

EMPLOYMENT MATTERS COMMITTEE

6 FEBRUARY 2014

DISCLOSURE AND BARRING SERVICE (DBS) (PREVIOUSLY CRIMINAL RECORDS BUREAU (CRB)) – UPDATED POLICY AND PROCEDURE

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Summary

An operational Audit of the Disclosure and Barring Service was undertaken in November 2013. The overall audit outcome was 'sufficient' with some management recommendations. This report provides an update to Members on the recommended changes to the Disclosure and Barring Policy and Recruiting Managers Guidance.

1.0 Budget and Policy Framework

1.1 The policy lies within the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

2.0 Background

2.1 Medway Council has been an Umbrella Body for Criminal Record Bureau checks since 2002.

2.2 The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged into the Disclosure and Barring Service (DBS) on 1 December 2012. CRB checks are now called DBS checks

2.3 The merging of these two departments has brought about new procedures and guidance for Umbrella bodies which have been implemented.

2.4 The outcome of the audit is sufficient, meaning that control arrangements ensure that all critical risks are appropriately mitigated, but further action is required to minimise the Councils risk to exposure

3.0 Recommendations and Management Actions

- 3.1 *The Council DBS policy needs to be consistently applied for employees and non-employees.*
- 3.2 As an umbrella body the Council undertakes DBS checks for employees and non-employees such as volunteers, taxi drivers, foster and adoptive parents and childminders, including schools based employees/volunteers.
- 3.2 The revised policy and management guidance contains links to directorate specific procedures to be followed by service areas. Each directorate has a named person who is the contact for anyone needing to undertake a check. This approach will ensure we are consistently applying the policy to every check undertaken regardless of whether is for a prospective employee or not.
- 3.3 *Clear guidance needs to be given on using the new 'update' service to check DBS certificates including information on the changes to the rehabilitation of offenders act 1974 (Exceptions) Order 1975*
- 3.4 Since June 2013, criminal record certificates have been sent directly to the individuals and not to the employing body. This change was implemented to allow the prospective employee to challenge any concerns or suspected errors.
- 3.5 The changes have also seen the introduction of an online 'update service'. Once a paper submission is made the 'person' can pay a yearly fee of £13 to keep their individual status updated and available online to prospective employees, This method is particularly appealing to people who undertake short term contract or agency work.
- 3.6 A training programme on the revised process and policy has been provided and is mandatory for all recruiting managers who are involved with the DBS disclosures. The training ensures officers are confident and knowledgeable on the implementation when making decisions on employment or whether to refer the disclosure for further consideration and sign off. The training session also ensures recruiting managers understand the appropriate guidance in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
- 3.7 All disclosures with a positive conviction will be sent to the Assistant Director for Organisational Services for a decision on employment. The Assistant Director will be given a full understanding of the role and the level of contact with vulnerable children or adults to help inform the decision.
- 3.7 Managers are guided through the process with expert advice from the Human Resources team. The revised policy and guidance provides a check list for recruiting managers to follow and provides a method in

which to check double check and ask for professional guidance if a recruiting manager is unclear.

- 3.8 *As an Umbrella body the council counter-signs DBS applications on behalf of other organisations such as charities. These organisations should have their own DBS policy in place and the Council as an umbrella body should check this.*
- 3.9 All organisations for which the council act as an Umbrella body are required to provide a copy of their DBS policy in advance of any DBS requests being counter-signed. A template best practice policy is made available for organisations to put in place if they do not currently have one.
- 3.10 *A cost analysis of the viability of providing the umbrella body service should be undertaken.*
- 3.11 The cost of an enhanced DBS check is currently £44 payable by the employing body. Organisations for which we act as an umbrella body are charged an administrative fee of £14 per check on top of the DBS costs.
- 3.12 A cost analysis will be undertaken at the end of financial year 2013/14 to assess the viability.

4.0 Implementation

- 4.1 The changes to the policy and recruiting managers' guidance will be implemented immediately. Guidance notes have already been published on the Council's intranet site, Just for You, training has taken place and HR support are advising managers on the current situation.

5.0 Scope

- 5.1 This policy will apply to all prospective and existing employees, volunteers, taxi drivers, foster and adoptive parents and childminders, including schools based employees/volunteers. Wherever prospective employees or existing employees are mentioned, the provisions also apply to volunteers, taxi drivers, foster and adoptive parents and childminders.
- 5.2 A copy of this policy will be sent to all Umbrella bodies that use the Council's registered status to issue DBS certificates as a 'model' policy.

6.0 Risk Management

Risk	Description	Action to avoid or mitigate risk
Non compliance with statutory requirements	There is a statutory requirement to implement the new arrangements. The risk of non-compliance with statutory requirements would leave the Council open to legal challenge and financial penalties.	Issuing of new policy and managers guidance, combined with mandatory training. Expert advice kept within the Human Resources Team
Employment contract offered or withdrawn	Recruiting managers are responsible for escalating positive DBS checks.	All recruiting managers will have to undergo mandatory training and be guided through the process by the HR Support team. All positive disclosures must be seen and signed off by the Assistant Director for Organisational Services before any decision on employment is made.

7.0 Financial implications

- 7.1 The cost for undertaking a DBS check remains the same to the council
- 7.2 The yearly payment of £13 to make your DBS available online will be paid by the DBS check holder.

8.0 Legal Implications

- 8.1 The Council has a statutory duty to safeguard both children and vulnerable adults. There is a statutory requirement to implement the new arrangements. Non-compliance with statutory requirements would leave the Council open to criminal liability, legal challenge and financial penalties. The Council must ensure that relevant employment procedures on recruitment are compliant with the statutory requirements of the legislation. There are potential implications under the Human Rights Act 1998 and the Data protection Act 1998.
- 8.2 In cases where offences do not result in the individual being barred from the list, the Council must have regard to the Rehabilitation of Offenders Act 1974, to determine suitability of an individual, to work in line with the Act.

9.0 Recommendation

- 9.1 That the Employment Matters Committee agree that the Disclosure and Barring Policy and Recruiting Managers' Guidance be amended to reflect the management action taken as detailed in paragraph 3 of the report.

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Background papers

None