

# **MANAGERS' GUIDANCE (SCHOOLS)**

## **CRIMINAL BACKGROUND CHECKS**



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## **1.Introduction**

The Council's policy with regard to Criminal Background checks is set out in a separate document. This supplementary guidance is to provide managers who are closely involved in this area with advice on how to deal with the issues which may arise.

## **2. Scope**

The Council's Equality and Diversity policy underlines our commitment to recruiting and developing a workforce from as broad a spectrum as possible. We recognise that finding employment is an important part of the rehabilitation of ex-offenders and having an unspent criminal conviction will not of itself prevent an applicant from being considered for a job with the Council.

At the same time we have a duty to avoid recruiting anyone who might pose a risk to our service users or staff. This document sets out how we keep these two aims in balance.

The principles in this guidance apply to both paid and volunteer positions. Additional guidance specifically for schools can be found in the last of the appendices – Appendix 10.

## **3. Before advertising a post**

Prior to advertising a post, the recruiting manager needs to determine whether the successful candidate will be required to undergo a Disclosure and Barring Service (DBS) check (also known as a disclosure and formerly known as a Criminal Records Bureau or CRB check). If so, it is their responsibility to ensure that potential applicants are aware that a DBS check will be required by advising the Shared Services Centre(HR) [SSC(HR)] when initiating the recruitment process.

For all posts which involve regulated activity an enhanced DBS check together with a check against the barred list must be undertaken. A definition of regulated activity is shown at Appendix 1(Children) and Appendix 2 (Adults).

Applicants who are offered employment to those posts must have a criminal record check and a barring list check before their appointment can be confirmed. For these posts both spent and unspent convictions must be declared.

Enhanced checks contain details of spent and unspent convictions, cautions, reprimands and warning held on the Police National Computer together with information from local police records which the Chief Police Officer reasonably believes to be relevant.

The legislation enables an employer to undertake DBS checks for other roles which are considered to be 'eligible'. This is discretionary, and Derbyshire County Council will not usually undertake DBS checks in respect of roles which do not involve regulated activity. However, there are a small number of roles eligible for a DBS check which do not involve regulated activity where the Senior Management Team on the advice of the HR Service Partner of a Department may consider it appropriate for a DBS check to be undertaken. The HR Service Partner will notify both Recruiting Managers and the DBS team at the Shared Service Centre of any such roles.

Many posts within the Council do not require a DBS check and it is important that only those applicants for posts which are eligible are checked. The DBS closely monitors the applications for DBS checks which it receives and will take action against those organisations seeking for checks to be undertaken for roles which are not eligible.

Whilst DBS checks, where they are appropriate, have an important part to play in recruitment, the robust processes managers use to ensure that we recruit suitable candidates are also key. Free e-learning training about safer recruiting can be accessed via [www.education.gov.uk](http://www.education.gov.uk) for those in the schools sector and also the children and young people's workforce.

Currently, the Council's Job Application Form contains a section asking candidates to indicate whether they have any criminal convictions, warnings, reprimands, cautions, bindings over or other orders, pending prosecutions or criminal investigations. Some criminal convictions are considered spent (under the Rehabilitation of Offenders Act 1974) after a certain length of time and Appendix 3 sets out more details about the length of time that must elapse before offences are spent.

Advice in dealing with this kind of information for posts that do not require a DBS check is included in section 10 below.

#### **4. During the interview for a post requiring DBS clearance**

The relevant manager will need to ensure that the applicant has completed the DBS form correctly and also verify their identity by checking the identification documents that the applicant will have been asked to provide. Appendix 4 contains advice on how to do this.

The completed DBS form(s) for the **successful applicant(s) only** should then be returned to the SSC(HR). All DBS forms for unsuccessful candidates should be destroyed as confidential waste.

#### **5. Outcome of DBS Check (disclosure)**

All disclosures will contain details of spent and unspent convictions, cautions, reprimands or warnings from the Police National Computer. In addition enhanced disclosures can contain non-conviction information from local police records which a Chief Police Officer reasonably believes to be relevant. Enhanced disclosures with a barred list check will also contain information about whether the applicant is barred from working with children or adults.

Disclosures are requested for job applicants and also at regular intervals (currently every three years) for employees subject to a DBS check.

Copies of the disclosure are currently sent to the SSC (HR) and to the individual applicant by the DBS. This is expected to change in 2013 so that initially the disclosure is just sent to the applicant who can then share it with his/her employer.

In the event that no conviction information is disclosed, the recruiting manager will simply receive confirmation from the SSC (HR) that the DBS check is clear and that the appointment can go ahead.

## **6. When the disclosure contains details of convictions**

The SSC(HR) will send any disclosure that contains convictions etc to the relevant Departmental HR who will make contact with the recruiting or line manager, who should report the matter to the relevant Senior Manager in their department (see Appendix 5). The recruiting or line manager should then arrange to see the applicant, unless the matter had already been disclosed and fully discussed at interview or another time.

The following points should be considered:-

- Relevance to the post
- Nature and seriousness of the offence/matter
- Circumstances surrounding the offence and explanation offered
- Length of time since it occurred and age of the person when it occurred
- Whether there is a pattern of offending behaviour/related matters
- Efforts to avoid re-offending
- Whether the person's circumstances have changed since the offence making re-offending less likely
- Possible reactions of employees, service users etc., objectively assessed
- The country in which the offence was committed (what constitutes an offence may differ between countries)
- Whether the offence has since been decriminalised by Parliament
- The degree of remorse or otherwise expressed by the individual

Following the meeting the recruiting manager should decide if they feel that the appointment should continue. Each case will need to be considered on its own merits but in order to help in assessing the risk and making sound judgements about suitability consistently, guidance about timescales is given in Appendix 6 and about offences and penalty levels in Appendix 7. In addition advice should be sought from departmental HR in difficult cases.

The recruiting or line manager should then make a recommendation to the designated senior manager in the relevant department who will ratify the final decision. If the decision is made to withdraw the offer of employment, this should initially be confirmed to the candidate by the line manager or other departmental decision maker. The form from the SSC(HR) which accompanies the certificate needs to be fully completed and returned to the SSC(HR) – see Appendix 8. Reasons for the decision made should be entered on the form or on associated departmental documentation. The SSC (HR) will then send a letter to the person withdrawing the offer of employment. In the event that the appointment does not proceed there is no appeal.

## **7. Portability of Disclosures**

DBS portability (accepting as valid a DBS disclosure received previously for a different appointment within the Council) can achieve considerable efficiencies where balanced with appropriate safeguarding measures. The process for utilising portability is as follows:-

- Where appropriate, the SSC (HR) email the recruiting manager asking if they wish to consider appointment on the basis of an existing DBS disclosure
- Should the recruiting manager wish to pursue this, they must contact the successful candidate to ascertain:
  - if the candidate has been subject to any police or criminal investigation, conviction or police caution or other issues arising since the check was undertaken, which would potentially compromise them undertaking their new role.
  - As part of this discussion, the recruiting manager should ensure that the candidate is clear that, should information subsequently be received to the contrary, this may nullify the offer of appointment and result in dismissal. Notes of this discussion should be retained.
- On completion of the above checks the recruiting manager advises the SSC (HR) that they wish to accept portability of the check.

Portability cannot be accepted in the following situations and a new application for DBS must be sought:

- Where the level of the existing disclosure is different to that required in the new post.
- Where the DBS Barring List against which the existing disclosure was checked is different from that required for the new post (e.g. DBS Barring List Childrens v DBS Barring List Adults). For example If an employee has been checked against the adults barring list as a Care Assistant they may still be barred from working with children.
- If the applicant has confirmed they have received a caution or conviction since their last approved DBS certificate.
- If the existing DBS disclosure indicates a trace. The SSC(HR) do not have access to detailed reasons for that trace. In such a case the successful candidate's DBS application will be processed again before starting the new post. In these cases the SSC(HR) will not ask the recruiting manager if they wish to use the portability provision.
- A DBS clearance by another employer cannot be considered as DCC has not made the initial recruitment decision.

NB If the date of the existing clearance is more than 2 years 6 months old and a manager elects to accept portability, because of the current 3 year recheck process, the SSC (HR) will continue to process the candidate's new DBS application. The newly completed DBS is just a replacement of the 3 year check – the appointment goes ahead as the candidate already has a DBS clearance in place.

## 8. Pre-authorisation

In certain exceptional circumstances when the pressure to fill a vacancy is acute e.g. in order to maintain legal staffing levels in a regulated establishment, it may be appropriate to appoint an individual prior to DBS clearance being received (known as pre-

authorisation). No individual should be cleared to commence work prior to a DBS clearance unless:-

- The preferred candidate has provided a written statement that they have no convictions, cautions, and are not subject to investigation
- A DBS check has been applied for and the form correctly filled in and sent to the Disclosure and Barring Service
- A DBS Barring List check has been submitted and is satisfactory
- All other pre-employment checks have been carried out and are clear
- References including statements regarding the individual's suitability for working with children/vulnerable adults have been received
- A complete risk assessment has been carried out detailing supervision arrangements and adjustment made to the working practice of the employee prior to receipt of DBS clearance. A risk assessment form is at Appendix 9
- The employee accepts that the appointment is subject to subsequent receipt of satisfactory DBS clearance and that in the interim all employment is regarded as conditional.

Requests for pre-authorisation will only be considered:

- Where there is an identified high service risk of not having a person in post
- Where there are identified staffing shortages in the service area
- Where there are high volumes of unallocated work for key services, the risks of which are deemed greater than appointing subject to clearance
- Where it is a hard to recruit group and there is a real risk of losing recruits if the appointment is delayed.

All cases of pre-authorisation must have senior manager approval before the appointment starts – see Appendix 5.

If the DBS check for someone who has been pre-authorised to start work comes back with a disclosure, then the procedure as outlined in section 6 above must be undertaken immediately to see if the appointment can continue.

## **9. Contract and Agency workers**

Where agency or contract workers are supplied to carry out duties within the council, the manager must obtain written confirmation from their employer (agency or contractor) that the relevant DBS check has been carried out and is satisfactory before the individual commences work. Where there is disclosed information on the DBS check then the manager must obtain a copy of the DBS disclosure from the employer before the individual starts work to allow a proper assessment to be undertaken. Managers must ensure that the contract with the agency or contractor imposes an obligation on them to carry out the same checks as the council would for its own employees in advance of the work starting. These checks must be up to date and renewed at the appropriate intervals.

## **10. Dealing with disclosures made by applicants for posts not requiring a DBS check**

If a candidate for a job which does not require DBS clearance has ticked the box on the application form indicating that they have a criminal conviction or warning etc which is not spent, they will bring the details in a sealed envelope to interview. If, after the interviews have taken place, the preferred candidate has provided such an envelope, the recruiting manager should forward this to Senior Management at the appropriate level (See Appendix 5), along with the rest of the paperwork for the candidate. Envelopes from unsuccessful candidates should be destroyed.

It will then be up to a suitable senior manager to open the envelope for the preferred candidate and decide if the information is relevant to the job and if it should affect the recruitment decision. See section 6 for advice. The outcome should be made known to the recruiting manager and appropriate action taken re continuing or ceasing the candidate's appointment process. If any senior manager needs further advice, this can be obtained from their HR Service Partner.

### **11.Reporting to the Disclosure and Barring Service (DBS)**

Employers are under a legal duty to notify the DBS of relevant information, so that individuals who pose a threat to vulnerable groups can be identified and barred from working with these groups. If an employee is dismissed or removed from working with children and/or vulnerable adults (in what is legally defined as regulated activity) because they have harmed a child or vulnerable adult, this must be reported to the DBS by departmental HR (in conjunction with the relevant operational manager) and to any other relevant professional bodies for them to consider whether to place the individual on their barred lists. This is in addition to the matter being dealt with as part of the Council's disciplinary procedure.

### **12. Legal Position**

Under the Rehabilitation of Offenders Act 1974, it is unlawful to discriminate against an ex-offender on the grounds of a spent conviction with the exception of those posts exempt from the Act.

The Safeguarding Vulnerable Groups Act 2006, as amended, creates a number of offences to prevent barred people from working in regulated activities. Derbyshire County Council, as an employer and regulated activity provider, and individuals can be convicted of a criminal offence if a person who is barred from engaging in a particular activity does actually engage in that activity. A regulated activity provider also commits an offence if it permits a person to engage in a regulated activity while knowing or having reason to believe that the individual is barred.

The maximum sanctions for these offences are fines of up to £5,000 or up to five years in prison.

### **13. Recent and Future changes**

The Protection of Freedoms Act 2012 received Royal Assent in May 2012. In

December 2012 the work of the Criminal Records Bureau and Independent Safeguarding Authority merged into the Disclosure and Barring Service (DBS), responsible for barring individuals and completing criminal record checks.

In 2013 a new Update service is proposed which will allow individuals, if they choose to subscribe to it and pay a small annual fee, to apply for a criminal record check once and then if they need a similar sort of check again, to reuse their existing certificate with the employer checking online to see if it is still up to date.

These guidelines will be updated once the new proposals are finalised.

## Appendix 1 Regulated Activity relating to Children

### General exceptions:

Regulated activity relating to children does not include:

- Family arrangements, and personal, non-commercial arrangements.
- Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children.

Regulated activity relating to children is:

#### 1. **Teaching, training or instruction of children:**

- a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period **or** at any time overnight (between 2am-6am *and* with an opportunity for face-to-face contact with children);
- b. NOT supervised – i.e. under reasonable day-to-day supervision by another person engaging in regulated activity;
- c. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
- d. NOT activity merely incidental to activity with adults

#### 2. **Care or supervision of children** (not including that covered by points 6 or 7):

- a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period **or** at any time overnight (between 2am-6am *and* with an opportunity for face-to-face contact with children);
- b. NOT supervised – i.e. under reasonable day-to-day supervision by another person engaging in regulated activity;
- c. NOT health care provided otherwise than by or under a health care professional;
- d. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
- e. NOT activity merely incidental to activity with adults.

#### 3. **Advice or guidance:**

- a. Provided wholly or mainly for children;
- b. Relating to their physical, emotional or educational well-being;
- c. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period **or** at any time overnight (between 2am-6am *and* with an opportunity for face-to-face contact with children);
- d. NOT legal advice; and
- e. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose.

4. **Moderating a public electronic interactive communication service** which is likely to be used wholly or mainly by children:
  - a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period; and
  - b. NOT activity by a person who does not have access to the content of the matter or contact with users.
  
5. **Driving a vehicle** being used only for conveying children and their carers/supervisors:
  - a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period; and
  - b. Done under an agreement, either with the driver or with a person with whom the driver works, for gain or not.
  
6. **Relevant personal care:**
  - a. Either:
    - i. Physical help with eating or drinking necessary due to illness or disability;
    - ii. Physical help with toileting, washing, bathing or dressing necessary due to age, illness or disability;
    - iii. Prompting, with supervision, in relation to i or ii where the child is otherwise unable to decide; or
    - iv. Any form of training, instruction, advice or guidance given to the child in relation to i or ii.
  - b. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
  - c. NOT activity merely incidental to activity with adults.
  
7. **Health care** provided for children:
  - a. By, or under the direction or supervision of, a health care professional;
  - b. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
  - c. NOT activity merely incidental to activity with adults.
  
8. **Childminding:**
  - a. On domestic premises, for reward; and
  - b. With a requirement to register, or voluntary registration, under Childcare Act 2006.
  
9. **Fostering** a child:
  - a. NOT care arranged by family members, not for reward; and

- b. NOT LA fostering a child with a barred person who is, or lives with, a relative of the child.

10. **Day-to-day management or supervision** on a regular basis of a person providing regulated activity as described by points 1-7 and 11 (or in relation to points 1, 2 and 11, activity which would be regulated activity if it was unsupervised).

11. Activity carried out at **certain establishments**:

- a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period;
- b. Carried out for or in connection with the purposes of the establishment;
- c. Gives the person the opportunity, in carrying out their work, to have contact with children;
- d. NOT activity by a person contracted or volunteering to provide temporary or occasional services (and not mentioned in points 1-7 above);
- e. NOT supervised volunteering – i.e. under reasonable day-to-day supervision by another person engaging in regulated activity; and
- f. Carried out at one of the following establishments:
  - i. A school;
  - ii. A pupil referral unit;
  - iii. A nursery school;
  - iv. An institution for the detention of children;
  - v. A children's home;
  - vi. A children's centre; or
  - vii. Any childcare premises, including nurseries (but not including the home of a parent of at least one child to whom the childcare is provided).

### **Guidance note on supervision**

Work, which if it were unsupervised would be regulated activity, is not regulated activity if it is supervised. The statutory guidance on supervision in such cases is that:

- There must be supervision by a person in regulated activity
- The supervision must be regular and day to day
- The supervision must be reasonable in all the circumstances to ensure the protection of children

This gives local managers the flexibility to determine what is reasonable in their circumstances, bearing these three points in mind. The precise nature and level of supervision will vary from case to case. The duty that supervision must take place on a regular basis means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter becoming the exception rather than the rule. It must take place on an on-going basis. The following factors should be considered in deciding what level of supervision is appropriate:

- Ages of the children concerned, including whether their ages differ widely

- Number of children that the individual is working with
- Whether or not there other workers are helping to look after the children
- Nature of the individual's work (or, in a specified place such as a school, the individual's opportunity for contact with children)
- How vulnerable the children are
- How many workers would be supervised by each supervising worker

## Appendix 2 – Regulated Activity relating to Adults

### General exception:

Regulated activity relating to adults does not include:

- Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity relating to adults.

Regulated activity relating to adults is:

#### 1. **Health care** provided for adults:

- a. By, or under the direction or supervision of, a health care professional.
- b. Includes first aid provided by a person acting on behalf of an organisation established for the purpose of providing first aid.

#### 2. **Relevant personal care**:

- a. Either:
  - i. Physical help with eating, drinking, toileting, washing, bathing, dressing, oral care or care of skin, hair or nails, necessary due to age, illness or disability;
  - ii. Prompting, with supervision, in relation to i where the person is otherwise unable to decide; or
  - iii. Any form of training, instruction, advice or guidance given to the person in relation to i.

#### 3. **Relevant social work**:

- a. Provided by a social care worker to an adult who is a client or potential client; and
- b. Required in connection with any health, education or social services provided.

#### 4. **Day to day assistance in relation to general household matters**:

- a. Either:
  - i. Managing the person's cash;
  - ii. Paying the person's bills; or
  - iii. Shopping.
- b. Necessary by reason of age, illness or disability.

#### 5. **Relevant assistance in the conduct of an adult's own affairs**:

- a. Anything done on behalf of a person by virtue of:
  - i. A lasting power of attorney;
  - ii. An enduring power of attorney;
  - iii. A court order appointing a deputy or making decisions on the person's behalf;
  - iv. The appointment of an independent mental health/capacity advocate;
  - v. The provision of independent advocacy services; or

- vi. The appointment of an appointee to receive the person's benefit payments.

**6. Conveying:**

- a. Necessary by reason of age, illness or disability;
- b. Transporting to, from or between places where the person receives health care, personal care or social work; and
- c. NOT by family, friends or taxi drivers.

*[Note: The above definition of conveying is currently only in Home Office guidance, the relevant Regulations are yet to be produced.]*

**7. Certain inspection functions**

- 8. **Day-to-day management or supervision** on a regular basis of a person carrying out regulated activity as described by points 1-6.

**Note:** There is *no* requirement for the above activities to be done a certain number of times before they become regulated activity.

### Appendix 3 Principles of the rehabilitation period

<b>Sentence</b>	<b>Time taken from date of conviction to become spent if aged 17 or under when found guilty</b>	<b>Time taken from date of conviction to become spent if aged 18 or older when found guilty</b>
Prison and Youth Offender Institution term of more than 30 months	Never	Never
Prison and Youth Offender Institution term of more than 6 months and up to 30 months	5 years	10 years
Prison and Youth Offender Institution term of 6 months or less	3½ years	7 years
Fine, compensation, probation*, community service or combination order**	2½ years	5 years
Action plan, curfew, drug treatment and testing order or reparation order	2½ years	5 years
Absolute discharge	6 months	6 months
<p>* If found guilty on or after 03.02.95. Probation orders are now called community rehabilitation orders.</p> <p>** Community service orders are now called community punishment orders. Combination orders are now called community punishment and rehabilitation orders.</p>		
<b>Sentence</b>	<b>Time taken to become spent if aged 12, 13 or 14 when found guilty</b>	<b>Time taken to become spent if aged 15,16 or 17 when found guilty</b>
Detention and training order or more than 6 months	1 year after order ends	5 years
Detention and training order of 6 months or less	1 year after order ends	3½ years
<b>Sentence</b>	<b>Time taken to become spent</b>	
Probation* , supervision, conditional discharge and bind-over	1 year or until the order ends (whichever is longer)	
Attendance centre order	1 year after the order ends	
Referral order	Once the order ends	
*If found guilty by the court before 03.02.95		

## Appendix 4                      Criminal Background Checks ID Checking Process for Managers

Derbyshire County Council is a Registered Body for the Disclosure and Barring Service (DBS). As a manager you have an important role in the checking and verifying of documents to ensure the safety of children, young people and adults within Derbyshire.

As the recruiting manager you will be required to:

- Check and validate the information provided by the applicant on the application form
- Establish the true identity of the applicant;
- Ensure that the applicant provides details of all names by which they have been known and all addresses where they have lived in the last 5 years
- Ensure the application form is fully completed and the information it contains is accurate.
- Return successful candidates application form to the Recruitment and Appointment Team at the SSC(HR).
- Destroy all application forms relating to unsuccessful candidates.

If you are unsure about any part of the ID checking process, please contact the SSC (HR) – DBS Team on 01629 535118 option 3.

### **Identification checking process**

The applicant must provide a range of ID documents as part of the DBS application process.

#### **Managers/Identity Checkers must:**

- Follow the three route ID checking process as outlined in the guidance using the list of Groups 1, 2a and 2b documents.
- Check and validate the information provided by the applicant on the application form/ continuation sheet.
- Establish the true identity of the applicant through the examination of a range of documents as set out in this guidance.
- Ensure that the applicant provides details of all names by which they have been known.
- Ensure that the applicant provides details of all addresses where they have lived in the last five years.
- Ensure that the application form is fully completed and the information it contains is accurate.

If there are any discrepancies in the information provided by the applicant and/or the identity documents supplied, and fraud is not suspected, please seek clarification from the applicant. Failure to do this may compromise the integrity of the DBS service and introduce risk into your recruitment or licensing arrangements.

Managers/ID Checkers must not attempt to amend the application form without the applicant's knowledge and agreement, as it will invalidate the declaration by the applicant and may breach data protection legislation.

#### **Please note that:**

- You must only accept valid, current and original documentation.
- You must not accept photocopies.
- You must not accept documentation printed from the internet e.g. internet bank statements.
- Identity information for the applicant's name, date of birth and address recorded in Section A and Section B on the DBS application form must be validated.
- You should in the first instance, seek documents with photographic identity (e.g. passport, new style driving licence, etc.) and for this to be compared against the applicant's likeness.
- All documents must be in the applicant's current name as recorded in Section A (see below for guidance on recent changes of name).
- One document must confirm the applicant's date of birth as recorded in Section A.

- You must ensure that the applicant declares all previous change of name, and provides documentary proof to support the change of name.
- You must see at least one document to confirm the applicant's current address as recorded in Section B, in accordance with the guidance.
- You must provide a full and continuous address history covering the last five years. Where possible you should seek documentation to confirm this address history.
- You should cross-match the applicant's address history with any other information you have been provided with as part of the recruitment, such as their CV. This can highlight if an address has not been given e.g. if the applicant's CV shows that they have worked in Liverpool in the last five years, but the application form only shows London addresses, you may wish to question the applicant further about this.
- A document from each of the groups should be included only once in the document count e.g. do not accept two bank statements as two of the required documents, if they are from the same bank.
- You should not accept the foreign equivalent of an identity document if that document is listed as '(UK)' on the list of valid identity documents.

The Manager/ID Checker should follow the three routes as outlined below:-

### Route One

All applicants must initially be considered for Route One.

If the applicant can produce a Group 1 document, then the applicant must produce 3 documents in total:

- 1 document from Group 1 (refer to list of Valid Identity Documents below); and
- 2 further documents from Group 1, 2a or 2b; one of which must verify their current address.

If the applicant has satisfied this route, then the document check is complete.

Only when the applicant **cannot** produce a Group 1 document should you proceed to Route Two.

**NOTE – EEA Nationals (Non-UK):**

Where an EEA National has been resident in the UK for five years or less, the Manager/ID Checker should validate identity via Route One through the checking of a Current Passport or Current UK Driving Licence (photo card only) plus 2 further documents. In the absence of a Group 1 document, the Manager/ID Checker must satisfy themselves of a valid reason for using Route Two.

**NOTE - Non-EEA Nationals:**

All Non-EEA Nationals should be validated via Route One only.

### Route Two

The applicant must produce:

- 3 documents from Group 2 comprising of;
- 1 document from Group 2a; and
- 2 further documents from Group 2a or 2b; one of which must verify their current address.

AND

The Manager/ID Checker must:

- Complete the *External ID Verification Form* (which can be found towards the end of Appendix 4);
- *External ID Verification Form* should then be scanned and sent via email to [CRB@Derbyshire.gov.uk](mailto:CRB@Derbyshire.gov.uk) or by post to DBS Team, Shared Services Centre (HR), John Hadfield House, Dale Road, Matlock, DE4 3RD.
- Provide DBS Team with copies of **all** ID documents produced (with a signature and date confirming when the original documents have been seen by the Manager/ID Checker).
- The DBS Application Form should be retained by the Manager/ID Checker until they have received notification of the result of the '*External ID Verification Check*' from the DBS Team.
- A FAILED check may result in proceeding to Route 3.
- A PASS along with the production of the required Route Two documents will complete the ID verification process and the DBS application form should be marked **YES** at **BOX W59** with the name of the Manager/ID Checker.

- The completed DBS application form should be returned to the DBS Team at the above address.

**Please note** the DBS Team will conduct the *External ID Verification Check* via the appointed '*External ID Verification Service*' who will check the applicant against their records to establish the applicant's name and living history footprint.

If the Managers/ID Checkers have endeavoured to use Route Two but have been unable to validate the applicant's identity successfully, the Manager/ID Checker will be informed of the failed *External ID Verification Check* by the DBS Team and the Manager/ID Checker **may** consider proceeding to Route Three. **However please be advised that Route Three should only be used in circumstances once the Manager/ID Checker has fully explored with the applicant why their identity has not been successfully validated via Routes One or Two.** To do this, following notification of a FAILED '*External ID Verification Check*' the Manager should hold a probing discussion with the applicant about the likely reasons why their identity has not been validated **before** considering using Route Three. A record of this discussion should be submitted to the DBS Team, SSC (HR) as it is the Manager's responsibility to establish the true identity of the applicant through the examination of a range of documents as set out in this guidance.

## Route Three

For Route Three, the applicant must produce:

- Birth certificate (UK and Channel Islands) – (issued after the time of birth by the General Register Office/relevant authority i.e. Registrars – Photocopies are not acceptable) and
- 4 further documents from Group 2 comprising of:
  - 1 document from Group 2a; and
  - 3 further documents from Group 2a or 2b; one of which **must** verify their current address.

Should the Manager/ID Checker still be unable to validate the applicant's identity using Routes One, Two or Three, they should indicate this on the DBS application form at **Box W59** and return the form to the DBS Team. The applicant will then be sent for fingerprinting by the Police, which is likely to cause delay to the DBS application process and subsequently the recruitment process.

## List of Valid Identity Documents

### Group 1 – Primary Trusted Identity Credentials

- Current valid Passport.
- Biometric Residence Permit (UK).
- Current Driving Licence (UK) (Full or provisional) Isle of Man /Channel Islands;
  - Photo card only (a photo card is only valid if the individual presents it with the associated counterpart licence; except Jersey).
- Birth Certificate (UK and Channel Islands) - issued at the time of birth (registration within the first 6 weeks of birth);
  - Full or short form acceptable including those issued by UK authorities overseas, such as Embassies, High Commissions and HM Forces. (Photocopies are not acceptable).

### Group 2a – Trusted Government/State Issued Documents

- Current UK Driving licence (old style paper version).
- Current Non-UK Photo Driving Licence (valid only for applicants residing outside of the UK at time of application).
- Birth Certificate (UK and Channel Islands) - (issued after the time of birth by the General Register Office/relevant authority i.e. Registrars – Photocopies are not acceptable).
- Marriage/Civil Partnership Certificate (UK and Channel Islands).
- Adoption Certificate (UK and Channel Islands).
- HM Forces ID Card (UK).
- Fire Arms Licence (UK and Channel Islands).

### Group 2b – Financial/Social History Documents

- Mortgage Statement (UK or EEA)\*\* (Non-EEA statements must not be accepted).
- Bank/Building Society Statement (UK or EEA)\* (Non-EEA statements must not be accepted).
- Bank/Building Society Account Opening Confirmation Letter (UK).

- Credit Card Statement (UK or EEA)\* (Non-EEA statements must not be accepted).
- Financial Statement \*\* - e.g. pension, endowment, ISA (UK).
- P45/P60 Statement \*\*(UK & Channel Islands).
- Council Tax Statement (UK & Channel Islands). \*\*
- Work Permit/Visa (UK) (UK Residence Permit). \*\*
- Letter of Sponsorship from future employment provider (Non-UK/Non-EEA only – valid only for applicants residing outside of the UK at time of application).
- Utility Bill (UK)\* – Not Mobile Telephone.
- Benefit Statement\* - e.g. Child Allowance, Pension.
- A document from Central/ Local Government/ Government Agency/ Local Authority giving entitlement (UK & Channel Islands)\*- e.g. from the Department for Work and Pensions, the Employment Service , Customs & Revenue, Job Centre, Job Centre Plus, Social Security.
- EU National ID Card.
- Cards carrying the PASS accreditation logo (UK and Channel Islands).
- Letter from Head Teacher or College Principal (16/17 year olds in full time education – (only used in exceptional circumstances when all other documents have been exhausted).

**Please note:**

If a document in the List of Valid Identity Documents is:

- Denoted with \* - it should be less than three months old.
- Denoted with \*\* - it should be issued within the past 12 months.
- Not denoted – it can be more than 12 months old.

**Additional information**

What is an external ID validation check?

An external ID validation check is an alternative way of verifying the identity of an applicant. It will involve the provision of an applicant's details (as presented on the application form) to the Council's chosen supplier, who will compare the data obtained from the applicant against a range of independent, external data sources.

How can I check driving licences?

Do not accept licenses, other than those stated in the list of Valid Identity Documents. English, Welsh and Scottish driving licence numbers contain information about the applicant's name, sex and date of birth. This information is written in a special format but can be gleaned and matched against the information provided by the applicant in Section A.

Please note that the date of birth on English, Welsh and Scottish driving licences, issued before 1977, is not recorded as a separate entry on the licence. The date of birth can be deciphered from the driving licence number and checked against the date of birth field on the application form.

For example the format of the number for Christine Josephine Robinson, born 2 July 1975

ROBIN757025CJ99901  
NNNNNYMMDDYIICCC C

- N = 1st five letters of the surname (if the surname begins MAC or MC it is treated as MC for all).
- Y = YEAR of birth.
- M = MONTH of birth (In the case of a female, the number represented by the first M will have the value 5 added to the first digit e.g. a female born in November (i.e. 11) would display '61' in the MM boxes or if born in February (i.e. 02) would display '52').
- D = DAY of month of birth.
- I = Initial letter of the first two forenames - if only one, then 9 will replace the second letter. If the licence indicates that the applicant has a middle name, ensure that one has been provided in Section A.
- C = Computer generated.

**Please note**, for Northern Ireland; Isle of Man and Jersey driving licences the licence number is in a different format. The licence number is unique to the driver and the 'name' or 'date of birth' validation, as shown above, cannot be used.

#### What if the applicant has been adopted?

Managers/ID Checkers should inform applicants that if they were adopted before the age of 10, they do not need to provide their surname at birth in Section A of the DBS application form, they should give their adoptive name in this section. This is because the age of criminal responsibility is deemed to be 10 years, under the Children and Young Persons Act 1933, Chapter 12, Section 50. This means that there is no possibility that an individual could have a criminal record in a name that was used until the age of 10.

#### What if the applicant has changed their name recently and cannot provide ID documents in this new name?

Documents in a previous name can be accepted ONLY where the applicant can provide documentation supporting a recent change because of:

- Marriage/civil partnership (marriage/civil partnership certificate).
- Divorce/civil partnership dissolution (decree absolute/civil partnership dissolution certificate).
- Deed poll (Deed Poll certificate).

In these instances, you must:

1. Return a 'Continuation Sheet' with the application form clearly stating:
  - Current and previous names.
  - Date of the change.
  - Reason for the change.
  - The document you have seen to support this change.
2. Ensure that all 'Previous names' and 'Dates used' are recorded in Section A (Additional Personal Details).

#### What should you do if you suspect false identity or documents?

If you suspect that you have been presented with a false identity or documents at the time of application, do not proceed with the application process.

- Inform the DBS Team who will then report the suspected identity fraud to the Disclosure and Barring Service
- If you suspect identity fraud once a DBS check has been submitted, you must contact the DBS Team

You are also advised that under Section 8 of the Asylum and Immigration Act 1996 all employers in the United Kingdom are required to make basic document checks to help prevent anyone from working illegally. By carrying out checks employers will be able to establish a defence for themselves if any of their employees are found to be working illegally at a later date.

#### How do I check for indicators of fraud?

Always check for signs of tampering when checking identity documents. Documents should be queried if they display any signs of damage, especially in the areas of personal details such as the name and the photograph. The following guidelines should help you look out for any suspicious signs when authenticating documents.

#### Checking a passport

Check the general quality and condition of the passport. Treat it with suspicion if it is excessively damaged; accidental damage is often used to conceal tampering. Photographs should be examined closely for signs of damage to the laminate or for excessive glue or slitting of the laminate; these signs would indicate photo substitution. If the photograph appears excessively large, this might indicate an attempt to hide another photograph underneath. There should also be an embossed strip embedded into the laminate, which will catch a portion of the photograph. Check there is no damage to this area. If the passport is from a foreign national, you can still follow the same general procedures as above.

#### Checking a photo driving licence

Examine the licence for evidence of photo tampering or any amendment of the printed details.

#### Checking an old style driving licence (no photograph)

Remove the document from the plastic wallet and check that it is printed on both sides. It should have a watermark visible by holding the licence up to the light and there should be no punctuation marks in the name or address. The 'Valid To' date should be the day before the bearer's 70th birthday (unless the bearer

is already over 70). The 'Valid To' date can therefore be cross-referenced with the applicant's date of birth detailed in Section A.

#### Checking a birth certificate

Birth certificates are not evidence of identity, and are easily obtained. Although certificates issued at the time of birth may give more confidence that it belongs to the individual, unlike a recently issued certificate they will not show if any information has been corrected or superseded by a new registration.

Check the quality of paper used; genuine certificates use a high grade. There should be a watermark visible when the document is held up to the light. Any signs of smoothness on the surface would indicate that original text might have been washed or rubbed away. There should be no signs of tampering, changes using liquid paper, overwriting or spelling mistakes.

The following list provides some general information about certificate completion which may help to establish whether the certificate and/or the details have been falsified. This is provided solely as a guide and is not exhaustive:

- o The certificate format used should be appropriate for the year of registration.
- o Only the surname should be entered in upper case, not the forename(s).
- o Dates of birth should be shown with the day and month in words and the year in figures.
- o The following information might indicate that the certificate has been altered:
- o Spacing between falsely added particulars might be irregular compared to original information. 'Thick' or 'thin' spacing might infer particulars have been added.
- o False particulars might not have been aligned with other words.
- o Characters may not be of the same size or shape with the rest of the particulars.
- o Movement of handwriting may look mechanical and does not flow with the rest of the particulars.
- o Changes might not be consistent e.g. parents' surnames might be altered, but not the signatures.
- o The area around falsely added or removed particulars may react differently under an ultra violet light i.e. show signs of staining. In addition, such areas of paper may appear thinner where the paper fibres have been disturbed by abrasion.

#### Checking an EU photo identity card

Examine the card for evidence of photo tampering or any amendment of the printed details.

#### Checking an HM Forces ID card

Examine the card for evidence of photo tampering or any amendment of the printed details.

#### Checking a firearms licence

Check the licence is printed on blue security paper with a Royal crest watermark and a faint pattern stating the words 'Home Office'. Examine the licence for evidence of photo tampering or any amendment of the printed details, which should include home address and date of birth. The licence should be signed by the holder and bear the authorising signature of the chief of police for the area in which they live, or normally a person to whom his authority has been delegated.

#### Other forms of identification

Ensure all letters and statements are recent, i.e. within a three month period. Do not accept documentation printed from the internet. Check letter headed paper is used, bank headers are correct and all documentation looks genuine. The address should be cross-referenced with that quoted in Section B.

#### **Useful information**

A DBS application form can be obtained from the DBS website at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

There is a link to the form [DBS Application Form Continuation Sheet](http://www.homeoffice.gov.uk/publications/agencies-public-bodies/dbs/dbs-checking-service-guidance/cont-sheet?view=Binary) at <http://www.homeoffice.gov.uk/publications/agencies-public-bodies/dbs/dbs-checking-service-guidance/cont-sheet?view=Binary>

**External ID Verification Form**

**This form must be fully completed for all applicants that require a Disclosure and Barring (DBS) clearance and are unable to satisfy the requirements for Route One.**

**Applicants should, wherever possible, produce documentation for Route One as Route Two involves an additional procedure and will increase the time taken to obtain a DBS clearance.**

**Section 1 – To be completed by the applicant where there is a requirement to establish identity using Route Two.**

Surname \_\_\_\_\_

First Name(s) \_\_\_\_\_

Date of Birth \_\_\_\_\_

Current Address  
(inc postcode) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have lived in your current address for less than 6 months please provide your previous address (inc postcode)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I am aware that the information I provide will be used to establish my identity using an external ID verification service.**

Signed \_\_\_\_\_

Date \_\_\_\_\_

You are required to produce 3 documents from the list on page 3 one of which must confirm your current address. The documents provided will be used to establish your identity using an external ID verification checking process. Copies of all the documentation used to establish your identity will be retained on your personal file.

**Section 2 – to be completed by the ID checker verifying the applicant’s identity**

The applicant identified in Section 1 has been unable to produce the documents required to establish their identity using Route One.

Route One could not be completed because \_\_\_\_\_

\_\_\_\_\_ (please provide reason)

The following original documents (copies attached) from Group 2 have been produced to enable a Route Two external ID verification check to be undertaken. One or more of these documents confirms the applicant’s current address.

1 \_\_\_\_\_ (Group 2a)

2 \_\_\_\_\_ (Group 2a or b)

3 \_\_\_\_\_ (Group 2a or b)

I certify that I have seen the original documentation and signed and dated each copy. I also confirm that the applicant has been offered a position with the Council subject to successful completion of the necessary checks.

Signed \_\_\_\_\_ Name \_\_\_\_\_

Position \_\_\_\_\_

Contact Telephone Number \_\_\_\_\_

**Please either attach all relevant documentation to this form and forward it to the CRB Team, Shared Services Centre, John Hadfield House, Dale Road, Matlock, Derbyshire DE4 3RD or scan the form and documentation and email it to [CRB@Derbyshire.gov.uk](mailto:CRB@Derbyshire.gov.uk).**

### **Guidance on documents required for Route Two**

You are required to produce 3 original documents (photocopies or copies printed from the internet are not acceptable) from Group 2 comprising of 1 document from Group 2a and 2 further documents from Group 2a or 2b; one of which must verify their current address.

#### **Group 2a – Trusted Government/State Issued Documents**

- Current UK Driving licence (old style paper version).
- Current Non-UK Photo Driving Licence (valid only for applicants residing outside of the UK at time of application).
- Birth Certificate (UK and Channel Islands) - (issued after the time of birth by the General Register Office/relevant authority i.e. Registrars – Photocopies are not acceptable).
- Marriage/Civil Partnership Certificate (UK and Channel Islands).
- Adoption Certificate (UK and Channel Islands).
- HM Forces ID Card (UK).
- Fire Arms Licence (UK and Channel Islands).

#### **Group 2b – Financial/Social History Documents**

- Mortgage Statement (UK or EEA)\*\* (Non-EEA statements must not be accepted).
- Bank/Building Society Statement (UK or EEA)\* (Non-EEA statements must not be accepted).
- Bank/Building Society Account Opening Confirmation Letter (UK).
- Credit Card Statement (UK or EEA)\* (Non-EEA statements must not be accepted).
- Financial Statement \*\* - e.g. pension, endowment, ISA (UK).
- P45/P60 Statement \*\*(UK & Channel Islands).
- Council Tax Statement (UK & Channel Islands). \*\*
- Work Permit/Visa (UK) (UK Residence Permit). \*\*
- Letter of Sponsorship from future employment provider (Non-UK/Non-EEA only – valid only for applicants residing outside of the UK at time of application).
- Utility Bill (UK)\* – Not Mobile Telephone.
- Benefit Statement\* - e.g. Child Allowance, Pension.
- A document from Central/ Local Government/ Government Agency/ Local Authority giving entitlement (UK & Channel Islands)\*- e.g. from the Department for Work and Pensions, the Employment Service , Customs & Revenue, Job Centre, Job Centre Plus, Social Security.
- EU National ID Card.
- Cards carrying the PASS accreditation logo (UK and Channel Islands).
- Letter from Head Teacher or College Principal (16/17 year olds in full time education) – only used in exceptional circumstances when all other documents have been exhausted.

**Please note** if a document in the List of Valid Identity Documents is:

- Denoted with \* - it should be less than three months old.
- Denoted with \*\* - it should be issued within the past 12 months.
- Not denoted – it can be more than 12 months old.

## Appendix 5

### Officers authorised to make decisions about the employability of individuals with DBS disclosures with appropriate HR support

<b>Department</b>	<b>Authorising Officer(s)</b>
Adult Care	Assistant Director
Children & Younger Adults	Assistant Director
Chief Executive's and Corporate Resources	Assistant Director
Cultural & Community Services	Assistant Director
Environmental Services	Assistant Director

## Appendix 6 Guidance on Timescales for Consideration of Suitability

Offence	Number of years until suitable	
Possession of drugs	Class A	5 years after full sentence period has expired
	Class B	4 years after full sentence period has expired
	Class C	3 years after full sentence period has expired
Intent to supply drugs	Class A	7 years after full sentence period has expired
	Class B	5 years after full sentence period has expired
	Class C	3 years after full sentence period has expired
Risk to Children (formerly known as Schedule One Offence)	Not suitable – discuss with Senior Manager	
Indecency Offences (Inclusion on Sex Offenders Register)	Not suitable – discuss with Senior Manager	
Other	Discuss with Senior Manager to determine period - 5 years after full sentence period has expired	
Grievous Bodily Harm	4 years after full sentence period has expired	
Actual Bodily harm	3 years after full sentence period has expired	
Driving without insurance (drivers only)	2 years after full sentence period has expired	
Drink Driving (drivers only)	2 years after full sentence period has expired	
Other motoring offences attracting a ban (drivers only)	2 years after full sentence period has expired	
Fraud	2 years after full sentence period has expired	
Theft	2 years after full sentence period has expired	
If there is no sentence then 'years until suitable' runs from the date of conviction		

These are suggested minimum figures and applicants with a recent persistent offending history may be excluded for longer periods or permanently

## Appendix 7

### Trace Information on a DBS check

Consider how long it is since the offence/s occurred and the age at which it occurred. Look at the pattern and frequency of offending – was it a series of unrelated trivial offences committed by a teenager, is it a consistent pattern of, for example, violent offending or is it a one-off.

#### 1. DISPOSALS – PRE COURT

Fixed penalty notices are given for less serious offences such as parking tickets, speeding, graffiti, dog fouling, litter and public disorder. Because the offence is assumed and there's no conviction there will be no criminal record.

##### 1.1 Adults

Restorative Disposal is given where a victim of crime requests an alternative to the criminal justice system to deal with a local minor crime. The crime is dealt with in a way which achieves a positive outcome in accordance with the victim's wishes without the case going through the court process. The crime will still be recorded as usual but dealt with in a more proportionate way.

Cannabis warning is a spoken warning given by a police officer. Admission of ownership is recorded and the person will sign the record.

Simple Caution is a formal notice from a police officer that the individual has committed a minor offence (usually only if the individual has not been in trouble before).

Conditional Caution involves the individual keeping to certain conditions – e.g. paying compensation, writing a letter of apology, cleaning graffiti or engaging in a drug-rehabilitation programme.

Penalty Notice for Disorder (also available for 16 and 17 year olds) is available for some less serious offences whether or not the individual admits the offence. The individual can then admit the offence and pay a fixed fine within 21 days or deny the offence within the same 21 day period and ask for a court hearing.

##### 1.2 Young People

Youth Restorative Disposal is given where a victim of crime requests an alternative to the criminal justice system to deal with a local minor crime. The crime is dealt with in a way which achieves a positive outcome in accordance with the victim's wishes without the case going through the court process. The crime will still be recorded as usual but dealt with in a more proportionate way.

Reprimand is a formal verbal warning given by a police officer to a young person who admits a minor first offence.

Final Warning is a formal verbal warning given by a police officer to a young person who admits a minor first or second offence. They will be assessed by the Youth Offending Service to determine the causes of their offending behaviour.

## 2. COURT DISPOSALS

### 2.1 Adults

Fines are available to both magistrates' and crown courts for a wide variety of offences.

Conditional Discharge A discharge of a convicted defendant without sentence on condition that he/she does not re-offend within a specified period of time.

Bind Over Ordered by the court to do (or not do) something e.g. keep the peace. Failure will incur a penalty.

Community Order (older convictions may have Probation Order) combines punishment with changing offenders' behaviour and making amends – sometimes directly to the victim of the crime. It can also encourage the offender to deal with any problems that might be making them commit crime – like drugs and comes with a range of requirements to cover this e.g. unpaid work, participation in specified activities or programmes aimed at changing offending behaviour.

### 2.2 Young People

Young people who committed an offence before 30 November 2009 may have been sentenced to one of the following: Supervision Order, Community Rehabilitation Order, Community Punishment Order, Action Plan Order, Attendance Centre Order. They have been replaced by, and are now a part of, the Youth Rehabilitation Order:

Youth Rehabilitation Order is a robust alternative to custody and comes with a range of requirements designed to address young people's offending behaviour e.g. curfew requirement, unpaid work requirement, drug testing requirement, education requirement.

Reparation Order a young person will complete work to repair the harm caused.

Referral Order a young person will appear before a Community Panel to agree a contract designed to repair the harm and prevent reoffending by addressing the issues which have contributed to offending.

Prison Sentences are imposed on both adults and juveniles only for the most serious offences. The length of sentence imposed by the court will be limited by the maximum penalty for that crime.

A custodial sentence can only be imposed if:

- the offence is so serious that neither a fine alone nor a community sentence can be justified for the offence; or
- the offender refuses to comply with the requirements of a community order; or
- the offender is convicted of a specified sexual or violent offence (see Dangerous Offender provisions under Criminal Justice Act 2003) and the court finds that the offender poses a risk of harm to the public.

## Assaults

By way of easily understood legal definition, an assault is committed when a person intentionally or recklessly applies unlawful force to another.

Intentionally is self-explanatory, i.e. the assailant intended to do what they did. Recklessly means that whilst what resulted from their actions might not have been intentional, the assailant should have reasonably foreseen the consequences of what they did e.g. that pushing somebody from a high wall was likely to result in injury.

### Different levels of seriousness

As a general rule the only factors that distinguish between the various offences involving assault is the degree of injury that results.

In ascending order of seriousness, the different offences involving assault likely to come within the ambit of Referral Orders are as follows:-

#### Common Assault, contrary to Section 39, Criminal Justice Act 1988

This offence is sometimes described as “battery” or “assault by beating” resulting for example, in comparatively minor injuries not amounting to more than the following:

- Grazes
- Scratches
- Abrasions
- Minor bruising
- Swellings
- Reddening of the skin
- Superficial cuts
- A “black eye”

Such injuries are regarded as likely to be short term in nature.

Assault occasioning actual bodily harm, contrary to Section 47, Offences Against the Person Act, 1861.

By comparison, injuries falling within the ambit of this offence are those where for example, any pain and/or discomfort is likely to last longer. Examples in this category might be:

- Loss or breaking of tooth or teeth
- Temporary loss of sensory functions e.g. unconsciousness
- Extensive or multiple bruising
- Displaced broken nose
- Minor fractures
- Minor but not merely superficial cuts probably requiring medical treatment e.g. stitches
- Psychiatric injury that is more than mere emotions such as fear, distress or panic.

Offences above this category generally involve even more serious injury and unlawful force.

Unlawful wounding/inflicting grievous bodily harm, contrary to Section 20, Offences Against the Person Act, 1861

Grievous bodily harm means serious bodily harm; wounding means the breaking of the whole outer skin or inner skin of the cheek or lip. As a reminder, generally, it is the seriousness of any harm that will determine the appropriate offence.

Examples of what would usually amount to serious harm include:

- Injury resulting in permanent disability or permanent loss of sensory function e.g. blindness
- Injury which results in more than minor permanent, visible disfigurement e.g. serious scarring
- Broken or displaced limbs or bones, including fractured skull, broken cheek bone, jaw, ribs etc.
- Injuries resulting in lengthy treatment or incapacity, including psychiatric injury

The essence of this offence is that whilst the assailant may not have intended it, the assault nonetheless resulted in serious injury to the victim. This is the most important element in deciding between this and the final offence falling within the legal category of assault.

Wounding/causing grievous bodily harm with intent, contrary to Section 18, Offences Against the Person Act, 1861

The essence of this offence is that the assailant intended to inflict the serious injury or injuries to the victim. Evidence of such intent might include:

- A repeated or planned attack
- Deliberate selection of a weapon or adaptation of an article to cause injury e.g. breaking a beer glass before an attack

- Making prior threats
- Using an offensive weapon e.g. knife
- Kicking the victim's head

To illustrate the seriousness of this offence, next comes attempted murder and murder. (The difference between murder and manslaughter again depends on the intention of the assailant – as with Section 18 and 20)

Information/Guidance

[www.cjsonline.gov.uk](http://www.cjsonline.gov.uk)



DERBYSHIRE COUNTY COUNCIL



SHARED SERVICES CENTRE

To:  
From:

Our ref:  
Date:

**APPOINTMENT OF AN INDIVIDUAL WHERE A DISCLOSURE AND BARRING CHECK HAS REVEALED A RECORD/INFORMATION**

Name:

D.O.B:

Address:

Post to be appointed to:

Line Manager:

THE ATTACHED DBS DISCLOSURE HAS REVEALED A CRIMINAL RECORD/INFORMATION, PLEASE CAN YOU ADVISE IF THE APPOINTMENT CAN BE CONFIRMED.

Signed .....Date: .....

Print Name.....

**TO: DBS TEAM, SSC (HR), JOHN HADFIELD HOUSE, MATLOCK**

*(Please Tick as appropriate)*

I am unable to approve the appointment on the grounds of the information provided by the criminal background check.

I am able to support the appointment on the following grounds:

.....  
.....  
.....  
.....

Signed: ..... Date.....

Print Name: .....

**Appendix 9 RISK ASSESSMENT FOR STARTING WORK  
PRIOR TO RECEIPT OF DBS CLEARANCE**

<b>Name of Employee/Volunteer</b>
<b>Employing/Authorising Service</b>
<b>Manager responsible for individual</b>
<b>Post applied for</b>
<b>Brief nature of duties:</b>
<b>Will the employee be required to have access to children/vulnerable adults as part of their role?</b>
<b>If Yes – please indicate the nature of the access:</b>
<b>Is the individual already working for the Authority Yes/No</b>
<b>Have they previously been subject to a DBS check Yes/No</b>
<b>If yes what level --Enhanced/Standard</b>
<b>Date of Disclosure</b>
<b>Position</b>
<b>Do you have completed and authenticated references for the individual which include statements for working with children /vulnerable adults? .</b>
<b>Can you confirm that the DBS Disclosure has been applied for? Yes/No</b>
<b>Can you confirm that the individual has confirmed that they possess no criminal records and are not subject to pending prosecutions/investigations? Yes/No</b>
<b>Can you confirm that the individual has been subject to an appropriate DBS Barring List check? Yes/No</b>
<b>NOBODY WILL BE EMPLOYED/PERMITTED TO VOLUNTEER WITHOUT SUPERVISION PRIOR TO A DBS CHECK BEING RECEIVED.</b>
<b>Please detail the proposed supervision arrangements for this individual on taking up their post. (Please include the setting in which they will be working, the name of the supervisor and the level of supervision that will be possible).</b>

**What adjustments/restrictions to the duties of the employee/volunteer are being proposed while we await the receipt of the DBS check?**

**Recruiting line manager comments:**

**Signed ..... Date .....**

**Senior Manager comments:**

**Pre-Authorisation agreement Yes/No**

**Signed ..... Date .....**

**Please send to SSC(HR) for processing of provisional offer of appointment**

## **Appendix 10 Additional Guidance for Schools**

### **School Governors**

The provisions enabling DBS checks to be undertaken in respect of School Governors have been repealed, and so DBS checks can no longer be undertaken on the basis of individuals holding these positions. If the particular role requires an individual to undertake regulated activity, then a DBS check must be undertaken.

### **Maintenance staff attending a school site**

If a member of staff or contractor needs to attend a school site once a week or more or on 4 days or more in a 30 day period, and has the opportunity for contact with children, then an enhanced DBS check with a barring list check must be carried out. If these criteria do not apply, then DBS checks cannot be done.

### **Barring List Checks**

The Barring List incorporates the checking of several lists namely List 99, the POCA list and also includes disqualification orders.

The Barring List check forms part of an enhanced DBS check. In some circumstances this check can be carried out prior to an enhanced DBS check as part of a pre-employment risk assessment. Before this can be requested you will need to be in receipt of a completed DBS application (or alternatively it will need to have been received by the DBS Team). The Request for Disclosure and Barring Clearance form (CRB1) needs to be completed in this instance. (Please be aware the check cannot be undertaken for an applicant who has stated they have any spent/unspent cautions, convictions, reprimands - excluding minor driving offences.)

In a small number of cases it is possible to undertake a Barring List Check without undertaking an enhanced DBS check, this applies to pre-2002 school employees who haven't had a change in contract since 2002, or where the person in question is undertaking regulated activity and the frequency test is not required (ie the task only needs to be performed once). It is anticipated that the latter will mainly apply to volunteers.

The instances that apply are as follows:

**Care or supervision of children** (other than covered in point 7 of Appendix A) at anytime overnight, between 2.00 am and 6.00 am and with the opportunity for face to face contact with children.

**Relevant personal care of children** either

- i. Physical help with eating or drinking necessary due to illness or disability;
- ii. Physical help with toileting, washing, bathing or dressing necessary due to age, illness or disability;
- iii. Prompting, with supervision, in relation to i or ii where the child is otherwise unable to decide; or
- iv. Any form of training, instruction, advice or guidance given to the child in relation to i or ii.

NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and  
NOT activity merely incidental to activity with adults.

**There is no longer the facility to undertake this check unless the person is covered by one of the instances above.**