



# **Coxhoe Parish Council**

## **Disclosure and Barring Services Policy**

**Approved: May 2023**

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## 1 Introduction

1.1 This policy statement provides guidance on the effective use of the Disclosure and Barring Services (DBS) Disclosure process to safeguard the children and adults who access our services.

1.2 Coxhoe Parish Council is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.

1.3 Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. standard/enhanced/enhanced + children’s and /or adults barred list check).

1.4 Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of or accessing a service which leads that adult to being considered vulnerable at that particular time. There are no instances of regulated activities for adults in any areas of work the Council undertakes.

## 2 Purpose

2.1 This policy sets out the approach to criminal background checks within the Council.

## 3 Scope and Principles

3.1 The Council promotes equality of opportunity for all and recognises the importance of employment in the rehabilitation of ex-offenders. As an organisation using the Disclosure and Barring Service (DBS) which was formerly the Criminal Records Bureau (CRB) service to assess applicants’ suitability for position of trust, the Council complies fully with the DBS Code of Practice.

3.2 After a certain length of time some sentences are considered spent and must be disregarded. Unless the nature of the work means that a role is exempt, applicants are not asked to disclose convictions which are spent under the Rehabilitation of Offenders Act 1974.

3.3 Having an unspent conviction will not necessarily bar applicants from employment. Criminal records should be taken into account for recruitment purposes only when a conviction is relevant.

3.4 For applicants who are offered employment in certain posts, including those where regulated activity is undertaken such as youth clubs, a criminal record check from the DBS will be undertaken.

3.5 The principles in this policy apply to both paid and volunteer positions.

3.6 DBS checks on people employed to work with children and adults are allowed as an exemption to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013). Under the Act individuals are not required to disclose any 'spent' convictions, unless the exemption applies. The Protection of Freedoms Act 2012 (PoFA) introduced limits on the eligibility of certain types of employment for DBS checks.

3.7 Filtering Rules came into force from 29th May 2013. From that date certain old and minor convictions, cautions, reprimands and warnings do not have to be disclosed by the applicant and will not appear on the DBS check. The Filtering Rules can be found on the Gov.UK website. Some offences will never be removed from a DBS Certificate; these include the most serious sexual and violent offences.

3.8 Coxhoe Parish Council complies fully with the DBS Code of Practice and undertakes to treat all applicants fairly and not to discriminate unfairly against anyone on the basis of conviction or other information revealed. Having a criminal record will not necessarily prevent an individual from being employed by Coxhoe Parish Council. This will depend on the nature of the role, professional suitability and the circumstances, nature and background of the offences.

3.9 The Council recognises that access to criminal record information has to strike a balance between the rights of children and the vulnerable in society, an individual's right to privacy, and the rights of ex-offenders to become rehabilitated into society. It is essential that confidential and sensitive information about an individual's criminal record is handled fairly and properly.

#### 4 Types of criminal record check

##### Standard Check

4.1 The standard check is available for duties, positions and licences included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (as amended in 2013), for example, court officers, employment within a prison, and Security Industry Authority (SIA) licences.

4.2 A standard level certificate contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have not been filtered in line with legislation.

##### Enhanced Check

4.3 The enhanced check is available for specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) regulations, for example, regularly caring for, training, supervising or being solely in charge of children, specified activities with adults in receipt of health care or social care services and applicants for gaming and lottery licences.

4.4 An enhanced level certificate contains the same PNC information as the standard level certificate but also includes a check of information held locally by police forces.

##### Enhanced with a Barred List Check

4.5 The enhanced check with barred list check(s) is only available for those individuals who are carrying out regulated activity and a small number of positions listed in Police Act 1997 (Criminal Records) regulations, for example, prospective adoptive parents and taxi and Private Hire Vehicle (PHV) licences.

4.6 An enhanced level certificate with barred list check(s) contains the same PNC information and check of information held locally by police forces as an enhanced level check but in addition will check against the Children's and Adults' Barred Lists

4.7 If your application includes a request to check the barred list(s) the DBS has a statutory duty to consider any information that suggests you may pose a risk of harm. We will write to you if you are affected.

#### 5 Cost of Disclosure

5.1 The cost of checks relating to appointments to Council posts will be met by the Council.

5.2 The cost of checks undertaken by the Council on behalf of contractors and those from whom the Council commissions a service should be met by the contractor depending on the particular circumstances and terms of the contract.

5.3 Costs of checks for volunteers will be met by the Council.

## 6 Staff who will be subject to a DBS check

6.1 DBS checks will only be sought for people who will undertake regulated activity, such as working to provide youth clubs.

6.2 Checking references and gaps in employment is of paramount importance in the recruitment process for these individuals.

6.3 In exceptional cases, where a risk assessment made on another role raises a cause for concern, the Clerk may agree to authorise a DBS check. However, in these circumstances the DBS check will not include a check against the Barred List because the individual is not engaged in regulated activity.

## 7 DBS Application Procedure

7.1 Applications for DBS checks are currently made on-line through the North East Regional Employers Organisation.

7.2 The DBS will send a Disclosure Certificate to the applicant on whom the check was carried out.

7.3 The Corporate & Policy Officer will check the disclosure website which will either state:

- The check is complete with 'no content'; which means that the check is clear, or
- The check is complete 'with content, please wait to view applicant certificate' which means that the check is not clear.

7.4 If the check is clear the Manager can arrange a start date and ask the applicant to bring the check with them on their first day of employment.

7.5 If the certificate has 'content' the applicant must be asked to bring the certificate in to show the Clerk as soon as possible so that a risk assessment can be completed. A copy of the risk assessment should be kept permanently on the employee's file in a sealed envelope.

7.6 In all cases the Clerk must see an original copy of the DBS check certificate. Managers WILL NOT print copies of the certificate.

## 8 Roles and Responsibilities

8.1 **DBS applicants** are responsible for:

- Declaring if they have spent or unspent convictions (including driving offences), cautions, warnings or reprimands that are not covered by the filtering rules.
- Completing the online DBS form fully and accurately, in accordance with the DBS applicants' guide.
- Ensuring that they have sufficient original identification documents as set out in the DBS applicants' guide.

8.2 The **Clerk** is responsible for:

- Identifying if the role requires a DBS check.
- Ensuring that all identification documents presented by the applicant are original, appropriate and relevant and verifying this on the on-line system. A list of identification documents can be found in the DBS applicants' guide.
- Ensuring that every employee appointed to a post which requires a DBS disclosure has completed and submitted a DBS disclosure on line prior to appointment (but see section 9.1).
- Ensuring that no employee commences work without a DBS disclosure being received.
- Ensuring that all other recommended pre-employment checks have been carried out satisfactorily prior to appointment.

- Making a decision about employment when a positive DBS disclosure is returned, using a risk assessment approach as necessary.
- Making a written account of the decision and reasons for it on a Positive Disclosure Decision Sheet, to be retained in a sealed envelope in the employee's personal file.
- Advising managers on decisions about employment on positive DBS disclosures.
- Signing off the decision sheet for positive DBS disclosures.

## 9 Which employees can start without a DBS check having been received?

9.1 Under normal circumstances no employee who is due to work in a job that requires a DBS check may start employment before a DBS disclosure has been received. On-line processing of DBS checks has removed excessive delays in receiving clearance, so there should be no reason to start employment before receiving clearance. However, in some case where there is a delay, following a risk assessment, the Clerk can approve that the individual commences work prior to the receipt of the Certificate provided that the individual will not be working in an unsupervised capacity.

9.2 Where a volunteer is transferring to paid employment within the same service area, a new DBS check will not be required provided:

- the individual has been engaged in active volunteering for the service within the last three months and a DBS check was undertaken at the point of engagement
- the new post requires a DBS check at the same level
- the new post does not involve responsibilities not previously checked.

9.3 Where there is a break in service/engagement of 3 months or more, then a new DBS check must be applied for.

## 10 Overseas applicants and applicants who have lived abroad

10.1 The DBS can only check applicants from the date they arrive in the UK, or for the time the applicant has lived in the UK. The DBS cannot currently access overseas criminal records or other relevant information as part of its disclosure service.

10.2 If the Council recruits an individual from overseas, or an individual who has lived abroad in recent years prior to appointment, and needs to check their overseas criminal record, a DBS check may not provide a complete picture of the criminal record, which may or may not exist.

10.3 A DBS check must be undertaken in the usual way. In addition, the applicant must contact the relevant Embassy to obtain a disclosure which should not be dated more than 6 months ago at the time of receipt. This disclosure must be sent to the Clerk before full clearance to work is issued. The Council reserves the right to seek verification of the documents provided.

## 11 Re-checking DBS

11.1 Those employees working in any areas with children are required to undertake a new DBS Disclosure every 3 years.

11.2 The DBS Disclosures for these groups of employees are monitored and the Clerk initiates the process every 3 years.

11.3 Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) the Clerk will advise on the issues, using this policy.

11.4 In addition, a new DBS disclosure will be applied for where an individual moves to a new position within the organisation that:

- requires a check at a higher level, or
- involves responsibilities not previously checked.

## 12 Dealing with Positive Disclosures

12.1 A positive disclosure is a certificate that shows cautions, warnings or convictions. They may show spent convictions and also unspent convictions, and for Enhanced checks, they will also show information that a police force deems relevant to disclose based on the nature of the job that the individual will be employed to do.

12.2 A summary of the action to be taken following receipt of notification of a DBS disclosure is set out below:

<b>Outcome</b>	<b>Action</b>
<b>Disclosure with “No Content”</b>	<ul style="list-style-type: none"><li>• Appointment proceeds subject to all other pre-employment checks.</li><li>• Applicant required to bring in certificate on first day of employment.</li></ul>
<b>Disclosure with “Content”</b>	<ul style="list-style-type: none"><li>• Applicant asked to bring certificate in to show the Clerk as soon as possible. No start date is arranged.</li><li>• The Clerk should seek advice on the implications of the information revealed</li><li>• The Clerk completes Positive Disclosure Decision Sheet</li></ul>
<b>Applicant is barred from working with children and/or vulnerable adults</b>	<ul style="list-style-type: none"><li>• Offer of employment is void</li><li>• Appointment is unlawful and must not proceed</li></ul>