

A red silhouette of a diverse group of people, including men and women of various ages, standing in a row. The silhouettes are positioned against a white background, creating a strong visual contrast.

people policies

Disclosure Policy



Policy

Purpose of the policy

The council is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and the Exceptions Order to the Rehabilitation of Offenders Act (1975).

However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act (2012), the Rehabilitation of Offenders Act (1974), the Data Protection Act (2018) / General Data Protection Regulation (GDPR), the DBS Code of Conduct and the Human Rights Act (1998)

This policy will apply to those seeking paid work or volunteering opportunities with the council. In addition, certain types of voluntary or seasonal work, fostering and adoption arrangements, student placements, permitted drivers, elected members, school governors, preferred contractors and other regulated positions will also come under the provisions of the policy, particularly where they involve unsupervised contact with children or adults as per the guidance available at **Disclosure and Barring Service**.

Types of DBS Disclosure and Barred List checks

DBS checks (formerly CRB checks) are processed by the Disclosure and Barring Service (DBS).

Vulnerable groups of people need to be protected and DBS checks assist in ensuring that individuals engaged in a regulated activity working with vulnerable groups do not have any information disclosed on the DBS check that would deem them unsuitable to hold that position.

Types of DBS checks:

- a basic check, which shows unspent convictions and conditional cautions.
- a standard check, which shows spent and unspent convictions, cautions, reprimands and final warnings.

- an enhanced check, which shows the same as a standard check plus any information held by local police that's considered relevant to the role
- an enhanced check with a check of the barred lists, which shows the same as an enhanced check plus whether the applicant is on the adults' barred list, children's barred list or both

NPPV (non-police personnel vetting)

Some postholders within Bristol City Council who work alongside the police or have access to police resources have a contractual requirement to have a NPPV security clearance. This is made clear during the recruitment process.

Any offer of employment is subject to a NPPV security clearance, which can take two to three months to achieve.

A three yearly vetting renewal process will take place. If a NPPV security clearance is failed an appeal can be made to the police.

If NPPV clearance is not achieved, it may be necessary to review continuing employment using the Some Other Substantial Reason for Dismissal Policy.

Process

1. The council has a rolling programme of disclosure checks in accordance with this policy. Checks will usually be carried out at three yearly intervals in conjunction with the Disclosure Service.
2. The enhanced DBS check searches the applicant's details against criminal records and other sources, including the Police National Computer. The check may disclose convictions, cautions, reprimands and warnings.
3. The applicant only will receive a copy of the Disclosure certificate. This has been introduced so that the applicant has the chance to challenge any information that is not factually correct. It is, therefore, paramount that the Council ensure that they have sight of the original DBS Disclosure Certificate as quickly as possible.
4. The DBS check will either confirm that the applicant doesn't have a criminal record, or it will disclose any relevant convictions, cautions, reprimands, warnings and, if applicable, whether the applicant has been barred from working with children and/or vulnerable adults. The police can also include non-conviction information, which may be relevant. An enhanced DBS check uses a range of different information sources, including the records of the Police National Computer (PNC) and other data sources.
5. The council must obtain an enhanced DBS check for every employee or volunteer who is involved in regulated activity working with children or vulnerable adults.
6. It is the responsibility of the Hiring Manager to ensure that the relevant and appropriate checks have been completed before the agency worker/contractor/sub-contractors starts work.

7. We accept agency workers existing DBS checks, providing it is a new DBS clearance completed specifically for their assignment/placement with the Council. The certificate number, date of check and level of clearance must be evidenced by the manager sighting the original copy of the worker's certificate. The check must be for the same work area and the level of clearance that is required for the role.

The DBS Update Service may also be used if the worker has chosen to subscribe to it as a result of this check, not a previous one. Guidance can be found at **DBS Update Service: employer guide - GOV.UK** (www.gov.uk)

DBS Update Service

The **DBS operates an update service** which is an online subscription service payable by the individual, that enables individuals to keep their DBS certificates up-to-date.

This service allows employers to check a DBS certificate online, with the consent of the individual. Registration lasts for one year. Please note there is a service cost for this. Employees must retain their original DBS certificate, which is needed for a status check to be carried out.

Complaints

Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the Disclosure and Barring Service.

Employee's responsibilities

- Employees continued employment in their post is subject to satisfactory standard/enhanced DBS check at three yearly intervals.
- Employees working with children and vulnerable adults are required, under the council's Code of Conduct for Employees to inform their manager immediately if they are subject to a criminal conviction, caution, ban, police enquiry or pending prosecution.

Manager's responsibilities

- Managers are responsible for the application of this policy.
- When recruiting, managers should begin the process by looking to see if the role requires a DBS check and falls under the definition of a 'regulated activity', managers should refer to the **DBS eligibility tool on the DBS website**.
- If the role changes, managers should check if the role requires a different DBS check or none at all, this should be done using the DBS eligibility tool and ensuring the HR system and job paperwork is updated.
- If an employee transfers from another role within the council, you can accept a DBS certificate if it's: still valid, for the same level of clearance and to work with a similar group of people.
- It is council policy that no one should be allowed to start work in a post which requires a satisfactory DBS check before the disclosure is received. However, if, for operational reasons, someone starts to work pending the completion of a submitted enhanced DBS application a full risk assessment should be completed. This must be authorised by a second-tier officer/Head of Service.
- When using an agency worker, a manager should ask to see written confirmation from the agency or a copy of the DBS check, to ensure that each worker supplied to them has had a satisfactory DBS check and checks against the Children's and/or Adult's barred list. The agency is legally the employer of any agency worker and the responsibility to obtain a relevant DBS check or an Enhanced check for Regulated Activity is theirs. The council's agency provider undertakes annual audits of the agencies to ensure they are compliant with our safeguarding requirements.
- The manager has a duty to make referrals to the DBS when someone has been removed from working in a regulated activity for allegedly causing harm, or posing risk of harm to a child or adult.

Trade Union representative's role

- To support and advise members.
- To raise issues with the manager with a view to resolving them informally and at local level.
- To seek a resolution at a local level to avoid escalation into a more serious matter.

Guidance for managing a positive DBS disclosure

- The term "positive disclosure" refers to a disclosure containing information relating to convictions, cautions, reprimands etc., together with any "soft" information relating to non-convictions that the police deem relevant.
- Each case will be decided on its own merits.
- The overriding consideration is the safety of service users. The Council should ensure so far as possible that those employed in designated roles are suitable persons. That they are not persons who would take advantage of their employment to abuse, assault or otherwise mistreat service users.
- If the DBS disclosure certificate affirms a conviction the applicant has already disclosed, and this information has already been considered, you can proceed and issue an unconditional offer of employment. The exception would be if the applicant is on the children's and/or adult's barred list(s) and has applied to work in a regulated activity. In these circumstances, it would be illegal for the organisation to allow the applicant to engage in a regulated activity with children and/or adults.
- If a DBS check reveals a conviction or caution that you weren't expecting or that the applicant had not previously disclosed and that is relevant to the role, the further consideration will be necessary to ascertain whether you can offer employment.

Talk to the applicant, go through each of these points:

- The relevance of any offence(s) to the post in question
- The length of time since the offence(s), and any evidence to indicate the candidate has subsequently changed behaviours or learned from the experience.
- The age of the candidate at the time of the offence(s) and context surrounding the offence(s)
- The frequency and/or severity of offending

Disclosure & Barring Service (DBS) – Duty to refer

The **Safeguarding Vulnerable Groups Act 2006 (sections 41 and 43)** and the **Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (sections 43 and 47)** sets a legal duty for the council to refer information to the DBS if the council were to dismiss or remove an employee/volunteer from working with children and/or adults (in what is legally defined as regulated activity) because they meet the referral criteria.

The council has a legal duty to refer as both the regulated activity provider and as a local authority. This is in circumstances where the council have withdrawn permission for a person to engage in regulated activity, because the person has either:

- harmed or poses a risk of harm to a child or vulnerable adult, or
- satisfied the harm test, or
- received a caution or conviction for a relevant offence
- this also applies if the local authority would or might have withdrawn permission for a person to engage in regulated activity if the person has not otherwise ceased to engage in regulated activity. This includes situations where the person was re-deployed to a non-regulated activity role or resigned or retired

The duty to refer applies regardless of whether another body has made a referral in relation to the same person

Examples of when duty to refer applies

Scenario 1

A local authority investigation identified that a care worker employed by them has verbally and emotionally abused service users. The member of staff resigned shortly after allegations were made. It was concluded that had the care worker not left they would have dismissed them from the role.

Scenario 2

Following an investigation by the local authority, it finds that a member of staff working at a local authority run residential home has stolen money from several service users. The member of staff was dismissed as a result.

Scenario 3

Following allegations of abuse at a children's home run by a local authority, it was identified that a member of staff established an inappropriate relationship with a child who was a resident of the home. The member of staff also took sexually explicit images of the child. The member of staff was arrested and prosecuted.

How to make a referral

Complete the **DBS referral form**. It asks for all prescribed information, along with supporting documentation

Further information and guidance is available at **Disclosure and Barring Service**.

Additional guidance and support

This policy provides you with an overview of the purpose of the policy and the roles and responsibilities of those for whom it is intended. It also provides guidance in the Process section on the application of the policy. There are other documents which provide more detail and helpful guidance that should be read in conjunction with the policy and these are listed below.

Additional guidance

Disclosure Portal

Disclosure Procedure

Disclosure and Barring Service

DBS Eligibility Tool

Guidelines relating to relevance of criminal behaviour
for disclosure purposes

<https://bristolcouncil.sharepoint.com/sites/HealthSafetyandWellbeing/SitePages/get-a-health-and-wellbeing-plan.aspx>

Associated policies

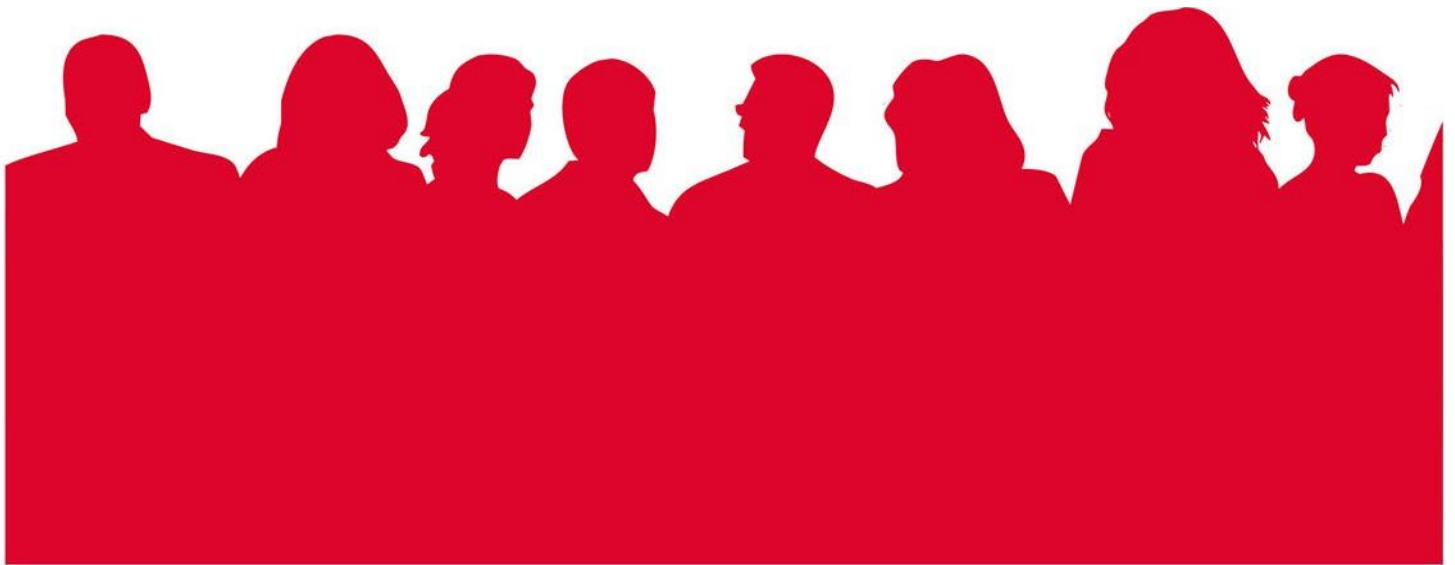
Code of Conduct for Employees

Recruitment & Selection Policy

Disciplinary Policy

Letters and forms

DBS Referral Form



Author and owner: **Human Resources**

Contact: hr.advicecentre@bristol.gov.uk

0117 35 21400

Date adopted: 24th July 2014

The audience of this document is made aware that a physical copy may not be the latest available version. The latest version, which supersedes all previous versions, is available on The Source.

Those to whom this policy applies are responsible for familiarising themselves periodically with the latest version and for complying with policy requirements at all times.

History of most recent policy changes – must be completed

Version	Date	Change
v1.06	05/06/2024	Updated guidance on agency workers DBS checks
v1.05	02/10/2023	Updated manager's responsibilities (if a role changes or employee transfers from another role)
v1.03	01/11/2021	Update of terms and guidance
v1.02	29/09/2021	Fixed broken links
v1.01	18/12/2018	Updated reference to DPA (2018) and GDPR
V1.00	24/07/2014	Reformatted Policy

