

# DBS Policy Statement



**Date:** August 2022

## Document summary

This policy statement provides guidance on the effective use of the DBS Disclosure process to safeguard the children and adults who access our services.

## Enquiries

Recruitment Support, 01273 335733

## Contents

Key points .....	1
1. DBS checks and when to use them.....	2
2. Validity of DBS Disclosures .....	3
3. Portability of DBS Disclosures .....	3
4. DBS Disclosure requirements for those moving positions within ESCC .....	3
5. Frequency of DBS Disclosure checking - employees.....	4
6. Starting work prior to receipt of DBS disclosure.....	4
7. Receipt of DBS disclosure .....	5
8. Recruiting from overseas.....	6
9. DBS Disclosures for agency workers, contractors, subcontractors or volunteers ..	6
10. DBS Disclosures for Councillors.....	7

## Key points

- East Sussex County Council (ESCC) is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.
- The guidance set out in this DBS Policy Statement relates to employees, volunteers, agency staff and contractors/sub-contractors.
- Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. standard/enhanced/enhanced + children’s and/or adults barred list check).
- Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of or accessing a service which leads that adult to being considered vulnerable at that particular time.
- ESCC uses the DBS Disclosure process as part of a range of checks for assessing the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring within ESCC, and the continued employment of those in specific roles which require reassessment.

- ESCC obtains and makes decisions based on information provided on DBS Disclosures in accordance with the relevant data protection legislation, the DBS Code of Practice, the Rehabilitation of Offenders Act and the regulations of the Department for Education (DfE) and the Department of Health (as regulated by OFSTED and CQC)
- This policy should be read in conjunction with the [Employment of Ex-Offenders Policy](#) and the [Storage of DBS Disclosures Policy](#).

## 1. DBS checks and when to use them

- 1.1. It is best practice to determine the type of DBS Disclosure that is required by way of a risk assessment which should be undertaken by the manager responsible for the activity that the individual will be undertaking. Managers should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant post, this should take place prior to the recruitment process. Managers are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS Disclosure.
- 1.2. There are five types of check that are available. The DBS Eligibility Checker will determine which level of check, if any is required ([Find out which DBS check is right for your employee - GOV.UK \(www.gov.uk\)](#)). The checks that are available are:
  - **Standard DBS Check** - primarily for people entering certain professions such as: members of the legal and accountancy professions. Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the children's or adults barred lists.
  - **Enhanced DBS Check** - used where someone meets the pre September 2012 definition of regulated activity. This level of check involves a check of the police national computer and police information.
  - **Enhanced Check for Regulated Activity (Children)** - used when someone is undertaking regulated activity relating to children. This check involves a check of the police national computer, police information and the children's barred list
  - **Enhanced Check for Regulated Activity (Adults)** - used when someone is undertaking regulated activity relating to adults. This check involves a check of the police national computer, police information and the adults barred list.
  - **Enhanced Check for Regulated Activity (Children and Adults)** - used when someone is undertaking regulated activity relating to both children and adults. This check involves a check of the police national computer, police information and the children's and adults barred list.

- 1.3. It is not possible to apply for a DBS check for someone who is under 16 years of age.
- 1.4. If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a DBS Disclosure. Due to the requirements of the DBS Disclosure process the individual concerned must give their consent for the DBS Disclosure to be obtained. HR Advisory Team must be contacted for advice in these instances.

## 2. Validity of DBS Disclosures

- 2.1. There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date on the day it is issued as a new or further criminal conviction or caution may be recorded against the individual at any time after the issue date.
- 2.2. ESCC contracts of employment set out that if following an individual's appointment they are subsequently cautioned, charged, summonsed or convicted of a criminal offence then they should inform their line manager immediately. Failure to disclose such information may lead to disciplinary action being taken.

## 3. Portability of DBS Disclosures

- 3.1. Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.
- 3.2. Applicants can join the **online update service** though this will incur an annual charge the individual would need to meet. Schools may wish to encourage individuals to join, where they have peripatetic roles and/or irregular working patterns, or work across several schools with the potential for more than three months' break in service. Membership for volunteers is free of charge.
- 3.3. If a certain set of criteria are met, a free and instant check can be undertaken online which will detail whether the individual's current certificate remains valid or if there is new information present which will mean that a new disclosure certificate will need to be sought. If the check remains valid then it will be accepted as a portable check.
- 3.4. Applicants can register to become a member of the online update service at <https://www.gov.uk/dbs-update-service>
- 3.5. In relation to Contractors or Agency Staff, the "employer" is responsible for obtaining the DBS check. This check can then be used within any organisation that the Agency or Contractor provides staff to work within.

## 4. DBS Disclosure requirements for those moving positions within ESCC

- 4.1. Where an individual has undertaken a DBS Disclosure for a position with ESCC and they move to another position within the organisation, the DBS Disclosure will be acceptable in the following instances:
  - The type of DBS Disclosure (i.e. Standard / Enhanced / Enhanced + relevant barred list check) is the same for the old and new post;
  - The individual has not had a break in service of more than three months;
  - The new work does not represent a significant increase in responsibility for, and contact with, children and/or adults;

- The individual is registered with the online update service and, following a check of the update service, the certificate has been verified as current and valid.

4.2. For those individuals undertaking social care work, CQC regulations require all pre-employment checks to be completed every time an individual moves post.

## **5. Frequency of DBS Disclosure checking - employees**

5.1. Where a DBS Disclosure is required, the individual will complete a DBS check as part of a recruitment and selection process to ascertain their suitability for the post. In most instances there are no requirements to undertake periodic DBS Disclosures, commonly known as a DBS Disclosure refresh.

5.2. ESCC has taken a policy decision which means that those employees working in the following areas are required to undertake a new DBS Disclosure every 3 years:

- Adoption and Fostering Service (Ofsted requirement)
- Looked After Children and Disability Residential teams
- School Crossing Patrol
- Children's Disability Service posts in the following areas:
  - Direct Intervention Service
  - After School/Holiday Clubs
  - Positive Behaviour Support

5.3. Service managers are responsible for requesting refreshed DBS disclosures when required. HR can provide a report of when employees' DBS disclosures were last issued. The service will be issued with access to the DBS checking system and they can apply for applications there directly.

5.4. Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) a conversation should take place between the line manager and employee in regards to their suitability for the post. The line manager will, after having this conversation, be required to make a recommendation to their Assistant Director on the suitability of the individual to continue in post.

## **6. Starting work prior to receipt of DBS disclosure**

6.1. In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual starting work. Only in exceptional circumstances can an individual start work without the full results of the DBS Disclosure being known and this can only be authorised by an Assistant Director/ Headteacher. Prior to the approaching the Assistant Director/ Headteacher for approval the following must have taken place:

- Business Operations are in receipt of all of the other pre-employment checks and these have been confirmed as being satisfactory and;
- A correctly completed DBS Disclosure application has been countersigned and submitted to the DBS and;

- Business Operations have checked and cleared the individual against the relevant barred list and;
- The line manager has undertaken a risk assessment to determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or adults.

## **7. Receipt of DBS disclosure**

- 7.1. The DBS issue one copy of a DBS Disclosure to the applicant, a copy is no longer sent to the employer. The applicant will need to present the certificate to their line manager as soon as possible after they receive it. For employees (but not volunteers) Business Operations will still need to record the DBS Disclosure reference number, type of Disclosure (e.g. Standard or Enhanced) and the issue date. This information should therefore be passed to Business Operations in the appropriate manner.
- 7.2. If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received the manager needs to follow the necessary guidance found in the 'Online Update Service and Single Certificate Guidance', Assistant Directors/ Headteachers (or Chair of Governors in the cases of a DBS Disclosure for a Headteacher) must consider and approve the suitability of the candidate to commence/continue their employment.
- 7.3. In these instances a risk assessment is required to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards would need to be introduced to manage that risk.
- 7.4. In accordance with the Rehabilitation of Offenders Act, a criminal conviction may not automatically prevent an individual from working with ESCC.

#### 7.5. Managers must consider the following factors:

- The requirements of the role and the level of supervision the individual will receive;
- The seriousness of the offence/issue raised and its relevance to the safety of employees, service users, clients or property;
- How relevant the offence is on the role to be undertaken;
- How much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending;
- Whether the individual's circumstances have changed since the offence was committed making re-offending less likely;
- Whether the individual was open and transparent about their past and declared their criminal background prior to receiving the DBS Disclosure.

### 8. Recruiting from overseas

8.1. DBS Disclosures do not record convictions that were committed abroad. When recruiting candidates who have lived or worked abroad within the last five years, a DBS Disclosure must be obtained in the normal way and the equivalent disclosure from the country(s) concerned may be required as well. In the first instance the applicant should apply for any overseas disclosure, however the recruiting manager must reimburse the cost of this once the candidate has commenced in post. For more information on recruiting from overseas, please see the Pre-Employment Checks policy available on the Intranet/Webshop.

### 9. DBS Disclosures for agency workers, contractors, subcontractors or volunteers

- 9.1. Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for ESCC to see if a DBS Disclosure is required (please refer to The DBS Eligibility Checker, [Find out which DBS check is right for your employee - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-check-if-a-job-requires-a-dbs-check)).
- 9.2. Specific guidance relating to DBS checks for agency workers and contractors / sub-contractors can be found on the intranet and Webshop.
- 9.3. A standard clause relating to DBS Disclosure requirements has been developed and should be introduced into any contract which involves work with children or adults or providing services for, or in, establishments where children and/or vulnerable adults may be present. This can be found on the intranet by searching for 'supplementary contract conditions'.
- 9.4. It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.
- 9.5. Staff employed via an agency must have their DBS renewed on an annual basis.
- 9.6. Contractors must ensure that their employees and sub contractors' DBS checks are refreshed every 3 years.

## 10. DBS Disclosures for Councillors

10.1. The County Council has determined that Councillors fulfilling the following roles should be required to undertake an Enhanced Check:

- Members of the Adoption and Permanence Panels;
- Members of the Fostering Panel;
- Members of the Corporate Parenting Panel;
- Lead Member for Children and Families;
- Lead Member for Education and Inclusion, Special Educational Needs and Disability;
- Lead Member for Adult Social Care and Health.

10.2. Similarly to arrangements for employees in the services identified in [Section 5](#), DBS Disclosures for Councillors fulfilling these roles will be monitored by Business Operations and refreshed every 4 years.

10.3. Disclosures are sent to the individual. The Councillor will need to present their certificate to the Monitoring Officer. The unique reference number and date of issue of a Councillor's disclosure will be recorded as evidence of the check having been undertaken but this will not indicate whether the check has resulted in a positive disclosure.

10.4. Where a DBS check results in a positive disclosure (i.e. a criminal background or details that may be of concern) the Councillor would be requested to meet with the Chief Executive and Monitoring Officer to discuss the disclosure and its impact on their suitability to undertake certain roles. If the outcome of those discussions is that there should be a restriction in their role, then this would be additionally shared with the Member's group leader where relevant.