clearance. The statutory definition of 'regulated activities' can be found in Schedule 4 of the Safeguarding Vulnerable Groups Regulations 2006, as amended by the Protection of Freedoms Act 2012.

2.1. Disqualification by Association

In addition to convictions and other information that is disclosed as part of a DBS check, the Childcare Act 2006 stipulates that an individual can be disqualified from certain types of work which involve interaction with children under the age of 8 as a result of 'living in the same household where another person who is disqualified lives or is employed'.

There exists no mechanism for an employer to carry out background checks on persons that may be living with one of its employees or job applicants. The Council requires individuals who engage, or wish to engage, in relevant work on its behalf to disclose any relevant information to their line managers or other appropriate Council officer.

The Department of Education issues detailed guidance on the types of roles that may be covered by disqualification by association requirements².

Individuals who have been disqualified from working with children may be able to apply to Ofsted for a waiver to allow them to work in a relevant capacity. The Council is not permitted to submit or endorse any such applications on behalf of its staff, volunteers, or job applicants.

The Council will explore redeployment options with any employees who declare that they are disqualified by association. However, failure to disclose relevant information may result in disciplinary action.

Further advice is available from the Safer Staffing Team.

3. Safer recruitment model

The Council's safer recruitment model revolves around four key themes.

- **Deterring unsuitable applicants** by using a clear commitment to safeguarding and a selection process that includes face to face interviews.
- **Rejecting unsuitable applicants** through scrutinising applications, reviewing reasons for leaving previous employment, exploring gaps in employment history, and assessing the competence and motivation of candidates at interview
- **Preventing unsuitable appointments** by ensuring that those involved in selection processes are appropriately trained, that informed judgments are made when a candidate discloses a conviction, and that pre-employment checks are carried out to a high standard.

² The relevant documents are available online on <https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006>

- **Preventing and detecting safeguarding risks through appropriate risk assessment**, ensuring adequate supervision of non-regulated activities that include employee contact with children and vulnerable adults, and reinforcing a culture of safety and responsiveness to the needs of the Council's vulnerable residents and service users.

The arrangements in this policy aim to ensure fair selection and employment processes which ensure that the Council can meet its commitment to safeguarding the well-being of its service users as well as its legal and social obligations with regards to the rehabilitation of offenders.

Records of recruitment processes and decisions will be kept for six months after the date of appointment of the successful candidate, at which point records relating to unsuccessful candidates will be deleted from the Council's systems and/or physically destroyed.

4 Key Responsibilities

The Recruitment Team can provide advice on how to deter unsuitable applicants. Hiring managers can ask the Recruitment Team to:

- Advise on the design and wording of advertisements so that these help deter those who may wish to harm the vulnerable. Adverts and other recruitment materials will include references to the Council's commitment to safeguarding and state that appropriate checks will be made, marked with Rehabilitation of Offenders Act (ROA) exemption if applicable.
- Ensure the online application process and any paper-based forms include content that:
 - reiterates the commitment of the Council to safeguarding
 - includes clear up to date job profiles
 - includes a field for applicants to disclose any past convictions
- Ensure the online application process and any paper-based forms include content that:
 - Requires applicants to provide reasons for leaving past employment
 - Notes that failure to disclose convictions is likely to result in disciplinary action which may culminate to sanctions up to and including dismissal
 - Outlines any exemptions from the requirements of the Rehabilitation of Offenders Act where appropriate
- Ensure that information sent to applicants clearly states whether a standard or enhanced DBS disclosure is required
- Seek references on a manager's behalf, providing a copy of the job description to the referee. If the applicant is not currently working in regulated activities, but has done so

in the past, a reference should be obtained from the relevant previous employer where possible.

- Provide template letters used to ensure the correct information is provided to the candidate prior to interview and when an offer of employment is made.

Managers will:

- Ensure appropriate checks are made on employees and job applicants whilst complying with the Rehabilitation of Offenders Act
- Make employees and applicants for employment aware of the recruitment of ex-offenders policy
- Take steps to encourage the timely renewal of the DBS clearance of employees, particularly those who are not at work when their current clearance requires renewal (e.g. someone absent on maternity leave, long-term sickness or a career break)
- Confirm professional qualifications/registration with relevant bodies and keep [paper and/or electronic] records of such confirmation.

Chairs of interview panels will:

- Check documentation as required to ensure that candidates are eligible to work. Only original documents will be accepted, with copies being taken and signed to confirm sight of the original.
- Maintain records in accordance with the provisions of this policy
- Make candidates aware at interview that any offer of employment would be subject to satisfactory clearances including DBS disclosure and employment references.
- Explore gaps in employment history directly with the candidate
- Apply the recruitment of ex-offenders policy when recruiting to posts that are not exempt from the Rehabilitation of Offenders Act requirements.

The safer staffing team will:

- Ensure that new appointees to roles that require a DBS clearance have obtained the appropriate level of clearance before commencing work
- Produce reminders to encourage the timely renewal of DBS clearances for employees in roles that require a DBS clearance and their line managers

- Maintain the relevant electronic databases.
- Review DBS disclosures

Applicants, staff and volunteers will

- Disclose any convictions, including unspent ones, when are applying for or occupying any position that has exemption from the Rehabilitation of Offenders Act. Any failure to disclose a relevant conviction will be dealt with under the provisions of the Council's Disciplinary policy and may result in the dismissal of the employee.

The HR&OD team will:

- Provide appropriate recruitment and selection training
- Ensure recruitment and selection material and contracts include required information

Heads of Service will:

- Apply safer recruitment practice and procedures
- In conjunction with the Safer Staffing Team, decide which posts require disclosure, the level of disclosure required and actions to take when a positive disclosure is received
- Appoint counter signatories where needed
- Arrange for funding of the required checks within their service area

Service or Designated counter signatories will

- Apply the procedures and make the final decisions on disclosures and their outcome. The role is to confirm the validity of an application for a DBS disclosure and check relevant documents

The Head of HR and Organisational Development is the Lead Counter signatory for SCC (excluding staff employed in schools under the direction of a Governing Body, agency workers, and other contractors) and will:

- Ensure that our safer recruitment practice and procedures comply with relevant legislation and national protocols
- Promote good practice within Surrey County Council and with our partners, and champion improvements where appropriate

- Lead on the continuous improvement of systems and processes around the recruitment and continued employment of staff undertaking regulated activities.

5 How to use the model

Job descriptions will be reviewed to ensure they are accurate and up-to-date and to check whether any risk assessments are required. For example, if the role involves working with confidential information, or potentially having unsupervised access to children or vulnerable adults, the risk assessment should set out what controls should be in place and provide topics to be explored in the interview.

Managers and employees participating in selection processes will take appropriate steps to maintain confidentiality as well as the security of sensitive personal information relating to candidates.

5.1 Checks before invitation to interview

Job applications for posts requiring DBS clearance will be scrutinised to:

- Check for gaps in employment
- Review reasons for leaving previous employment
- Ensure contact details for referees have been provided by the candidate. References will only be requested for candidates who have accepted a conditional offer of employment.

5.2 Interviews

5.2.1 Question design

Face to face interviews are mandatory for posts requiring a DBS clearance and will explore directly with the candidate

- Competence for the role
- Any gaps in their employment history
- Motivation and values
- Any convictions that the individual has shared – questions should only concern unspent convictions, unless the nature of the work and/or DBS clearance requirements warrant questions being asked about any kind of past convictions. It is legitimate for an employer to ask directly about an employee's previous convictions and, unless the position is exempt from the requirements of the Rehabilitation of Offenders Act, the employee does not have to disclose any convictions that are spent. Interview panels need to be prepared to have open and measured discussions on any offences that may be relevant to the position.

Direct and probing questions can be asked at interview, although care must be taken to avoid any questions that a candidate may view as discriminatory. Please contact the Recruitment Team if you are uncertain around the appropriateness of a proposed interview question. It is important to be diligent in ensuring that the right person is selected for the job and explore any areas where evidence and/or clarification needs to be provided, for example:

- any aspect of the applicant's background where there may be a weakness or lack of knowledge or experience;
- any qualifications that a candidate claims to have obtained should always be verified
- any information that appears to be incomplete (for example gaps between jobs).

It is important that satisfactory explanations for any gaps in employment are obtained. Interviewers must take care to ask any such questions in a tactful manner, and only seek to explore any potential issues from a safeguarding perspective.

“Warner style” questions may be used to help check the suitability of applicants to work with children. This approach, in addition to assessing previous experience, skills and qualifications, explores each candidate’s attitudes and motives to work with children.

Warner style questions ask about: -

- Why someone wants to work with children
- How they deal with difficult issues in relation to work with children
- How individuals ensure they maintain a professional working relationship with children and do not overstep the boundaries of their role

5.2.2 Document checks

At the interview, hiring managers will check and verify

- Identity documents
- Eligibility to work in the UK

They will ensure that documents are valid, current and original. Photocopies or documents printed from the Internet are not normally acceptable. Look for evidence of tampering and refer any queries or irregularities for the Service counter signatory to take up with the applicant.

Original documents will be scanned or photocopied. Any information on unsuccessful candidates will be securely maintained for a period of six months from the date of their interview and subsequently deleted and/or physically destroyed.

5.3 Checks before appointment

5.3.1 References

Two references covering the last three years must be obtained, including at least one from the current/most recent previous employer.

If the role is in social care and the applicant is not currently working with children or vulnerable adults, but has done so within the last five years, a reference should be obtained from the relevant previous employer.

References provide factual information to support appointment decisions, requests must ask for information on

- The candidate's suitability for the post
- The qualities and experience the candidate has
- Details of any disciplinary offences or concerns around the safeguarding of vulnerable individuals. Care and discretion will be exercised in formulating questions around, and/or basing hiring decisions on, disciplinary sanctions for actions/ or omissions that have no safeguarding implications- any disciplinary sanctions (e.g. formal warnings) that have expired will normally be disregarded.
- The reasons for a candidate leaving their previous employer
- The referee's relationship with the candidate.
- Any concerns around the suitability of the candidate for working with vulnerable individuals.

References should:

- Ideally be obtained from a line manager
- Be as complete as possible. If previous employers are only willing to provide the Council with confirmation of dates of employment and job titles, additional references should be sought from organisations that had employed the candidate in the more distant past (i.e. more than three years before their application) and/or credible individuals who are able to provide a character reference for the candidate.
- Be checked against application forms to verify dates of employment.
- Be followed-up by e-mails or telephone calls to the referees if management are concerned about a referee's authenticity or if further information or clarification are needed. Managers need to be aware of the data protection implications of any such contact; further advice is available from the Recruitment Team and HR.
- Relate directly to the candidate's application for the specific vacancy; testimonials and open references are not normally acceptable, but may be followed up [with the candidate's permission] with reference requests to their authors.

- Where a candidate has been self-employed and/or doing work that is not subject to relevant reporting arrangements (e.g. freelance translation, equity/derivative trading on own account, management of a small business owned by their own family), the hiring manager should discuss referencing with the candidate and arrange to identify appropriate referees, potentially including clients and/or those who may be able to provide a character reference.

Managers should keep details of any contact with referees.

In deciding whether to proceed with an appointment, hiring managers should assess relevant risks in terms of incomplete information, details of any past disciplinary allegations/offences and/or other any other concerns raised within references. Particular care should be exercised if any information in a reference relates to sickness absence, disability and/or long-term health conditions. HR will be able to provide further advice on individual cases.

The recruitment team has template letters which should be used to ensure the correct information is provided to the candidate prior to interview and when an offer is made.

5.3.2 Professional registration

Where a professional qualification is required for the role, managers will seek to obtain formal confirmation from the awarding body or professional register, and will keep a record of that on the employee's file.

5.4 DBS checks and regulated activities

Below is a brief summary of the roles that require a Disclosure and Barring Service check. Please refer to guidance documentation on Safer Employment and DBS, which includes more information together with a number of flowcharts. The flowcharts will help you assess whether a position is eligible for a criminal record check and whether the check is an enhanced check or an enhanced check [with or without children's or adults' barred list].

Every candidate for a role within Surrey County Council that includes the performance of regulated activities will be subject to a DBS check prior to their appointment. Once in post, employees will normally undergo further checks every three years, however managers may ask for checks to be carried out at shorter intervals.

When an employee submits a DBS renewal before the third anniversary of their previous check but checks are still pending on that anniversary, their Head of Service/Area Director may authorise the employee to continue carrying out regulated activities even after three years have elapsed from the date of their previous check.

The Head of Service/Area Director will need to carry out a risk assessment and obtain a formal declaration from the employee reporting any offences or other disclosable events that have occurred since the date of their last check. The Head of Service/Area Director will then submit a request for approval by the Employee Services HR Group Manager or other designated signatory. This arrangement can remain in place until the outcome of the DBS request is confirmed, and cannot exceed 12 months under any circumstances.

The Council does not require any of its employees to subscribe to the DBS Update Service, and will not ordinarily reimburse any subscription fees. However, Council employees who are registered with, and have a current subscription to, the DBS Update Service may liaise with their line manager and request to have their records checked through the Update Service.

5.4.1 Working with Children – regulated activities

- i. Unsupervised activities: teach, train, instruct, care for or supervise children or provide advice/guidance on wellbeing, or drive a vehicle only for children;
- ii. Work for a limited range of establishments (“specified places”) with opportunity for contact: for example schools, children’s homes, child care premises. Not work by supervised volunteers.

Work under (i) or (ii) is regulated activity only if done regularly (at least once a week). The Department for Education has produced statutory guidance on supervision to describe the considerations an organisation should make when determining whether or not an individual is supervised to a reasonable level for the role.

- iii. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
- iv. Registered childminding; and
- v. Foster-carers.

5.4.2 Working with Adults – regulated activities

- (i) Providing health care
- (ii) Providing personal care
- (iii) Providing social work
- (iv) Assistance with cash, bills and/or shopping
- (v) Assistance in the conduct of a person’s own affairs
- (vi) Conveying - transport an adult because of their age, illness or disability either to or from their place of residence and a place where they receive health care, personal care or social care.

5.4.3 Candidates who have resided overseas

Applicants of any nationality who have been living outside of the United Kingdom for any period in the five years before their appointment must obtain relevant disclosures from the countries where they have been residing. The disclosure documentation is often described as a 'Certificate of Good Conduct'. The UK consulates (or embassies or High Commissions) of the countries in question should be approached for advice. It is the candidate's responsibility to provide the Council with appropriate documentation, including certified translations for official documents issued by countries outside of the EEA, and this should be checked by the hiring manager before appointment.

It is important to note that any DBS checks will not establish the presence or currency of work permits. To check whether work permits are in place contact the Border and Immigration Agency Helpline and Employer Checking Service:
www.bia.homeoffice.gov.uk/employingmigrants.

5.4.4 Volunteers

Volunteers who carry out regulated activities require the same level of DBS clearance as an employee undertaking those activities. Arrangements for obtaining and renewing clearance for volunteers will mirror those applicable to Council staff.

5.4.5 Positive disclosure

Having a criminal record will not automatically prevent anyone from working for the Council in a position that requires DBS clearance. Any risks should be assessed pragmatically, taking into account factors such as the nature of any disclosures/offences, the type of duties undertaken, and the amount of time that has passed since the offences/events in question took place.

Any concerns identified regarding disclosures/convictions identified as part of a DBS check should be discussed with the relevant candidate before management decide whether they wish to proceed with the appointment. Further advice is available from HR.

5.4.6 Handling disclosure information

- Information relating to disclosures must be kept securely regardless of whether it is in electronic or paper format.

- Disclosure information will only be kept for the purpose it was requested as the applicant will have given consent for that.
- For services and activities regulated by the Care Quality Commission, the CQC expects the Council to maintain records of certain types of information from DBS certificates. The CQC publishes relevant guidance- managers can refer to the CQC documents or speak with the Safer Staffing team for further advice.

5.5 Withdrawing an offer

Hiring managers will discuss directly with the candidate any concerns that they may have around the content of a candidate's references and/or DBS disclosures. If a manager decides not to proceed with the appointment of a candidate, they should liaise with the Recruitment and Safer Staffing Teams in order to formally notify the candidate of their decision as well as the rationale for it. Advice is also available from the HR Advisory Team.

5.6 Training

5.6.1 For hiring managers and participants in selection processes

Council officers involved in the recruitment process will participate in training to assist them with identifying and assess the relevance and circumstances of offences and other positive disclosures. The training will also cover relevant legislation relating to the employment and rehabilitation of ex-offenders.

5.6.2 For all staff

Safeguarding and associated training is available for all Council employees, and matters around the rehabilitation of offenders form part of the Council's diversity, inclusion and well-being offer.

6 Induction

New employees are introduced to the culture and working practices of the organisation at every step of the recruitment and selection process, and this continues throughout their 'onboarding' and settling into their new role. Participation in formal induction events can be very useful, but it is only a small part of the overall hiring/induction experience.

Throughout the hiring and onboarding process, managers and team colleagues should make every effort to highlight and reinforce the commitment of the Council to safeguarding vulnerable individuals. Managers will support newly-appointed

employees in developing an understanding of relevant policies and procedures, as well as the confidence to report any concerns that they may have around inappropriate behaviour and/or safeguarding implications of working practices within and beyond the Council.

7 Reporting safeguarding concerns

All employees have a duty to disclose concerns about behaviour that might indicate that the safety or welfare of children, young people and/ or vulnerable adults is at risk. Advice on the management of allegations or concerns is available from safeguarding specialists (such as the 'Local Authority Designated Officer' and Safeguarding Advisors) within the Council.

Employees can raise a concern by speaking in confidence to their manager, HR, the SCC safeguarding teams, or through [Expolink, the external whistleblowing service](#).

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