



# **Disclosure & Barring Service**

## **Process & Guidance**

### **Document**

# Contents

- 1 Introduction
- 2 Purpose
- 3 Duties
- 4 DBS risk assessment
- 5 Recruitment of ex-offenders
- 6 DBS Process
  - 6.1 Process for new starters and existing employees working for BDC (employees, casuals, freelance, volunteers etc)
  - 6.2 Refusal to have a DBS check
  - 6.3 Taxi Licensing Process
  - 6.4 DBS right of appeal
- 7 Appendices
  - Appendix 1 Handling of DBS certificate information
  - Appendix 2 DBS risk assessment form

## 1. Introduction

1.1 Blaby District Council (BDC) is committed to safeguarding the welfare of children and adults.

## 1.2 Principles

- Children (under 18, or under 16 if the child is employed) and adults should be treated with care, respect and dignity.
- Those working for BDC will be perceived by children and adults as being trusted representatives of BDC.
- Employees should act responsibly with regards to physical contact with children which may be necessary for work or health and safety reasons, or under supervision.
- BDC is registered with the Disclosure and Barring Service (DBS) who provide a disclosure service for organisations who have individuals in positions which involve regular contact with children and adults.
- An offer of work to a position where working with children or adults is an expected part of the role will be subject to a satisfactory DBS check. This applies to individuals engaged on any type of BDC contract (e.g. employment, casual, voluntary).
- BDC is also responsible for carrying out DBS checks for Taxi Driver licensing.
- BDC is also registered as an 'umbrella body' and therefore can process DBS checks for non-registered organisations.

## 1.3 Definitions

DBS	Disclosure and Barring Service
Contra Indicators	Offences identified by the DBS on the certificate

## 2. Purpose

### 2.1 When is a DBS certificate required?

2.1.1 A DBS certificate discloses convictions, cautions, warnings, reprimands and other police intelligence. Normally, once a conviction is 'spent' the convicted person does not have to reveal or admit to its existence. However, in the context of working with children or adults, organisations are legally entitled to ask for details through the DBS of convictions irrespective of whether they are 'spent' or 'unspent'.

2.1.2 It is only permissible to require a DBS certificate if a position falls within the definitions prescribed by the *Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975*. Within BDC the main categories for these are:

DBS - Category Type	DBS Category Code
Any work defined as regulatory activity related to children or adults within the meanings of Schedule 4 Parts 1 and 2 of the Safeguarding Vulnerable Groups Act 2006	01 (children) & 03 (adults)
Any work defined as 'work with children' or 'work with adults' in regulation 5B and 5C of the Police Act 1997 (Criminal Records) Regulations 2002	02 (children) & 04 (adults)
Any office or employment which is concerned with: <ul style="list-style-type: none"> <li>• the provision of care services to vulnerable adults; or</li> <li>• the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment;</li> </ul> and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services	05
Chartered accountant, certified accountant – on entry into the profession only	09
Chartered Legal Executive or other Chartered Institute of Legal Executive (CILEx) authorised person – on entry into the profession only	13
Any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties	21
Financial Services position – This means all positions for which the Financial Conduct Authority (previously the Financial Services Authority) or the competent authority for listings are entitled to ask exempted questions to fulfil their obligations under the Financial	22

Services and Markets Act 2000	
For Taxi Driver and Private Hire Vehicle licensing purposes	56
For obtaining or holding a personal or operating licence under Part 5 or Part 6 of the Gambling Act 2005	60

For a full list of positions prescribed within the *Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975*.

## 2.2 Regulatory Activity

2.2.1 Regulatory Activity is work that a barred person must not do.

2.2.2 The new definition of regulated activity (i.e. work that a barred person must not do) in relation to children comprises, in summary:

- 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: e.g. schools, children's homes, childcare premises. Not work by supervised volunteers;
- iii. relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional;
- iv. registered childminding; and foster-carers.

2.2.3 Work under (i) or (ii) is regulated activity only if done regularly. Work under (iii) and (iv) is regulated activity if it is done unsupervised. A full detailed description of these can be found in 'Regulated activity in relation to children: scope' a factual note published by the Department for Education.

2.2.4 There are six categories within the new definition of regulated activity with adults. These are:

- Providing health care
- Providing personal care
- Providing social work
- Assistance with general household matters
- Assistance in the conduct of a person's own affairs
- Conveying

2.2.5 A full detailed description of these can be found in 'Regulated activity (adults)' a document published by the Department of Health.

2.2.6 If the position does not fall into one of the above categories and BDC nevertheless still requests a DBS certificate, the consequences may be:

- The DBS may challenge the decision to have a particular position checked;
- the DBS may consider suspending BDC's ability to complete checks, or may de-register BDC;

- In the worst case, BDC may be found to have committed an offence relating to the disclosure of information and falsification with a penalty of imprisonment or a fine.

### 3. Duties

#### 3.1 Process for individuals working for BDC (employees, casuals, freelance, volunteers etc)

<p>Individual Required to have DBS</p>	<ul style="list-style-type: none"> <li>• Read the 'DBS Application Form - Guide for applicants' and follow the instructions.</li> <li>• Complete the DBS application form accurately and promptly.</li> <li>• Arrange a time to meet the appropriate Countersignatory as soon as possible.</li> <li>• Provide original documents as requested.</li> <li>• If applicable, follow a restricted duties plan as advised by their manager.</li> <li>• Provide original DBS certificate to HR for them to review as soon as it is received to their home address</li> <li>• Existing employees are expected to notify their line manager as soon as they are being investigated for any offences.</li> </ul>
<p>Manager</p>	<ul style="list-style-type: none"> <li>• Identify need for DBS check and the appropriate level</li> <li>• Responsible for ensuring the DBS check is obtained and individual is complying with their roles and responsibilities.</li> <li>• Responsible for carrying out a risk assessment and obtain authorisation from Group Manager for an individual to start work pending the outcome of the check.</li> <li>• Ensure that their teams are aware of safeguarding issues at all times.</li> <li>• Remove the individual from restricted duties once a satisfactory check is received.</li> <li>• If contra indicators have been identified for a new starter, the manager is responsible for arranging a meeting with the individual and HR, to investigate and to decide whether or not the offer of employment should be upheld. In the cases of an existing employee if an individual notifies of an offence then the manager will need to consult with HR and consider what appropriate action is necessary. This could be an investigatory meeting in accordance with the disciplinary procedure.</li> </ul>
<p>HR</p>	<ul style="list-style-type: none"> <li>• Responsible for maintaining system functionality to record dates of DBS certificates.</li> </ul>

	<ul style="list-style-type: none"> <li>• Check ID and documentation and promptly, referring to the DBS guidelines over what is and is not acceptable.</li> <li>• Raise any queries with the individual and then escalate to their manager, if appropriate.</li> <li>• Inform manager when the DBS certificate received back.</li> <li>• Advise on whether a position is eligible by the DBS and challenge requests where the position may not be an eligible position</li> <li>• Check the DBS application form has been completed correctly</li> <li>• Send the DBS form to the DBS and be the point of contact for queries.</li> <li>• Refer any escalation issues to the appropriate manager and Group Manager.</li> </ul>
Group Manager	<ul style="list-style-type: none"> <li>• Ensure that their teams are aware of safeguarding issues at all times.</li> <li>• Risk assess and authorise requests for individuals to start work with a restricted duties plan pending the receipt of a satisfactory DBS certificate.</li> <li>• Be the final decision maker on escalated cases where contra indicators have been identified.</li> </ul>

### 3.2 Roles and responsibilities for taxi licensing

Driver Required To Have DBS	<ul style="list-style-type: none"> <li>• Read the 'DBS Application Form - Guide for applicants' and follow the instructions.</li> <li>• Complete the DBS application form accurately and quickly.</li> <li>• Collect original documents as requested.</li> <li>• Drivers are unable to work until a DBS has been returned.</li> <li>• DBS renewals sent out 3 months before expiry of existing DBS</li> </ul>
Licensing team ID Checker/ Counter Signatory	<ul style="list-style-type: none"> <li>• Check ID and documentation against the DBS list of approved documents.</li> <li>• Makes checks accurately and quickly, referring to the DBS Guide to Completing the DBS Application to check what is and is not acceptable.</li> <li>• Raise queries with the individual.</li> <li>• Send form to DBS as quickly as possible after receipt.</li> <li>• Responsible for ensuring that all licensed drivers carry out a new DBS check within the timescales required</li> <li>• Refer any escalated cases where contra indicators have been identified to the Private Hire &amp; Hackney Carriage Regulatory Committee</li> </ul>

Group Manager	<ul style="list-style-type: none"> <li>• Ensure that their teams are aware of safeguarding issues at all times.</li> </ul>
---------------	--

#### 4. DBS risk assessment

4.1 A risk assessment form must be completed when:

- The position does require a DBS check, but BDC are awaiting the return of a certificate. **Please note:** Manager's should allow enough time for the DBS check to be completed before the individual is due to start work and therefore a risk assessment should only be used in exceptional circumstances. Examples of when a risk assessment would be acceptable would be due to an unforeseen delay in the DBS process or due unforeseen business need which requires an immediate start.
- Offences have been declared by the individual or through the DBS disclosure. In these cases the risk assessment should be used to establish whether or not the offer of work should remain or in the cases of existing employees whether any further appropriate action should be taken.

4.2 The risk assessment must be fully completed and signed off by the Manager, Individual and Group Manager.

#### 5. Recruitment of ex-offenders

5.1 As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the DBS, BDC complies fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly.

5.2 BDC undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

5.3 BDC can only ask an individual to provide details of convictions and cautions that we are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended).

5.4 BDC can only ask an individual about convictions and cautions that are not protected.

5.5 On the 29 May 2013, legislation came into force that allows certain old and minor cautions and convictions to no longer be subject to disclosure. In addition, BDC are not able to take an individual's old and minor cautions and convictions into account when making decisions. All cautions and convictions for specified serious violent and sexual offences, and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults, will remain subject to disclosure. In addition, all convictions resulting in



a custodial sentence, whether or not suspended, will remain subject to disclosure, as will all convictions where an individual has more than one conviction recorded. Applicants are directed to the guidance and criteria which explains the [filtering of old and minor cautions and convictions](#) which are now 'protected' so not subject to disclosure.

- 5.6 BDC are committed to the fair treatment of our staff, potential staff or users of our services, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background.
- 5.7 BDC actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.
- 5.8 BDC selects all candidates for interview based on their skills, qualifications and experience.
- 5.9 An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.
- 5.10 BDC ensures that all those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.
- 5.11 BDC also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
- 5.12 At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 5.13 BDC make every subject of a criminal record check submitted to DBS aware of the existence of the [code of practice](#) and makes a copy available on request.
- 5.14 BDC undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

## **6. DBS process**

### **6.1 Process for new starters working for BDC (employees, casuals, freelance, volunteers etc)**

Step 1 The Manager identifies the need for a DBS check, if a Manager is unsure whether or not the position meets the eligibility criteria (see section 2) then they should speak with HR.

Step 2 If a DBS check is required, the Manager must detail this on the "recommendation to appoint" form or the Casual Engagement form.

Step 3 The individual contacts HR to make an appointment to bring in the completed forms and documentation.

Step 4 The appropriate countersignatory is responsible for checking the completed DBS form and the supporting documentation. The countersignatory signs the form and HR will send the form to the DBS.

Step 5 Once the DBS check is returned HR will record the outcome and confirm to the Manager that the check is complete.

If any contra indicators come back on the form the Manager will arrange a meeting with the individual and an HR representative to discuss the record. Following the meeting the manager will decide whether the offer of employment will be upheld. If the offer of employment is upheld, the risk assessment form must be completed and signed off by the Group Manager. If the offer is turned down, the Manager will notify the individual of the reasons and this will be followed up with a letter from HR.

Step 6 Where a previously undisclosed contra indicator is obtained for an existing employee, an investigatory meeting may be held in accordance with the Disciplinary Policy and Procedure. It should be noted this could lead to further disciplinary action in accordance with the procedure.

### **6.2 Taxi licensing process**

6.2.1 All new drivers are subject to a DBS check, and licensed drivers undertake a new check every 3 years. The details referring to the Taxi licensing process can be found within the Fit & Proper Persons Policy.

### **6.3 DBS right of appeal**

6.3.1 It should be noted that the DBS provides a right of appeal if an individual feels that information revealed on their DBS certificate is incorrect and does not relate to them.

## Appendix 1

### Handling of DBS certificate information

It is a requirement of the DBS Codes of Practice that BDC has a written policy on the correct handling and safekeeping of DBS certificate information.

#### **Policy Statement**

##### General principles

BDC complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. BDC also complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information.

##### Storage and access

Certificate information is kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

BDC keeps an electronic 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 certificate and the details of the recruitment decision taken.

For Taxi Drivers, once DBS certificates are received they are locked away and then disposed of securely.

##### Handling

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. BDC maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

##### Usage

Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

##### Retention

Once a recruitment (or other relevant) decision has been made, BDC does not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints.

If, in very exceptional circumstances, BDC considers it is necessary to keep certificate information for longer than six months, BDC will consult the DBS and give full consideration to the data protection and rights of the individual before doing so.

Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

### Disposal

Once the retention period has elapsed, BDC ensures that any DBS certificate information is immediately destroyed by secure means, i.e. by shredding. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep 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 and the details of the recruitment decision taken

### **Acting as an umbrella body**

Before acting as an umbrella body (an umbrella body being a registered body which countersigns applications and receives certificate information on behalf of other employers or recruiting organisations), we will take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of certificate information in full compliance with the [code of practice](#) and in full accordance with this policy.

We will also ensure that any body or individual, at whose request applications for DBS certificates are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

## Appendix 2

### DBS Risk Assessment Form

BDC is committed to safeguarding the welfare of children and vulnerable adults. As part of this commitment, BDC requires the following risk assessment to be conducted when:-

The position does require a DBS certificate, this has been requested and BDC are awaiting the return of a satisfactory certificate.

### Risk Assessment

Job Title	_____
Main Duties	_____
Hours or work	_____
Location	_____
Reason for Risk Assessment	<p>Tick as appropriate:</p> <p><input type="checkbox"/> Offences have been declared by the individual or through the DBS certificate</p> <p><input type="checkbox"/> The position <u>does</u> require a DBS certificate, this has been requested and BDC are awaiting the return of a satisfactory certificate.</p>
Safeguarding measures	<p>(e.g., training, documents given to individuals, restricted duties until certificate received etc)</p> <p>(Below are <b>some</b> examples of measures – only include if appropriate)</p> <ul style="list-style-type: none"> <li>• The individual must always be in the company of a BDC employee who has a satisfactory DBS, <u>unless</u> the child or vulnerable adult is accompanied by a parent, guardian, teacher or chaperone at <u>all</u> times;</li> <li>• Any contact with a child or young person should be made through the parent and logged with the manager;</li> <li>• The individual will not be involved in teaching, training, care, supervision, advice, moderating or driving children.</li> <li>• Let others in the team know that the individual will not be working unsupervised, or in these specified activities until their certificate has been received satisfactorily.</li> </ul>

**Duties/responsibilities that can be undertaken**

**Duties/responsibilities that can not be undertaken**

**NOTE:**

The above is to be used as guidance and your work programme and day-to-day out of office activity should be agreed with your line manager.

Signed... .. Date... ..  
**XXXX Name of Manager**

Signed... .. Date... ..  
**XXXX Name of Individual**

Signed... .. Date... ..  
**XXXX Name of Group Manager**