

Polisi Gwirio DBS

DBS Checks Policy

Gwasanaethau Adnoddau Dynol / Corporate Human Resources

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Contents

| | |
|---|----|
| Policy Statement | 1 |
| Scope | 1 |
| Key principles | 3 |
| Roles and responsibilities | 4 |
| Individual responsibilities..... | 4 |
| Duties and Responsibilities of managers and supervisors | 4 |
| What do we mean by regulated activity? | 6 |
| Positive Disclosures and Risk Assessments | 7 |
| Employing staff from overseas..... | 8 |
| People who lack identity documents..... | 8 |
| Record keeping | 9 |
| Information and training | 10 |
| Support for staff..... | 10 |
| Review and monitoring..... | 11 |
| Annex A..... | 12 |
| Disclosure and Barring..... | 12 |
| Overview..... | 12 |
| Types of DBS Disclosure | 12 |
| Annex B – Defining regulated activity | 14 |
| Regulated activity relating to children | 14 |
| Regulated activity relating to adults | 14 |

Policy Statement

1. Conwy County Borough 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.
2. As employer, the Council will carry out pre-employment checks on eligible staff, volunteers and others who undertake work on behalf of the Council as part of the recruitment procedures. This policy sets out why the Council may use Disclosure and Barring Service¹ (DBS) information as part of the recruitment procedures. More detailed information about the DBS is set out in Annex A.
3. The aims of this policy are to ensure the Council:
 - Meets its statutory duties in relation to criminal records checks to ensure the safety and protection of vulnerable groups (children and/or adults) who receive a service from the Council and within the wider community.
 - Ensure that ex-offenders, whether employees or others are treated fairly and decisions made on a full assessment of the risks involved that are relevant to their role.

Commented [IM1]: Check if we need to include foster carers

Scope

4. This policy and procedure sets out the requirements for undertaking pre-employment screening checks with the DBS. The criminal record checks will disclose a person's relevant criminal record so that a decision can be made as to their suitability to work with children or vulnerable groups.

¹ <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

5. This policy applies to all eligible employees, for example, those who are working in regulated activity or those identified in the Rehabilitation of Offenders (Exemption) Order.

Agency Workers, Contractors, Volunteers and Student Placements

6. This policy will apply to agency staff where they are eligible.
7. Each Service should ensure that agencies provide written notification to confirm that their workers have a clear DBS disclosure or, in the case of a positive disclosure, that a risk assessment has been undertaken in relation to the information disclosed.
8. **In addition** Services should ask for the agency worker to bring a copy of their DBS check as an additional safeguard on the first day of work in Conwy
9. No agency worker should be permitted to work until the agency has confirmed relevant checks are in place.
10. Where services are delivered through contractors, and the contractors have access to vulnerable groups (children and/or adults) then this policy applies to those contractors i.e. they will be subject to the same level of DBS check as if the service were being provided directly by the organisation and in accordance with the legislation. This requirement should be clearly stated in the procurement information when published.
11. This policy also applies to all volunteers recruited by the organisation where they are eligible, e.g. working in regulated activity i.e. they will be subject to the same level of DBS check as if they were an employee of the organisation and in accordance with the legislation.
12. This policy also applies to all student placements where eligible e.g. if they are working in regulated activity i.e. they will be subject to the same level of DBS check as if they were an employee of the organisation. DBS Checks do not apply to Work Experience placements, unless they meet the definition of regulated activity.

13. The Council is part of the wider public service in Wales and it has a responsibility to work in active partnership with the wider Welsh public service.
14. Managers should make sure that they understand the relevant safeguarding policies and procedures applying to such partnership arrangements and the impact on their roles and responsibilities. Managers should also seek advice if there are any actual or potential safeguarding risks arising from the partnership arrangements.

Key principles

15. The following principles underpin how this policy will work in practice:
 - the safeguarding and welfare of children, young people and vulnerable adults will be the overriding priority.
 - anyone whose duties meet the definition of regulated activity will not take up those regulated activities until a DBS check has been received, and if a criminal record is revealed, a risk assessment undertaken and a decision made.
 - all DBS check applicants will be treated fairly and with dignity and respect.
 - all DBS check applicants who have a criminal record will be treated fairly and any convictions disclosed will be objectively assessed in relation to the duties of the post.
16. This policy is inclusive of all staff regardless of age, marriage (including equal/ same sex marriage) and civil partnership, disability, sex, sexual orientation, pregnancy and maternity, race, religion or belief, or gender identity.
17. Failure to comply with the requirements of this policy could be considered misconduct under the Disciplinary Policy, and depending on the seriousness of the case, may ultimately lead to dismissal.

Roles and responsibilities

Individual responsibilities

18. Applicants have a personal responsibility to:

- provide the supporting documentation and evidence in person, for a DBS check to be carried out in a timely basis;
- provide your existing DBS certificate on request;
- disclose all of the necessary information, for a DBS check to be carried out in a timely basis;
- provide consent to enable the Council to undertake checks using the DBS update² service, if required;
- make their line manager or supervisor aware of any change in personal circumstances that could be relevant to your existing DBS check during your employment;
- inform their line manager or supervisor immediately of any convictions, cautions, arrests or allegations of criminal behaviour that occur since their last DBS check was completed.
- To submit their DBS re-check application in a timely way before the period of re-checking runs out (e.g. before the 3 year period if required to do so). Certain posts such as Social Worker post require a current DBS check in order to register and practice. If their DBS check lapses, they may be suspended from their duties.

19. All employees must be aware that even the most careful recruitment and selection processes will not identify all those who pose a risk to children, young people and vulnerable adults. Everyone must be alert to the risk of inappropriate behaviour by employees, volunteers, contractors, students and agency workers.

Duties and Responsibilities of managers and supervisors

20. Managers and supervisors have a responsibility to:

- ensure that appropriate questions about employment history gaps identified in the application process are asked at interview.
- ensure that requests for references are made, received back, validated and reviewed before someone begins work.

² <https://www.gov.uk/dbs-update-service>

- ensure that any offer of employment clarifies that it is subject to satisfactory completion of all pre-employment checks and that these have been signed off by the Manager.
 - establish that the required checks have been requested of employees, agency workers, volunteers, contractors and students.
 - ensure that all offers, including any verbal offers of employment are subject to a satisfactory DBS check (if eligible) and confirm this requirement in writing;
 - promote awareness of and monitor compliance with safeguarding arrangements within their areas of responsibility;
 - Ensure that their staff complete their re-checks in good time before their DBS lapses (for applicable staff e.g. Social Workers)
21. DBS checks can take a number of weeks to complete and managers and supervisors must put in place appropriate contingency arrangements to cover vacancies and avoid the temptation of compromising these standards to make a quicker appointment. Such action could be considered as misconduct under the Discipline Policy and could, depending on the seriousness of the case, ultimately lead to dismissal.
22. Managers and supervisors must be aware that even the most careful recruitment and selection processes will not identify all those who pose a risk to children, young people and vulnerable adults. Managers and supervisors must therefore be alert to the risk of inappropriate behaviour by employees, volunteers, contractors, students and agency workers.
23. **Role of HR Link Officers / Workforce Staffing Sections:**
- Responsible for:
- seeking consent from the applicant or employee to undertake a check using the DBS Update service.
 - providing procedural advice and information to the line manager when a positive disclosure is received from the DBS for any new or renewed check.
 - The Counter signatory may seek assistance from HR Link Officers or Workforce Staffing Sections to validate identity of the applicant.

Responsibilities of others

24. **Statutory Director of Social Services;** responsible for ensuring that the Local Authority has proper safeguards to protect vulnerable children, young people and adults, and for reporting at a corporate level to the Council on the effectiveness of the arrangements.
25. **Heads of Service:** responsible for ensuring that their Service has proper safeguards to protect vulnerable children, young people and adults, and ensuring that their Service complies with policies and procedures.
26. **Elected Members:** Elected members who are Corporate Safeguarding Panel members will receive information on how well the Services are discharging their Safeguarding duties, and the Panel will recommend appropriate action.

Definition of Regulated Activity

27. The Council is legally required to undertake DBS checks for all employees, agency workers, students and volunteers who undertake a certain type of work known as 'Regulated' activity.
28. The definition of a regulated activity depends on whether you work with children and/or adults and definitions are set out on the DBS website and are summarised in Annex B. The Home Office provide [a useful tool to help determine whether a post requires a DBS check](#).
29. As employer the Council can only ask for a barred list check for specific roles³. It is a criminal offence to ask for a barred list check for any other roles.
30. It is a criminal offence for a barred person to work, or volunteer, in a regulated activity.
31. It is also a criminal offence for an employer to knowingly employ (either on a paid or voluntary basis) a barred person in a regulated activity.
32. This is an example list of posts which require DBS check:

³ <https://www.gov.uk/disclosure-barring-service-check/dbs-barred-lists>

- Social Worker
- Community Support Worker
- Residential Care Worker
- Support Worker
- Registered Home Manager
- Family Intervention Worker
- Day Care Assistant
- Head Teacher
- Teacher
- Supply Teacher
- Learning Support Assistant
- Teaching Assistant
- Lunch Time Supervisor
- Youth Worker
- Lifeguard
- Summer Play Scheme Worker
- Driver/escort on transport for children or vulnerable adults
- Agency workers meeting the eligibility criteria
- Voluntary workers meeting the eligibility criteria

This list is not exhaustive.

Positive Disclosures and Risk Assessments

33. When a disclosure is received from the DBS which reveals any information relating to a criminal record, a risk assessment process should be immediately undertaken for any new or renewed disclosures.
34. Possession of a criminal conviction or caution does not automatically make a candidate unsuitable for employment with the organisation. Understanding the nature of the offence(s) and the circumstances surrounding it is essential in making a fair decision about whether to appoint someone or not, or to remove an existing employee from regulated activity.
35. The risk assessment should be undertaken by the line manager/senior manager, but must include liaison with the Corporate HR Services and the Service Manager, Safeguarding (or if related to a School, the Education Social Work Service Manager) if the disclosure is one of a safeguarding issue i.e. where there is a risk to children or adults. All risk assessments should be signed off and approved by the Head of Service (or Head Teacher as appropriate).

36. A written risk assessment confirming the issues and decision taken by should be held confidentially in respect of all positive disclosures received.
37. A DBS check has no end date. Re-Checking will normally occur in accordance with the governing body/professional body (for example every three years for social workers) or in line with Service requirements.

Employing staff from overseas

38. Volunteers and employees who are recruited from overseas or who have not been in the country long will not have a checkable history in the UK. Where they are recruited to roles requiring a DBS check, the Council still needs to satisfy itself that on the basis of reasonable check you are not unfit to work with children or vulnerable adults.
39. When recruiting people who have lived outside the UK for more than 6 months in the last five years applicants will be asked to provide evidence of your fitness to work with vulnerable adults from the country where they have lived. Applicants cannot commence their work or volunteering with the Council without such proof.
40. In most cases the relevant embassy may be able to provide applicants with this, in a form commonly referred to as a certificate of good conduct. Applicants will be responsible for paying for this themselves. The Council will meet the cost of having the information translated where required.
41. Where such information is not available or where it is impossible for you to get the information (such as in the case of refugees) the application must be discussed with Corporate HR and the Service Manager, Safeguarding to discuss what other safeguards can be put in place and decide on whether the applicant can be offered the role.

People who lack identity documents

42. Some people may lack the necessary identity documents to get a DBS check carried out. This includes some people who have been or are homeless, gypsies/travellers, victims of domestic abuse,

asylum seekers, and ex-offenders who have recently been released from prison.

43. In such cases it is possible to get a check carried out using fingerprints but advice should always be taken from Corporate HR and the Service Manager, Safeguarding, before requesting fingerprinting, which would be carried out by the Police at a Police station.

Record keeping

44. Information provided through a DBS check must be treated in the strictest confidence. The Council commits to the following:
 - information will only be used to assess the suitability of an applicant for a specific position for which they have applied;
 - all certificates and information about criminal records will be kept securely;
 - information will only be released to officers who are entitled to see it as part of their role – this will usually mean the line manager, designated safeguarding officer and a member of HR involved in the initial recruitment or renewal check; and
 - information will be destroyed once it is no longer needed. Unless there are exceptional circumstances, information will be destroyed or deleted no more than 6 months after receipt. In residential care home settings, this period may be extended, as the information will be kept for inspection purposes
45. The Council will keep electronic records showing only:
 - The date a DBS check is requested
 - a record of the date of issue of a certificate
 - the name of the subject
 - the type of certificate requested
 - the position for which the certificate was requested
 - the unique reference number of the certificates
 - the details of the recruitment decision taken.

Information and training

46. A copy of this DBS Check Policy will be made available to the public on its website, and to staff on the Council's intranet
47. To support understanding of this policy additional information is available to staff on the intranet including:
 - Wellbeing, health and safety requirements;
 - Policy and procedures for recruitment;
 - Equality and Diversity Policy
 - Respect Booklet;
 - Grievance Policy;
 - Discipline policy;
 - When to raise a concern using the Whistleblowing Policy.
 - Safeguarding Policy

Induction is an opportunity to reinforce the organisation's commitment to safeguarding regardless of whether an employee's role is working directly with children, young people or vulnerable adults. This should include what to do if you suspect inappropriate behaviour or activity and how you can appropriately raise a concern.

48. For certain specific roles and groups of staff training is a statutory requirement and nothing in this policy should supersede that.

Support for staff

49. Employees and volunteers should feel confident that they can raise issues or concerns about the safety or welfare of children, young people and adults, and that they will be listened to and taken seriously.
50. The Council aims to provide a workplace environment that is open and supportive to those who seek advice and support.
51. If staff are in any doubt about what to do, they must seek advice from their line manager, HR team, or trade union representative.

Review and monitoring

52. This policy will be reviewed jointly by unions and management on a regular basis at least every three years.
53. Any changes agreed and made to this policy will be brought to the attention of all staff.
54. Authority to make minor changes, or amendments in line with legislation changes, is delegated to the Head of Corporate HR.

Annex A

Disclosure and Barring

Overview

1. The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged to become the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks⁴.
2. Applicants for DBS checks can also apply to join an update service which allows for instant verification of a DBS form.
3. An overview of the requirements and processes for DBS checks and any detailed advice and guidance should be obtained from the DBS website⁵ where there is a range of guides and factsheets available, or contact one of the DBS help-lines.
4. The DBS advise that Employers should only arrange a DBS check on a successful job applicant.
5. Employers can only request checks with the permission of the individual.

Types of DBS Disclosure

6. There are three types of disclosure an employer can obtain – standard, enhanced and enhanced with barred list checks.

Standard Checks

- a. Standard checks can be applied for by people entering certain professions, such as members of the legal and medical professions and applying for specified licences.
- b. A standard check contains details of all convictions, cautions, reprimands and warnings held on the Police National Computer (PNC).

⁴ <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

⁵ <https://www.gov.uk/disclosure-barring-service-check/overview>

- c. To be eligible for a standard level DBS check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

Enhanced and Enhanced with list Checks

- d. Four types of Enhanced Disclosures can be obtained. All four contain the same information as the Standard Disclosure but with the addition of any relevant and proportionate information held by the local police forces.
- e. When engaging individuals to work within regulated activity (as defined by the Protection of Freedoms Act), a request can be made for an Enhanced Disclosure with a check against the relevant DBS Barred List(s):

| Enhanced Options | PNC | Police information | Children's Barred List | Adults' Barred List |
|-------------------------|------------|---------------------------|-------------------------------|----------------------------|
| 1 | ✓ | ✓ | | |
| 2 | ✓ | ✓ | ✓ | |
| 3 | ✓ | ✓ | | ✓ |
| 4 | ✓ | ✓ | ✓ | ✓ |

Annex B – Defining regulated activity

1. The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012).
2. Regulated activity excludes family arrangements, and personal, non-commercial arrangements.
3. See the Home Office [online tool](#) for determining whether someone is engaged in a regulated activity and is eligible for a DBS check.

Regulated activity relating to children

4. The new definition of regulated activity relating to children comprises only:
 - (i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, 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, childcare premises. Not work by supervised volunteers;
 - (iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
 - (iv) Registered childminding; and foster-carers.
5. Work under (i) or (ii) is regulated activity only if done regularly.

Regulated activity relating to adults

6. The new definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities.

7. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

8. There are six categories of people who will fall within the new definition of regulated activity (and so will anyone who provides day to day management or supervision of those people). A broad outline of these categories is set out below. For more information please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

(i) Providing health care

Any health care professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional⁶.

(ii) Providing personal care

Anyone who:

- o provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability;
- o prompts and then supervises 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; or
- o trains, instructs or offers 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.

(iii) Providing social work

The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client.

(iv) Assistance with cash, bills and/or shopping

⁶ Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for further details about what is meant by health care and health care professionals.

The provision of assistance to an adult because of their 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

Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example by virtue of an enduring power of attorney⁷.

(v) Conveying

a person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.

⁷ Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for the further categories which are covered here.