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*'Together, we believe, achieve & succeed'*



# Safe Recruitment Policy

## 2023/24

Signed: *Per Short*

Date: 05.10.2023

Review: Autumn '24



# Safe Recruitment Policy and Procedure

Human Resources

**APPROVED BY**

Personnel  
Committee

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2

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## **Introduction**

Neath Port Talbot County Borough Council is committed to safeguarding the well being of children, young people and adults in its care, within a culture that gives safeguarding the highest priority. Our employees are required to share this commitment.

To this end, employees who will work with children or adults will be recruited in accordance with this policy and vetted to set standards. This means appropriate checks as set out in this policy are mandatory. The Council will not employ anyone to work with children or adults where there is any reasonable doubt to do so.

## **Policy Statement**

- 1.1 This policy is concerned with safeguarding pre-employment checks. This is a key part of the safe recruitment process, but safe recruitment should be seen in a wider context, with the advert, job description, person specification, scrutiny of the application form and selection interview also key components. It is strongly recommended that managers with responsibility for recruitment attend the Council's Recruitment and Selection Training Course and that those who manage employees who provide services to children and / or vulnerable adults attend the Safe Recruitment Training Course.
- 1.2 **All individuals commencing employment with Neath Port Talbot Council will be subject to pre-employment checks. Employees will not commence employment until the Council is in receipt of satisfactory pre-employment checks.**
- 1.3 This Safe Recruitment Policy and Procedure should be read and used in conjunction with the Authority's other policies which incorporate Safe Recruitment procedures e.g. Recruitment and Selection.
- 1.4 Recruiting Managers are required to familiarise themselves with the guidance contained within this policy document and to ensure compliance with the requirements set out.
- 1.5 Pre-employment checks are designed to ensure that the person who may be recruited is who they say they are, and is competent and suitable of undertaking the role effectively. The checks should confirm that information provided by the candidate is accurate. The checks should also confirm that there is no bar to the candidate's employment, e.g. a criminal conviction that would prevent their employment, or a lack of an essential qualification, or statutory registration with a professional body.
- 1.6 Recruiting Managers must understand that any conditional offers of employment are dependent on satisfactory completion of the pre-employment

checks. Managers should build this into their timescale for recruitment, and must not compromise on the requirements set out in this policy, in order to make a quicker appointment.

## 2. RESPONSIBILITIES

### Recruiting Line Manager

- Managers are responsible for liaising with the HR Recruitment Team and confirming which pre-employment checks are appropriate for the job being recruited to.
- Managers are responsible for ensuring that appropriate pre-employment checks are completed before the employee commences employment. The manager must complete, sign and date the form attached at **Appendix H** to confirm that all appropriate checks have been carried out and to confirm that having reviewed the documentation, the manager is satisfied that the individual is able to commence employment. This form must be returned to the Employment Support Team. The manager **will not** confirm a start date with the individual until Employment Support Team are in receipt of this form.
- For posts working with Children, the Manager **must** ensure they request sight of copies of the two written references and the Disclosure and Barring Service (DBS) Disclosure prior to agreeing a start date. In order to comply with Data Protection requirements, once the recruitment decision is made, these copies should be destroyed.
- Managers are responsible for carrying out risk assessments as required by this policy.
- Managers will ensure that the employee induction training process includes guidance on safeguarding and protection best practice, and that employees are carefully and regularly supervised in their work with children and adults.
- Managers are responsible for the safe recruitment of agency workers. When recruiting an agency worker, please click the link below to ensure the Protocol for Booking an Agency Worker is followed, which includes pre-employment checks. [Protocol for booking an agency worker](#)
- **Failure to ensure that all pre-employment checks are received as satisfactory before an employee commences employment may result in disciplinary action being taken against the recruiting manager.**

**Human Resources Employment Support Team**

- The Employment Support Team are responsible for processing all the relevant pre-employment checks in a timely manner.
- The Employment Support Team will provide advice and guidance to recruiting line managers in all aspects of safe recruitment.

### 3. THE PRE-EMPLOYMENT SCREENING/VETTING CHECKS

**3.1** Pre-employment screening checks are a key part of safe recruitment. These checks should be considered alongside the range of information gathered during recruitment, including the application form and the selection interview, to determine a candidate's suitability for a specific job.

**3.2** The checks to be carried out depend on the job the individual is being considered for:

- Written references (see Section 4)
- Copies of qualifications (see Section 5)
- Pre-placement Health Assessment (see Section 6)
- Disclosure and Barring Service Criminal Record Check (see Section 7)
- Identity (Asylum and Immigration) Check (see Section 8)
- Confirmation of appropriate professional registration e.g. Care Council for Wales registration, Education Workforce Council registration (see Section 9)
- Candidates should be required to provide an explanation of full employment history, including any gaps in employment (see Section 10)
- There are specific checks required for applicants to work in Hillside Secure Unit (see section 11)
- Driving Licence, if required to drive as part of the duties of the job (see section 12)
- Overseas' 'right to work' check (see section 13)

### 4. REFERENCES

- 4.1 For all appointments, it is a requirement that TWO Written references are obtained, one reference should be from the most recent or current employer or educational provider. References should always be in writing and should be on the organisation's headed paper where appropriate, or on the reference pro-forma provided by Neath Port Talbot County Borough Council.
- 4.2 The Employment Support Team provide a reference pro-forma specifically for jobs working with children and adults.
- 4.3 References will only be obtained for the successful candidate and will be actioned by the Employment Support Team. References can be obtained at the shortlisting stage by special arrangement with the HR Business Manager.
- 4.4 Recruiting managers are responsible for arranging to see the references and scrutinising the references to ensure that the information provided confirms that provided by the applicant and the suitability of the applicant for the job in question. If there are any concerns or issues raised in the reference the recruiting manager should consider contacting the referee for more information and / or requesting further references. Following scrutiny, the recruiting manager must confirm to the Employment Support Team that they are satisfied the references received are satisfactory.
- 4.5 For all posts working with children and young people where an Enhanced DBS Check is required, a verbal reference from the current or last employer must also be obtained by the recruiting manager. (In CYPS the designated HR Officer must ensure that this is undertaken). The verbal reference should be documented on a verbal reference form and forwarded to the Employment Support Team for retention on the personal file. Please see verbal reference form in **Appendix A**.

Verification of the **original** documentation relating to qualifications that are relevant to the job, as set out in the person specification, will be requested from the successful candidate during the pre-employment screening / vetting process by the Employment Support Team. Copies of the original documentation will be held on the personal file.

## 6. PRE-PLACEMENT HEALTH ASSESSMENT

Applicants recommended for appointment are required to undergo a pre-placement health assessment to assess their fitness to undertake the duties of the post under offer. This is a condition of employment, which means that the offer cannot be confirmed until medical clearance has been received from the Occupational Health Unit. The successful candidate will be issued with a pre-placement health questionnaire, in which he/she is asked to provide information about his/her medical background, past and present state of health and number of day's sickness absence in recent years. The completed questionnaire is confidential, for the consideration of the Occupational Health Unit only. Where the applicant has a disability, this may include an assessment of the implications for the particular job and determine what reasonable adjustments are necessary.

The Occupational Health Unit may make recommendations to the recruiting manager in relation to adjustments. The recruiting manager is responsible for considering any recommendations and taking action, as appropriate.

## 7. DISCLOSURE AND BARRING SERVICE CRIMINAL RECORD CHECKS



- 7.1 All successful applicants, where the post dictates, must have an appropriate Disclosure and Barring Service (DBS) Criminal Record Check prior to commencing work, as outlined in the guidance attached at **Appendix B (The Disclosure and Barring Service Criminal Record Check – Guidance for Managers)**.
- 7.2 **Managers are required to risk assess all posts within their service area**, against the criteria set out in the guidance at **Appendix B**, to determine whether a DBS check is required and if so, what level of check is required. Depending on the nature of the work, a decision must also be made on what barred lists should be checked, however in some cases it is noted that both lists need to be checked.
- 7.3 The Employment Support Team will be notified of any DBS check outcome
- 7.3.1 For Basic Disclosures the manager must ensure that a copy of the check is obtained from the employee and sent to the Employment Support Team.
- 7.3.2 For Standard and Enhanced checks the Employment Support Team will be notified of the outcome via the online e-bulk system.
- 7.4 In the case of an employee having criminal convictions on the DBS check, the recruiting manager will either receive an email notification for standard/enhanced checks from the e-bulk system and should then obtain a copy of the disclosure from the employee. The manager should refer to the guidance in Appendix B to determine whether it is necessary to carry out a risk assessment based on the convictions. For Basic Disclosures, on receipt of the copy of the certificate from the employee, the manager will also refer to the guidance in Appendix B as above.
- 7.5 For certain offences, the recruiting manager may decide that a risk assessment is not required. If this is the case then they should inform the HR Team to confirm this decision via email.

7.6 Disclosure and Barring Update Service

- The employee can choose to subscribe to the Update Service with a new DBS application or certificate issued on or after June 17<sup>th</sup>, 2013.

The Update Service will keep the employee's certificate up-to-date.

Once subscribed, the employee can take the certificate with them from role to role, providing the roles are in the same workforce and where the same level and type of check is required.

- The employee can access the Update Service, provided the employee has given permission, and can carry out an instant check to find out if the employee's current DBS certificate is still up-to-date.

For further information on the Update Service, please contact the HR Team or visit [www.gov.uk/dbs](http://www.gov.uk/dbs).

## 7.7 Portability

### 7.7.1 Definition:

Portability is a term used by the Disclosure and Barring Service and refers to the re-use of a DBS check, obtained for a position in one organisation and later used for another position.

The DBS advises that organisations considering accepting an existing DBS check to carry out a proper risk assessment.

### 7.7.2 NPT CBC Portability Policy

Managers are authorised to use their discretion to approve portability of a previous DBS disclosure, but only when the previous disclosure has been processed and obtained for NPTCBC.

Managers are not authorised to approve portability of a previous DBS disclosure that has been processed and obtained by another organisation (i.e. not NPTCBC).

Where a recruiting manager wishes to apply portability to a DBS Disclosure, if the Disclosure is positive, a new risk assessment should be carried out (**See Appendix D**)

Managers wishing to exercise portability should use the procedure set out in **Appendix B (The Disclosure and Barring Service Criminal Record Check – Guidance for Managers)**.

### 7.7.3 Examples of appropriate use of portability are:

- If an employee changes posts in the Council, the recruiting manager has the discretion to decide whether the DBS disclosure from the previous post is portable and can be re-used for the post in their service area.
- Where 'relief' teachers, employed through the Neath Port Talbot central process, are offered a new appointment e.g. temporary/permanent contract, it is the discretion of the Headteacher whether portability is applied.
- If portability is approved for a 'relief teacher', it is only in this exceptional circumstance that a disclosure processed outside Neath Port Talbot, is acceptable.
- If an employee obtains a second job in the Council, the recruiting manager has the discretion to decide whether the existing DBS disclosure from the main job is portable and can be used for the second post.
- If an employee moves between short-term appointments, the recruiting manager has the discretion to decide whether to apply for a new DBS disclosure each time a new contract is offered.

### 7.7.4 Portability **should not be** accepted in the following circumstances:

- i) If the DBS disclosure has been processed by another organisation and / or the employee is new to the Council - a fresh DBS disclosure will be required for all new employees to the Council. This applies to new employees who were previously volunteers in the Council.

The only exception to this is when a 'relief' teacher is currently employed through the Neath Port Talbot central process and is offered a new appointment e.g. a temporary/permanent contract.

- ii) Where an individual has had a break in employment of four weeks or more.

**If any of these conditions are not met, a new DBS disclosure check must be requested and processed.**

Under the terms of the Immigration, Asylum and Nationality Act 2006, all employers in the UK are required to make basic checks on people they intend to employ.

In order to comply with the Act, Employers must check and copy **one** of the original documents in **List A** or check and copy a combination of **two** original documents in **List B**. These checks are carried out by HR. **For a full list of documents under List A or List B, please see Appendix I.**

#### **List A**

- a UK passport
- an EEA passport or national identity card
- a UK residence permit issued by the Home Office or a permanent residence card issued by the Home Office
- an application registration card issued by the Home Office to an asylum seeker stating that the holder is permitted to take up employment
- A Biometric Immigration Document issued by the UK Border Agency

#### **List B**

- an official document bearing a national insurance number and their name issued by a Government Department or a previous employer along with
  - a birth certificate, or
  - a letter from the Home Office, or
  - an immigration status document
- a work permit along with
  - a passport, or
  - a letter from the Home Office

In either case, these must confirm the holder has permission to enter or remain in the UK and take the work permit employment in question.

Failure by an employer to make the appropriate checks can result in a fine of up to £10,000 per person employed illegally.

Where statutory provision requires registration with professional bodies in order to enter into certain types of employment (e.g. Teachers must be registered with the Education Workforce Council, Social Workers must be registered with the Care Council for Wales). Recruiting managers must make candidates aware of this requirement at interview and are responsible for confirming registration with the relevant professional body.

## 10. EMPLOYMENT HISTORY

- 10.1 Candidates are required to explain satisfactorily any gaps in employment and explain satisfactorily any anomalies or discrepancies in the information available to the panel. The candidate should be able to account for their history from school leaving date to present.
- 10.2 Recruiting Managers should scrutinise the application form *before* the interview and ensure that they address any gaps or anomalies at the interview. The recruiting manager should ask the candidate to complete, sign and date the 'Gaps in Employment History Form' at interview and return this following interview to the Employment Support Team. Successful applicants may not commence employment until this form has been completed and returned, and no gaps remain unaccounted for.

## 11. WARNER REPORT – HILLSIDE SECURE UNIT

11.1 The Warner Report of the 'Committee of Inquiry into the Selection, Development and Management of Staff in Children's Homes (1992)' stipulated, in its recommendation, that certain procedures were to be followed when recruiting employees to work in Children's Homes. These are applied to **Hillside Secure Unit**.

11.2 For the purposes of this Safe Recruitment Policy, the following are the actions to be administered by HR and approved by the recruiting manager before confirming employment :

- Applicant's full employment history confirmed and periods of non-employment accounted for
- Written, not verbal, references (including present or past employer/s)
- DBS Enhanced Disclosure obtained
- Original birth certificate produced for verification plus an official document bearing a national insurance number and their name issued by a Government Department or a previous employer
- All new appointments are subject to a 6 month probationary period

11.3 In addition, under separate arrangements with the Occupational Health unit, all prospective Hillside employees undergo a medical examination before commencement.

## 12. DRIVING LICENCES

It is important to check that the person has the right licence for any vehicle they may be required to drive. The recruiting manager should inform the Employment Support Team of any special category of driving licence which is required and an original copy should be sighted and held on the personal file. The recruiting manager should have regard to the Council's Driver and Vehicle Risk Management Policy, ensuring compliance with declaration and record checking requirements.

## 13. OVERSEAS CHECKS

All relevant 'right to work' documentation should be checked (see Appendix I). A Certificate of Good Conduct will also be required where there are no details available through the DBS Check process (please refer to the Employment Support Team for advice in relation to this).

## 14. SCHOOL GOVERNORS

All schools within Neath Port Talbot have previously adopted a policy that requires governors to obtain DBS checks. As a result, governors must apply for a DBS check on appointment and subsequently any reappointment. In a four year period, every governor will have obtained a disclosure and will thereafter, need to reapply if reappointed. Applications for DBS checks MUST be made within three months of appointment/reappointment. Failure to do so will result in the governor being suspended from all activities of the governing body until the check is completed. Continuous failure to undertake a check could result in the removal of the governor from the governing body altogether. In these circumstances Chairs of Governors/Clerks should seek advice from the Governor Support Unit of the School & Family Support Team.

The clerk to the governing body will initiate a request for the individual governor to be provided with a unique login and password to allow them to apply for a DBS check online. Following completion of the online application, the governor will be required to have their identity verified in order to allow the application to be processed. Only original identification documents can be used to verify the individual. The Headteacher/Clerk will carry out the identification check following the same process as verifying the identity of a new employee.

Newly appointed and reappointed governors will be required to obtain an enhanced DBS check under the category 'school governor'.

DBS certificates are no longer provided to the authority or school and are sent directly to the individual. Upon receipt of the DBS certificate, governors must make arrangements to present the certificate to either the Headteacher or Clerk for audit purposes. Should the disclosure reveal any positive offences then this should be brought to the attention of the Chair of Governors immediately who should immediate advice from the Governor Support Unit of the School & Family Support Team and a risk assessment undertaken. A positive disclosure may result in the decision to remove the governor from office or restrict the scope of how the governor can undertake the role. Where a positive DBS certificate is received in relation to the chair of governors themselves, then the clerk to the governing body should contact the Governor Support Unit immediately.

### **Portability of DBS Certificates for Governors**

The process of portability is the same as described and outlined in Section 7.7 of this policy. Where reference is made to 'Manager' this should be substituted with 'Chair of Governors' in relation to all categories of governor excluding LA Governor Representatives. The decision for determining whether to accept portability in relation to LA Governors Representatives rests with the local authority as the appointing body.

Strictly Confidential

**Verbal Reference Form - Employer**

Human Resources

The person named below has applied for a post with the Council and has given your name as a referee. Please give your opinion of the applicant's suitability for the post. The Job Description and Person specification are attached for your information. The information you supply will be treated in accordance with the Data Protection Act 1998 (DPA 1998). Please note that in accordance with the DPA 1998 it may be released to the applicant should he/she make a Subject Access Request.

Verbal Reference Form - Employer	
Employee Information	Comments
Employee's Name:	
Job Title & Location:	
Date of Commencement:	
End Date (if appropriate):	
Salary:	
Reason For Leaving: If the reason for leaving was dismissal, please state the reason for dismissal.	
In what capacity do you know the employee and for how long?	
Please provide details of any relevant issues which you needed to address during the probationary period.	
Have you needed to address any practice issues with the employee during the last 24 months?	



Please state whether the employee had any live disciplinary warnings at the date of leaving. If so, please give details:	
Please state whether the employee had any ongoing disciplinary investigations at the time of leaving. If so, please give details:	
Are you satisfied that this employee is suitable to work with children/adults? If no, please could you provide reasons for any concerns.	
Had a referral been made to the Childs/Adults Barred List?	
Has the person been reported for misconduct to the Care Council for Wales / Education Workforce Council	

Please Indicate, By Ticking the Relevant Box, How you Would Rate the Following

Timekeeping /punctuality

Excellent	<input type="checkbox"/>	Very Good	<input type="checkbox"/>	Satisfactory	<input type="checkbox"/>	Poor	<input type="checkbox"/>
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Management of Caseload

Excellent	<input type="checkbox"/>	Very Good	<input type="checkbox"/>	Satisfactory	<input type="checkbox"/>	Poor	<input type="checkbox"/>
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Report Writing

Excellent	<input type="checkbox"/>	Very Good	<input type="checkbox"/>	Satisfactory	<input type="checkbox"/>	Poor	<input type="checkbox"/>
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Meeting Deadlines

Excellent	<input type="checkbox"/>	Very Good	<input type="checkbox"/>	Satisfactory	<input type="checkbox"/>	Poor	<input type="checkbox"/>
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Relationships with Colleagues/Service Users

Excellent	<input type="checkbox"/>	Very Good	<input type="checkbox"/>	Satisfactory	<input type="checkbox"/>	Poor	<input type="checkbox"/>
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Details of Main Duties and Responsibilities:

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<b>Would you re-employ this person? If no, please give reasons.</b>			
<b>Name of person providing verbal reference:</b>		<b>Date:</b>	
<b>Position:</b>			
<b>Declaration</b> I confirm that the information provided on the verbal reference form is accurate.			
<b>Signed</b>		<b>Date</b>	

**APPENDIX B**

**The Disclosure and Barring Service Criminal Record Check  
Guidance for Managers**

The Disclosure and Barring Service (DBS) offers four types of criminal record check:

### **Standard DBS check**

Standard checks contain details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions. These are shown on a criminal records check. A Standard check cannot reveal if a person is barred from working with children or adults

### **Enhanced DBS check**

An enhanced check contains the same details as a standard check, together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for.

### **Enhanced DBS and barred list check (child)**

An enhanced check with information from the DBS's children's barred list is only available for those individuals engaged in a regulated activity with children and a small number of posts as listed in the Police Act regulations, for example, prospective adoptive parents.

### **Enhanced DBS and barred list check (adult)**

An enhanced check with information from the DBS's adults barred list is only available for those individuals engaged in regulated activity with adults and a small number of posts as listed in the Police Act regulations.

### **When is a DBS Disclosure Required?**

A DBS disclosure is required for all professions, offices, employments, volunteers, works and occupations that are known as the exemptions to the Rehabilitation of Offenders Act 1974 (ROA). Organisations registered with the DBS can only apply for a DBS Disclosure if the position is included in this list.

From the 10<sup>th</sup> September 2012, the Protection of Freedoms Act introduced new definitions for individuals employed in work defined as a 'regulated activity'.

### **Regulated Activity for children**

The new definition of 'Regulated Activity' relating to children is set out in three parts and a person can be in regulated activity because of what they do (activities), where they work (establishments) or who they are (specified position). This covers:-

- **Unsupervised** activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing, moderate a public electronic interactive service or drive a vehicle only for children carried on a **frequent, intensive and/or overnight** basis
- An individual carrying out activities as above, under reasonable day to day supervision by another person who is also engaging in regulated activity **is not undertaking regulated activity**.
- Work for a limited range of establishments, schools, nursery schools, childcare premises, children's centres with the opportunity for contact with children carried out on a **frequent, intensive and/or overnight** basis
- Activities by a person contracted (or volunteering) to provide occasional or temporary services (which are not teaching, training or supervision of children) is no longer Regulated Activity (e.g. maintenance contractors) but please remember, as stated above, supervised paid employees in specified establishments are in Regulated Activity.
- Providing healthcare – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
  
- Providing personal care – physical assistance (or prompting with supervision or training or providing advice or guidance) with eating or drinking because of illness or disability, physical assistance (or prompting with supervision or training or providing advice or guidance) with going to the toilet, washing or bathing or dressing because of age, illness or disability, because of the age, illness or disability.
- Registered childminders and foster carers
- Day-to-day management or supervision of individuals carrying out Regulated Activity relating to children

For statutory guidance on supervision visit the [Department of Education](#) website.

## **What is frequently, intensively and/or overnight?**

- **Frequently** is currently defined as ‘once a week or more often’
- **Intensively** takes place on ‘4 days or more in a 30 day period’
- **Overnight** takes place between 2.00 a.m. and 6.00 a.m
- **Fostering and childcare;**
- Certain **specified positions of responsibility**

For further information, please [click here](#)

## **Regulated Activity for adults**

The new definition of Regulated Activity for adults defines the activities provided to any adult as those which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time.

Adults will no longer be labelled as ‘vulnerable’ because of the setting in which the activity is received, nor because of the personal characteristics or circumstances of the adult being provided for by the activities.

There are six categories (described in detail in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006) within the new definition of Regulated Activity:

1. Providing healthcare – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
2. Providing personal care – physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of skin, nails or hair (but not where this involves only cutting hair) because of the adult’s age, illness or disability. This also includes anyone who trains, instructs or provides advice on the provision of personal care or those who prompt and then supervise an adult to do one of the above.
3. Providing social work.
4. Assisting with general household matters – assistance with managing a person’s cash, paying a person’s bills or shopping on their behalf because of the adult’s age, illness or disability.
5. Assisting in the conduct of people’s own affairs.

6. Conveying adults to, from, or between places, where they receive healthcare, relevant personal care or social work because of their age, illness or disability. This includes hospital porters, patient transport service drivers and assistants, ambulance technicians and emergency care assistants but does not include taxi or licensed private hire drivers.

**Please note:** the frequency test has been removed and an individual only needs to engage in a defined activity once to be carrying out Regulated Activity and the new definition removes the word 'vulnerable' when describing Regulated Activity relating to adults.

Certain elements of the original scope of Regulated Activity set out in the Safeguarding Vulnerable Groups Act (SVGA) 2006 will not be changed:

- An adult is a person aged 18 years or over.
- A person, whose role includes the day-to-day management or supervision of any person engaging in Regulated Activity, is also in Regulated Activity.
- Regulated Activity for adults excludes activity carried out in the course of family relationships and personal, non-commercial relationships.

Family relationships include close family (e.g. parents, siblings, grandparents) and the relationship between two people who live in the same household and treat each other as family. Personal, non-commercial relationships are arrangements where no money changes hands or if any money does change hands it is not part of a commercial relationship (e.g. giving a friend petrol money to drive you to the hospital), and the arrangement is made between friends or family friends.

**Managers are required to risk assess all posts within their service area,** against the criteria outlined above, to determine whether a DBS check is required and if so, what level of check is required. Depending on the nature of the work, a decision must also be made on what lists should be checked, however in some cases it is noted that both lists need to be checked.

**A Registered Body must:**

**Ensure that where it is appropriate to the post, DBS disclosures are obtained pre-appointment, and that no start date in post can be confirmed before a disclosure is obtained. Exceptions to this can only be authorised by a Head of Service, and in this situation, a full risk assessment must be undertaken with measures put in place to minimise any potential risk. A copy of the risk assessment form is attached as Appendix C.**

## **Portability**

### **Definition:**

Portability is a term used by the Disclosure and Barring Service and refers to the re-use of a DBS check, obtained for a position in one organisation and later used for another position.

The DBS advises that organisations considering accepting an existing DBS check to carry out a proper risk assessment.

### **NPT CBC Portability Policy**

Managers are authorised to use their discretion to approve portability of a previous DBS disclosure, but only when the previous disclosure has been processed and obtained by NPTCBC.

Managers are not authorised to approve portability of a previous DBS disclosure that has been processed and obtained by another organisation (i.e. not NPTCBC).

### **Examples of appropriate use of portability are:**

- If an employee changes posts in the Council, the recruiting manager has the discretion to decide whether the DBS disclosure from the previous post is portable and can be re-used for the post in their service area.
- Where 'relief' teachers, employed through the Neath Port Talbot central process, are offered a new appointment e.g. temporary/permanent contract, it is the discretion of the Headteacher whether portability is applied.
- If portability is approved for a 'relief teacher', it is only in this exceptional circumstance that a disclosure processed outside Neath Port Talbot, is acceptable.
- If an employee obtains a second job in the Council, the recruiting manager has the discretion to decide whether the existing DBS disclosure from the main job is portable and can be used for the second post.

- If an employee moves between short-term appointments, the recruiting manager has the discretion to decide whether to apply for a new DBS disclosure each time a new contract is offered.

### **Portability Procedure**

Where a recruiting manager wishes to exercise their discretion to accept DBS disclosure portability, they must comply with the following verification procedure:

- i) The recruiting manager approves portability of a DBS disclosure check for a different post within NPTCBC **and** has sight of the individual's copy of the DBS disclosure.
- ii) The recruiting manager must ensure that the previously obtained DBS disclosure check is at the level of disclosure check required for the new position (i.e. Enhanced/Standard).
- iii) The recruiting manager must ensure that the previously obtained DBS disclosure includes a check of the relevant barred list for the new position
- iv) The recruiting manager should take into account the date that the DBS disclosure check was obtained on - a DBS check carries no formal period of validity and the older the check, the less reliable the information is.
- v) The recruiting manager should ensure that the nature, level and intensity of contact with children and/or adults is similar for each post i.e. if the previously obtained DBS disclosure check relates to a post where contact is with a group of individuals and the new post involves one- to-one contact with specific individuals, the recruiting manager might wish to request a new DBS disclosure check.
- vi) If portability is approved, the recruiting manager needs to have sight of the individual's DBS disclosure check to confirm if any offences are recorded. A copy of the DBS disclosure check should be sent to the Employment Support Team in order to record the



details of the disclosure on the HR record. The copy will then be destroyed.

- vii) If offences are shown on the DBS disclosure, the recruiting manager should make a decision on the individual's suitability for the post and complete a risk assessment to help decide whether the risk of appointing the individual can be taken and whether precautions and safeguards would be needed to manage and minimise that risk.
- viii) The recruiting manager must obtain a signed disclaimer (**Appendix C**) from the individual confirming that they do not have any outstanding police matters nor have had any convictions/cautions/reprimands or final warning since the DBS disclosure was issued. This disclaimer should be sent to Human Resources, together with a copy of the sighted DBS Disclosure and risk assessment (if necessary).
- ix) If the individual does not have their personal copy of the DBS Disclosure for the Manager/Headteacher, a new DBS disclosure check must be processed.

Portability **should not be** accepted in the following circumstances:

- iii) If the DBS disclosure has been processed by another organisation.

A fresh DBS disclosure will be required for all new employees to the Council.

The only exception to the above is when a 'relief' teacher is employed through Neath Port Talbot central process and is offered a new appointment e.g. a temporary/permanent contract.

- iv) Where an individual has had a break in employment of four weeks or more.
- v) The above Portability Policy does not apply if the employee has chosen to subscribe to the Update Service.

**If any of these conditions are not met, a new DBS disclosure check must be requested and processed.**

**If a recruiting manager has any queries in relation to whether portability could apply they should contact the Employment Support Team for further advice.**

### **Positive Disclosures**

If any 'positive' DBS disclosures are revealed (i.e. containing details of convictions, or highlighting cause for concern), it is the responsibility of the recruiting manager to obtain a copy of the disclosure and decide whether a risk assessment will need to be carried out if it is considered necessary. The recruiting manager is then responsible for the decision regarding whether the recruitment process may proceed or not.

If a risk assessment is required, it **must** take all circumstances into account and involve the employee and any other external/internal sources to ensure that the facts are established and substantiated. Any queries/issues should be agreed and authorised by the relevant Head of Service.

The completed risk assessment documentation should be forwarded to the HR Team under confidential cover, for storage and eventual destruction. The Risk Assessment Process is covered in **Appendix E** and a Risk Assessment Form is attached at **Appendix F**.

Please note that the above process for handling positive disclosures is also relevant when dealing with DBS renewals.

**1. Obligations of the Authority as a “Client” of the DBS Umbrella Body Service**

Powys County Council provide the Umbrella Body Service to the Authority and processes and countersigns DBS checks (Enhanced/Standard) on behalf of NPTCBC.

The Authority has certain obligations as outlined below:

- (a) To adhere to the DBS Code of Practice ([click here](#))

- (b) To adhere to the Policy on the Recruitment of Ex-Offenders which states that the Council is “committed to the fair treatment of its employees, potential employees and service users” and that **“having a criminal record will not necessarily bar someone from working for the Council.** This will depend on the nature of the position and circumstances and background of the offences. To ensure that a copy of this policy is provided to all applicants at the start of the recruitment process.
- (c) The Authority must ensure that application packs for posts which require a DBS disclosure contain all the relevant statement informing potential applicants. The Authority must also ensure that reference will be made in job advertisements and accompanying literature, stating quite clearly where a post requires a DBS check and at what level.
- (d) The Authority must ensure that it adheres to the policy on the safe handling of the disclosure information.

#### Non Employees

Disclosure application forms are also processed for non employee categories that is Volunteers, Foster Parents, Childminders, adoptors.

This policy will also be applicable in these areas.

#### APPENDIX C

#### DBS PORTABILITY - EMPLOYEE DISCLAIMER

**Please delete as appropriate \***

a)\* Since my current DBS disclosure processed for Neath Port Talbot Council, I declare that I have no outstanding criminal matters and have received no convictions/cautions/ reprimands or final warnings.

a) \* Since my current DBS disclosure processed for Neath Port Talbot Council, I declare that I have outstanding criminal matters and have received further convictions / cautions / reprimands or final warnings [see NOTE].

**I understand that any false declarations could result in relevant disciplinary action being taken against me under the Authority's Disciplinary procedures.**

# **Emergency Employment Form for Staff Awaiting DBS Disclosure**



Human Resources

**EMPLOYEE'S FULL NAME**

.....

**PAY NUMBER (IF KNOWN)** .....

**POST APPLIED FOR** .....

**EMPLOYEE'S SIGNATURE**.....

**DATE** .....

**APPROVED BY RECRUITING MANAGER**

**NAME**.....

**SIGNATURE**.....

PLEASE RETURN THIS FORM WITH A COPY OF THE SIGHTED DBS DISCLOSURE TO HUMAN RESOURCES, THE QUAYS, NEATH SA11 2GG

## **APPENDIX D**

This form must be completed by the recruiting manager to make an assessment about a candidate's suitability to commence employment prior to receipt of a DBS Disclosure. The risk assessment must be carried out by the recruiting manager and signed by the relevant Head of Service **before** the individual commences employment.

**Individuals should only be allowed to commence employment without a Disclosure if, in exceptional circumstances, following completion of a risk assessment satisfactory to the Authority, any delay is likely to severely affect service delivery.**

**EMERGENCY EMPLOYMENT FORM FOR STAFF AWAITING DBS DISCLOSURE**

Recruiting Manager

Job Title

Directorate/Service

Candidate's Name

Post Applied For

Level of Disclosure  
Requested

Provisional Start Date

Date Disclosure Check  
Requested**Part A**

1) Did the applicant declare any criminal convictions, cautions, police investigations which might lead to a conviction or caution in the UK or any other country?

Yes

No

2) If yes, are these convictions relevant to the work that they are being employed to undertake?

Yes

No

3) If yes, are these convictions of a serious nature i.e. offences against children / adults / violent or sexual offences etc?

Yes

No

If yes, please state details:

4) Have two references been requested for by the Authority?

Yes

No

b) Have two satisfactory references been received in line with the Authority's policy?

Yes

No

5) Do the individual's references give any cause for concern?

Yes		No	
If yes, please state details:			
6) At interview, did the individual say or do anything which gave cause for concern, in relation to allowing them to commence work before a Disclosure is received?			
Yes		No	
If yes, please state details:			
7) Has the individual ever had a police or DBS check previously?			
Yes		No	
If yes, when was this done and with whom (employer)?			
<b>Part B</b>			
1) Does the job involve regularly caring for, training, supervising or being in sole charge of children or adults?			
Yes		No	
2) Will the individual be required to work alone during their induction period?			
Yes		No	
3) Will the individual have access to, or opportunity to commit an offence against an adult and/or a child?			
Yes		No	
4) If yes, what precautions or measures will you put in place to prevent this from happening?			

5) Are you satisfied the risk of possible offending can be minimised by ensuring that satisfactory supervisory measures listed above can be implemented to prevent the individual from being alone with adults and/or children?

Yes		No	
-----	--	----	--

Please outline the implications of delaying the individual in commencing employment.

**Part C  
Declaration by the Recruiting Manager**

I have considered the questions outlined above, and I am not satisfied that it is safe to allow the above named individual to commence to work before the Disclosure clearance is received.  
OR

I have considered the questions outlined above and confirm that I am satisfied that it is safe to allow the above named individual to commence work before the Disclosure clearance is received, subject to the following safety measures detailed above being in place:

I confirm that I have notified all relevant managers/Headteachers that the individual is still subject to clearance and of the need to ensure the above measures are implemented.

I confirm that I have explained to the individual concerned the implications of commencing work prior to clearance being received and the possibility that disciplinary action including summary dismissal may result if it is subsequently discovered that the individual did not disclose any material facts relating to their employment.

Print Name			
------------	--	--	--

Signed		Date	
--------	--	------	--



<b>APPROVAL BY HEAD OF SERVICE</b>			
I confirm that I agree with the decision made by the recruiting manager			
<b>Print Name</b>			
<b>Signed</b>		<b>Date</b>	

**This form should be retained on the candidate's personal file until a suitable DBS Disclosure is received, allowing a decision to be made about their continuing employment**

## **APPENDIX E**

### **THE RISK ASSESSMENT PROCESS**

Addressing issues related to criminal convictions needs an objective common sense approach which takes account of :

- The employer's duties in law
- The nature of the crime
- When it happened
- The circumstances involved/explanation offered
- The sentence
- Patterns of offending
- Efforts to avoid re-offending
- Job requirements
- Safeguards against offending at work

This will help you to decide whether the risk of employing a person can be taken and what precautions and safeguards would be needed to manage and minimise that risk.

Assessing the risk of employing a person with a criminal record means comparing an applicant's skills, experience and conviction circumstances against risk criteria you have identified for the job. For example, some violence offences would be

relevant to positions involving unsupervised contact with the public. Sexual or child pornography offences would almost certainly disqualify any person from working with children. However, no two offences are exactly alike.

### **Assessing the job for risk**

Take into account issues such as :

<b>Issues</b>	<b>Reasons</b>
Exemption status under the Rehabilitation of Offenders Act 1974, duties under the Police and Children's Acts regarding one-to-one contact with children, adults or the elderly.	It is illegal to employ certain offenders in some occupations.
To what extent are you bound by other legal constraints ?	For example, those with motoring convictions employed as drivers.

<b>Issues</b>	<b>Reasons</b>
Does the post involve any direct responsibility for finance or items of value?	What could happen and how serious would that be? What factors would increase or decrease the perceived risk? For example, the nature of the offence and impact of rehabilitation since then.
Does the post involve direct contact with members of the public?	Consider whether the offence would create unacceptable risks for other employees, customers, suppliers, clients, service users etc.
Will the nature of the job present any realistic opportunities for the post holder to re-offend in the place of work ?	

### **Assessing the ex-offender and the offences**

The essential thing to remember is to keep an open mind. Some ex-offenders will have had access to rehabilitation programmes that might also offer advice and guidance to potential employers and assist with transfers into employment.

Consider :

- The availability of assessments and reports from those agencies involved in the applicant's process of rehabilitation. For example, the Probation

# Risk Assessment Form – Positive DBS Disclosures



## Human Resources

Service, specialists working in prison etc.

- The seriousness of the offence and its relevance to the safety of other employees, customers, clients and property.
- The length of time since the offence occurred.
- Was the offence a one-off or part of a history of offending ?
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely (e.g. improved personal circumstances, drug addiction therapy) ?
- The country in which the offence was committed. For example, some activities are offences in Scotland and not in England and Wales and vice versa.
- Whether the offence has since been decriminalised by Parliament.
- The degree of remorse, or otherwise, expressed by the applicant.

### APPENDIX F

**This form should be completed by the recruiting manager to make an assessment about a candidate's suitability to commence employment following receipt of a positive DBS check. The risk assessment must be carried out and signed by the recruiting manager and signed by the relevant Head of Service**

Risk Assessment Form – Positive DBS Disclosures	
Recruiting Manager	
Job Title	
Directorate/Service	
Candidate's Name	
Post Title	
Level of Disclosure Requested	
Start Date	

Are the convictions relevant to the work that is being undertaken?	Yes		No	
<p>If Yes, what control measures are being put in place to minimise the risk to children and / or adults?</p>				
<p>What monitoring and review actions are required?</p>				
Print Name				
Signed		Date		
<p><b>APPROVAL BY HEAD OF SERVICE</b></p> <p>I confirm that I agree with the decision made by the recruiting manager</p>				
Print Name				
Signed		Date		

**APPENDIX G**



**Risk Assessment Form**

Activity to be Assessed		Assessment Number		
Persons undertaking or affected by the activity				
<input type="checkbox"/> Employees <input type="checkbox"/> Contractor <input type="checkbox"/> Public <input type="checkbox"/> Pupil <input type="checkbox"/> Service User <input type="checkbox"/> Other .....				
Identified Hazards and Associated Risks	Likelihood	Severity	Risk Level	
1				
2				
3				
4				
5				
6				
Existing Control Measures / Additional Control Measures Required				
1				
2				
3				
4				
5				

6												
Reassessment of Activity Hazards					Likelihood		Severity		Risk Level			
1												
2												
3												
4												
5												
6												
Name				Signed				Date				
Position												
Reviews		Key										
Review Date :		Likelihood	Severity		Likelihood of Injury	5	5Y	10R	15	20	25	
Reviewed by:		1 very unlikely 2 unlikely 3 likely 4 very likely 5 certainty	1 nuisance 2 minor 3 medical treatment 4 major 5 fatal			4	4	8	12	16	20	
Review Date :						3	3	6G	9	12	15	
Reviewed by:						2	2	4	6Y	8	10Y	
Review Date :						1	1	2	3	4	5G	
Reviewed by:						0	1	2	3	4	5	
Review Date :				Severity of Injury								
Reviewed by:						Low Risk	Medium Risk			High Risk		



# Pre-Employment Checks – Manager’s Checklist



Human Resources

## Pre-Employment Checks – Manager’s Checklist

<b>Name of Employee</b>			
<b>Job Title</b>			
<b>Team</b>			
<b>Start Date</b>			
<b>1. Document/s complying with The Immigration, Asylum and Nationality Act 2006. (For a full list of documents under List A or List B, please visit <a href="http://www.ukba.homeoffice.gov.uk">www.ukba.homeoffice.gov.uk</a>)</b>			
<b>One document from List A</b>		<b>OR</b>	
<b>Two Documents from List B</b>			
<b>An official document bearing the National Insurance Number and name</b>			
<b>2. Satisfactory References:</b>			
<b>Verbal Reference (where required)</b>			
<b>Two signed references</b>			
<b>3. DBS Check</b>			
<b>Standard</b>			
<b>Enhanced</b>			
<b>Enhanced with Childs Barred List</b>			
<b>Enhanced with Adult Barred List</b>			
<b>Basic</b>			
<b>4. Qualifications</b>			
<b>5. Care Council for Wales Registration (if applicable)</b>			
<b>6. EWC Registration (if applicable)</b>			
<b>7. Gaps Form Checked</b>			
<b>8. Medical Clearance</b>			
<b>Signed</b>		<b>Date</b>	



## APPENDIX I

### IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006

#### List A

This covers documents which can be produced alone (or in the specified combinations) by nationals of the European Economic Area (EEA) and Switzerland to provide the University with statutory defence (ongoing justification):

A passport – showing that the person named on the passport is a British citizen, or a citizen of the United Kingdom and Colonies having the right of abode in the UK;

A passport or national identity card showing that person named on the passport or identity card is a national of the EEA or Switzerland;

A residence permit, registration certificate or document certifying permanent residence issued by the Home Office or the UK Border Agency to a national of an EEA country or Switzerland;

A Biometric Immigration Document issued by the UK Border Agency to the holder, which indicates that the person named in it is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK;

A passport or other travel document endorsed to show that the holder is exempt from immigration control, allowed to stay indefinitely in the UK, has the right of abode in the UK or no time limit on their UK stay.

The following documents provide an ongoing justification ***when produced in combination with an official document giving the person's permanent National Insurance Number and their name, issued by a Government Agency or a previous employer:***

An Immigration Status Document issued by the Home Office or the Border and Immigration Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK;

A full birth certificate issued in the UK which includes the name(s) of at least one of the holder's parents;

A full adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents;

A birth certificate issued in the Channel Islands, the Isle of Man or Ireland;

An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland;

A certificate of registration or naturalisation as a British citizen;

A letter issued by the Home Office or the Border and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the UK.

#### **List B**

This covers documents which can be produced alone (or in the specified combinations) by non-EEA and non-Swiss Nationals to provide the Council with statutory defence for up to 12 months (original documents in this category must be checked at least every twelve months by the employer in order to comply with the current legislation):

A passport or travel document endorsed to show that the holder is allowed to stay in the UK and is allowed to do the type of work in question, provided that it does not require the issue of a sponsorship certificate;

A Biometric Immigration Document issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the UK and is allowed to do the work in question;

A sponsorship certificate or other approval to take employment issued by the Home Office or the UK Border Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the UK and is allowed to do the work in question, or a letter issued by the Home Office or the UK Border Agency to the holder or the employer (or prospective employer) confirming this;

A certificate of application issued by the Home Office or the UK Border Agency to (or for) a family member of a national of an EEA country or Switzerland stating that the holder is permitted to take employment, which is less than 6

months old when produced in combination with evidence of verification by the UK Border Agency Employer Checking Service;

A residence card or document issued by the Home Office or the UK Border Agency stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the UK Border Agency Employer Checking Service;

An Application Registration Card issued by the Home Office or the UK Border Agency stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the UK Border Agency Employer Checking Service;

An Immigration Status Document issued by the Home Office or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the UK and is allowed to do the type of work in question, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer;

A letter issued by the Home Office or the UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in the document can stay in the UK and is allowed to do the work in question when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

**Please note that the following documents do not provide suitable evidence and will not be accepted:**

A Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the United Kingdom. (Individuals with these documents should contact the Home Office for information about how they can apply for an Application Registration Card);

A letter issued by the Home Office stating the holder is a British Citizen;

A passport describing the holder as a British Dependent Territories Citizen which states that the holder has a connection with Gibraltar;

A short birth certificate issued in the United Kingdom which does not have details of the holder's parents;

A card or certificate issued by the Inland Revenue under the Construction Industry Scheme;

A temporary National Insurance Number (beginning with TN, or any number ending with the letters E to Z inclusive);

A driving license issued by the Driver and Vehicle Licensing Agency;

A bill issued by a financial institution or a utility company.