



## **DBS Checks and Recruitment of Ex-Offenders Policy**

# Contents

# Page

1	Policy	1	
2	Purpose	1	
3	Principles	1	
4	Review	2	
5	Application	2	
6	Policy Statement	2	
	6.1	Legal Requirements	3
	6.2	Disclosure and Barring Service	3
	6.3	The Disclosure Process	3
	6.4	Recruitment Procedures	3
	6.5	Appointments	6
	6.6	Withdrawing an offer of employment	6
	6.7	Security and Storage	6
	6.8	Retention of Disclosure Information	7
	6.9	Challenging a Disclosure	7
7	Equality Impact Assessment	8	
	Appendix 1	9	
	Appendix 2	10	

## 1. Policy

This policy sets out the principles that the Company will apply when dealing with the recruitment and employment of ex-offenders.

This policy is non-contractual and does not form part of the employment contract between the Company and any employee.

## 2. Purpose

The Company aims to promote equality of opportunity for all with the right mix of talent, skills and potential. The Company welcomes applications from diverse candidates.

## 3. Principles

The following principles will apply to this policy:

- The Company must comply fully with the Disclosure and Barring Service (DBS) Code of Practice. This requires the Company to treat all applicants for positions who have a criminal record fairly and not to discriminate unfairly against them on the basis of conviction.
- DBS Disclosures will only be sought following an offer being made. Criminal records will only be taken into account for recruitment purposes when the conviction is relevant to the post being offered. This applies to internal appointments as well as external appointments.
- Applicants will not be asked to disclose convictions which are spent under the Rehabilitation of Offenders Act 1974, unless the post is exempt in which case all convictions, both spent and unspent must be disclosed.
- Whether or not convictions may prevent employment will depend on the offence(s) and in some cases on the background to and circumstances of them. The Company may seek further information from the Disclosure and Barring Service, the Crown Prosecution Service and other appropriate authorities and any applicant or employee will be expected to cooperate in that process.

## 4. Review

We will review this policy, our procedures and staff training needs at least once every 3 years to ensure that it continues to operate within best practice, achieve measurable results, and achieve continuous service improvement.

In particular, the policy and all associated procedures will be reviewed following any relevant change to government policy, regulation or legislation.

The Head of HR will be responsible for ensuring that policy reviews are undertaken, that appropriate consultation takes place

## 5. Application

North Devon Homes' Executive Team will approve this policy and delegate responsibility to the Head of HR for ensuring that this policy is communicated and implemented.

The Head of HR will provide appropriate training for employees.

## 6. Policy Statement

### 6.1 Legal Requirements

- [Rehabilitation of Offenders Act 1974](#)

The Act states that an ex-offender does not have to disclose a spent conviction for most purposes.

For details of when convictions are spent please refer to Appendix 1

- [Rehabilitation of Offenders Act \(Exceptions\) Order 1975](#)

Under the Rehabilitation of Offenders Act 1974(Exceptions) Order 1975, there are exceptions to the general principle that spent convictions do not have to be declared, and applicants for certain types of work may be asked to reveal details of all convictions, whether spent or not. This is in part to ensure that vulnerable people are adequately protected from those in positions of authority over them.

Posts and professions that are exempt from the Act under the Exceptions include posts that involve access to children, young people, vulnerable adults (including elderly people, disabled people, alcohol or drug misusers and chronically sick people)

## **6.2 Disclosure and Barring Service**

There are four types of Disclosure: Basic, Standard, Enhanced and Enhanced with children and/or adult barred list check(s). The nature of the post will determine which DBS Check is required. A disclosure does not expire but the information contained within it only relates to that point in time. Basic and Standard checks will be reviewed every three years. For posts requiring an enhanced check and Enhanced with children and/or adult barred list check(s) disclosures will be monitored annually via the update service

## **6.3 The Disclosure Process**

We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.

An application for a Disclosure may only be made by a registered body and for this purpose the Company has chosen to use an Umbrella Body.

An Umbrella Body is a Registered Body that acts on behalf of employers who do not wish to become Registered Bodies but want to use the service and are legitimately entitled to ask exempted questions through its recruitment procedures. It is the responsibility of the Umbrella Body to take reasonable steps to ensure those who received disclosure information comply with the Code of Practice.

The Company is registered with Devon County Council HR ONE. The Company will be invoiced direct by this Umbrella Organisation for the cost of the DBS check.

All employees in posts requiring an Enhanced or Enhanced with Barred list DBS check MUST register for the DBS Update Service. There is an annual fee for this service which will be reimbursed by the Company. The employee will then give the Company permission to access the online record which will be checked at regular intervals throughout the year.

It is the employee's responsibility to renew their registration with the DBS Updating Service on an annual basis. The Online record must not be allowed to expire. Employees have the choice when registering to request an automatic annual update. The Company strongly advises employees to select this option.

In the event of the on-line record expiring, the Company may recharge the employee the cost of re-starting the entire DBS checking process.

## 6.4 Recruitment Procedure

Basic DBS checks will be carried out for all posts as a minimum, with certain posts requiring an enhanced or enhanced with barred list check. All posts requiring an enhanced or enhanced with barred list check are listed in Appendix 2. The Company will comply fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.

All will be DBS checked in accordance with the nature of the duties they will undertake.

The Company is committed to the fair treatment of its staff, potential staff or users of its services, regardless of any protected characteristics as defined by the Equality Act 2010.

- All job adverts will contain a statement that a Disclosure will be required in the event of the individual being offered the position. The advert will state the level of DBS check required.
- All applicants invited for interview are encouraged to provide details of their criminal record at an early stage in the application process.
- this information is requested under separate, confidential cover, to a designated person within the Company and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.
- unless the nature of the position allows the Company to ask questions about an applicant's entire criminal record the Company will only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974.
- just having an unspent conviction will not automatically prevent employment, it will depend on offences and in some cases the circumstances of and background to them.
- At interview, or in a separate discussion, we ensure that we give any applicant the opportunity for an open and measured discussion on the subject of any offences or other matter that might be relevant to the position.

- All offers of employment are made subject to receipt of references which are satisfactory to the Company, confirmation of medical fitness to fulfil the requirements of the post, receipt of Disclosure information which is satisfactory to the Company and the successful completion of a 6 month probationary period.
- We undertake to offer to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.
- Failure to reveal information about a conviction that is relevant to the position sought could lead to withdrawal of an offer of employment or to subsequent dismissal.
- A Disclosure will only be sought in relation to a post that involves a degree of risk and is within the scope of exceptions under the Rehabilitation of Offenders Act 1974.
- The Company has determined that the posts listed in Appendix 2 will require a Disclosure but this list is not exhaustive.
- Individuals may refuse permission for a DBS check but should understand that the Company would then be likely not to take an application any further or to dismiss the employee, as appropriate.
- A member of the HR Team will obtain the required proof of identity and other documentation that is required to enable the Disclosure Application to be fully completed.
- A member of HR Team will submit the completed application form to the Company's Umbrella Organisation.

## **6.5 Appointments**

If there is any doubt regarding whether a post should be offered or an offer of employment withdrawn due to Disclosure information the decision will be escalated to the Executive Team for consideration.

## **6.6 Withdrawing an offer of employment/ dismissal**

The Company will consider the following factors before deciding whether or not to take action:

- Whether the conviction or other matter revealed is relevant to the position in question
- The seriousness of any offence or other matter revealed
- The length of time since the offence or other matter occurred
- Any observations by the applicant/ employee, who will be invited to comment.
- Unless the offence is so serious as to be inconsistent with employment by the Company, then in addition:
  - Whether the applicant has a pattern of offending behaviour or other relevant matters
  - Whether the applicant's circumstances have changed since the offending behaviour or other relevant matters
  - The circumstances surrounding the offence and any explanation/s offered by the convicted person
  - Such further information from the Disclosure and Barring Service, the Crown Prosecution Service and other appropriate authorities as the Company considers it appropriate to request. The applicant or employee will be expected to cooperate in that process.

## **6.7 Security and Storage**

The Company will comply fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.

It will also comply fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

In accordance with section 124 of the Police Act 1997, Disclosure information will only be passed to those authorised to receive it in the course of their duties. This will usually be limited to members of the HR Team, Chief Executive, the immediate Director/Manager of the prospective employee and any external legal adviser. It is acknowledged that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

## **6.8 Retention of Disclosure Information**

The Disclosure certificate will be sent to the employee's home address. The HR department will receive notification from Devon County Council once the Disclosure has been issued. The certificate number and date of issue will be logged by HR.

In the event of a positive result, HR will request sight of the original Disclosure to ascertain whether anything which has been disclosed may pose a risk.

## 6.9 Challenging a Disclosure

Where the information contained within a disclosure is reported to be incorrect, the person should be referred to the Disclosure Dispute Line, Telephone: Telephone: 0300 0200 190.

All information on Disclosures is available on the DBS website: [www.gov.uk/dbs](http://www.gov.uk/dbs). The website should be used as the first point of contact for any questions or further information.

## 7. Equality Impact Assessment

### 7.1 Who has been consulted in developing the Policy?

Date	Consultation methodology	Challenge / impact / result		
11 July 2014	Solicitors to ensure that legal obligations are being met	<p>Asked to reconsider the list of posts for which we sought disclosures on the basis of whether there is contact with children and/or vulnerable adults. DBS checks should not be used to determine business risk (eg finance posts)</p> <p>Appropriate changes made.</p>		
Strand	No impact	Negative impact	Positive impact	Comments / evidence
Race	<input type="checkbox"/> x			
Disability	<input type="checkbox"/> x			
Gender	<input type="checkbox"/> x			
Gender Reassignment	<input type="checkbox"/> x			
Sexual orientation	<input type="checkbox"/> x			
Religion or belief	<input type="checkbox"/> x			
Age	<input type="checkbox"/> x			
Rural issues	<input type="checkbox"/> x			
Social Inclusion issues	<input type="checkbox"/> x			
Pregnancy and maternity	<input type="checkbox"/> x			
Marriage and civil partnership	<input type="checkbox"/> x			

**7.2 Identify potential impact on each of the diversity “groups”**

**7.3 Does the Policy promote equality of opportunity?**

Yes

**7.4 If “adverse impact” identified in table above is it?**

Not applicable

**7.5 A full EIA is not required for this policy**

No.

**7.6 If suggestions for improvement have been suggested, what should the positive outcome be for North Devon Homes’ customers and stakeholders?**

Not applicable.

<b>Next review date</b>	
Three years. November 2021	
<b>Author</b>	<b>Related Documents</b>
Michelle Rose Head of HR 01271 312546	DBS code of Practice

## Appendix 1

### Spent Convictions - Rehabilitation Periods

<b>Sentence/disposal</b>	<b>Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).  This applies from the <u>end date</u> of the sentence (including the licence period).</b>	<b>Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the <u>end date</u> of the sentence (including the licence period).</b>
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order**	1 year	6 months
<b>Sentence/disposal</b>	<b>Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).</b>	<b>Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).</b>
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order*	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

**Important Note:** This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.

## Appendix 2

### Roles Requiring an Enhanced DBS check or an Enhanced with barred list check

Neighbourhood Manager

Neighbourhood Officer

Independent Living Services Manager

Independent Living Services Team Leader

Independent Living Support Officer

Devon Homelink Community Alarm Coordinator

Community Involvement Manager – with barred list check

Lead Youth Worker – with barred list check

Youth Support Worker – with barred list check

Assistant Youth Worker – with barred list check

Income Manager

Benefits Coordinator

Welfare Support Officer

All other posts will require a basic DBS check.