



HUMBERSIDE FIRE AND RESCUE SERVICE

People & Development

Disclosure and Barring Service Policy

| | |
|---------------------|--|
| Owner | Executive Director of People and Development |
| Responsible Person | Head of Human Resources |
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What we must
do well



How we support our
communities



We value and support
the people we employ



We efficiently manage
the Service

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1. INTRODUCTION

This policy sets out the main principles that Humberside Fire and Rescue Service (HFRS) will operate in relation to Disclosure and Barring Service (DBS) checks on employees in both recruitment and continued employment of people within the organisation.

Core Code Of Ethics

Humberside Fire and Rescue Service (HFRS) has adopted the Core Code of Ethics for Fire and Rescue Services. The Service is committed to the ethical principles of the Code and strives to apply them in all we do, therefore, those principles are reflected in this Policy.

National Guidance

Any National Guidance which has been adopted by HFRS, will be reflected in this Policy.

2. EQUALITY AND INCLUSION

HFRS has a legal responsibility under the Equality Act 2010, and a commitment, to ensure it does not discriminate either directly or indirectly in any of its functions and services nor in its treatment of staff, in relation to race, sex, disability, sexual orientation, age, pregnancy and maternity, religion and belief, gender reassignment or marriage and civil partnership. It also has a duty to make reasonable adjustments for disabled applicants, employees and service users.

3. AIM AND OBJECTIVES

HFRS undertakes to treat all applicants fairly when assessing their suitability for positions of trust. It will not discriminate unfairly against any subject of a Disclosure on the basis of a conviction or any other information revealed as a result of the checks.

All job applicants who will be the subject of a DBS check will be advised at the beginning of the recruitment process that, should they be selected, this check will be carried out towards the end of the recruitment process and will form part of the conditional job offer.

HFRS will ensure that those involved in identifying and assessing the relevance and circumstances of offences have received appropriate guidance in the relevant legislation relating to the employment of ex-offenders (Rehabilitation of Offenders Act 1974).

4. ASSOCIATED DOCUMENTS

- [Equality Impact Analysis](#)
- Legal References
 - [Rehabilitation of Offenders Act 1974](#)
 - [Mental Capacity Act 2005](#)
 - [Safeguarding Vulnerable Groups Act 2006](#)
 - [Protection of Freedoms Act 2012](#)
- National Guidance Reference
 - [NFCC Guidance](#)
- Disciplinary Policy
- [Disclosure and Barring Service \(Government Agency\)](#)

5. LEGAL CONTEXT

The general intent of the Rehabilitation of Offenders Act 1974 Act is that an ex-offender who has not re-offended for a specific length of time will be considered to be 'rehabilitated' and entitled to present themselves to employers as if they had never been convicted in the first place. The legislation was introduced to prevent ex-offenders who have not re-offended for a significant period of time from being denied access to jobs purely on the basis of their past criminal convictions.

For individuals, it is a criminal offence to work or volunteer in "regulated activity" whilst barred.

For employers and bodies/organisations who supply staff or volunteers, it is a criminal offence to:

- Knowingly allow someone to work in a "regulated activity" while barred - potential penalties include up to five years' imprisonment or an unlimited fine, and managers and directors can be liable as well as the company itself.
- Allow someone to work in "regulated activity" without carrying out the required checks. The potential penalty is a fine of up to £5,000.

[Appendix B](#) provides details on regulated activity for adults and children.

6. PROCESS

Once a conditional offer has been made, the Disclosure form will be completed by the individual and forwarded to HR Administrators with originals of all documentation required. In circumstances where an applicant cannot provide the required number of documents, the DBS may accept other identity documents, however this is determined on a case-by-case basis. The information on the Disclosure form and documentation will be checked and sent off to the Agency we use to process DBS applications (Umbrella Body) who will then counter sign it and forward to the DBS. Organisations that carry out less than 100 checks per year

have to use an 'Umbrella Body' to carry-out these checks on their behalf. As HFRS carries out less than 100 DBS checks a year, it has to use an Umbrella Body to provide its DBS checks.

The Disclosure Certificate will be sent to the applicant who is required to disclose this to HR within 14 days of receipt. The Disclosure Certificate information will only be seen by those authorised to receive it in the course of their duties and will only be used for the specific purpose for which it was requested and for which the applicant's consent has been given.

All posts subject to a Disclosure are offered 'subject to satisfactory DBS check' and the employee will not be allowed to commence employment until the DBS check is received (unless for operational reasons it is decided to allow them to commence before a check is completed). If this is the case, a Risk Assessment (see [Appendix C](#)) will need to take place and it should be guaranteed that they will not work in that capacity or unsupervised until the DBS certificate is received. Approval will be required from the Director of People and Development in these circumstances.

7. APPLICANTS WITH ADVERSE DISCLOSURES

If a DBS check reveals details of convictions which may render the applicant unsuitable for the post for which they applied, the HR Administrator will send the details to the relevant HR Service Partner to undertake, in conjunction with the Recruiting Manager, a Cause for Concern Risk Assessment Pro-forma (see [Appendix D](#)) with the individual. The pro-forma will be shared with the Head of HR who will make a recommendation to the Director of People and Development to appoint/not appoint the applicant.

When assessing any disclosure or declared conviction information received, consideration will be given to a range of issues such as the type of conviction, how long ago the conviction happened and the post in which the individual is to be employed.

Having a conviction will not necessarily bar someone from employment with HFRS. The Service will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of employees and the public, including the Service's duties and responsibilities towards these or other groups.

If the candidate has made a false declaration on their application form, then the Service will not be able to confirm the appointment. If the Disclosure Certificate contains information that was not revealed by the candidate or additional information from the Police is received, it will be necessary to hold a further discussion with the candidate and undertake a further review before deciding to confirm or withdraw the offer of employment.

8. EMPLOYEES WITH ADVERSE DISCLOSURES AND RE-CHECKS

Employees have a duty to inform their line manager of any criminal convictions which occur during the course of their employment.

Where existing employees who have not previously completed a DBS check, or due to a change of post require a further DBS check, subsequently receive an adverse disclosure result, the line manager, along with the relevant HR Service Partner, should complete a Cause for Concern Risk Assessment Pro-forma (see [Appendix D](#)). Once completed this pro-forma should then be discussed with the Head of HR who will make a recommendation to the Director of People and Development.

When completing the pro-forma, it should be considered whether the conviction has been declared to the Service and whether the conviction is relevant to the post. If the conviction is relevant to the post or not previously declared, then a full investigation should be undertaken.

In cases of a serious nature, a formal disciplinary hearing may be convened in line with the Service's Disciplinary Procedure.

Subject to the nature of the disclosures and pending the outcome of a full investigation, it may be appropriate to move the employee to an alternative post with no access to children and/or vulnerable groups, property/information/resources etc.

If the disclosure results are considered to be of a serious nature and proven to be correct, the line manager, in conjunction with HR, may consider various options including:

- The introduction of safeguards
- Redeployment pending the availability of a suitable vacancy
- Termination of employment

Only after a full appraisal of the situation has been undertaken (including the risks involved), other alternative employment options have been investigated and advice sought from HR, should dismissal be considered. If termination of employment needs to be considered due to the potential seriousness of the disclosure, then the employee must be informed in writing and a hearing held in line with the Service's Disciplinary Procedure.

An existing employee transferring or obtaining promotion to a new post which is listed on [Appendix A](#) will need to undertake a DBS check.

If a post requires an Enhanced DBS the Service may legally re-check its employees as regularly as is deemed necessary.

9. EMPLOYEES SUPERVISING YOUNG PEOPLE ON WORK EXPERIENCE

If, as part of an employee's duties, they are asked to supervise young people (under 16s) on work experience, this is considered to be a regulated activity and an enhanced DBS check is required.

10. AGENCY WORKERS

Where the Service has a requirement for agency staff, the agency is legally considered to be the employer of any agency workers and therefore responsible for obtaining a relevant DBS check.

This check can then be used with any organisation that the agency provides workers to work within, provided that it is the same and relevant barred list check.

When using an agency worker, the hiring manager will ask the agency to see written confirmation or a copy of the DBS certificate, which should be no more than one year old, to ensure that each worker supplied to them has had a satisfactory DBS check.

11. TYPES OF DBS CHECK

Enhanced Check

This check details an individual's convictions, cautions, reprimands or warnings recorded on police central records and information held locally by police forces that it may reasonably be considered as being relevant to the post applied for. The check includes both 'spent' and 'unspent' convictions. There are very strict conditions set by the DBS for these checks. Positions that qualify for these checks are those where normal duties include caring for, training, supervising or being in sole charge of children or vulnerable adults (see [Appendix A](#)).

Standard check

A standard DBS check is an in-depth background check used by employers on behalf of applicants to verify if a candidate is suitable to hire for work in a specific industry. It will show details of all cautions, warnings and reprimands as well as all spent and unspent convictions held on an individual's criminal record. Standard checks can only be applied for if an individual works in specific industries such as; Health and Social Care, Financial Services, Accountancy, Childcare, Education and Legal.

Basic Check

These checks are the most common and lowest level of disclosure available. It includes information on any 'unspent convictions' an individual may have (see [Appendix A](#)).

Individuals can carry-out Basic checks directly with the Disclosure and Barring Service but not Standard or Enhanced checks. Organisations that carry out less than 100 checks per year have to use an 'Umbrella Body' to carry-out these checks on their behalf. As HFRS carries out less than 100 DBS checks a year, it has to use an Umbrella Body to provide its DBS checks.

12. RETAINING RECORDS

Disclosures may be retained for a maximum period of six months to allow for the consideration and resolution of any disputes or complaints. The Umbrella Body will ensure that Disclosures are not kept for longer than the six month period and that they are then securely destroyed.

The Service is permitted to keep a separate record of basic information such as the date of Disclosure, the DBS certificate number, the subject's name, the type of Disclosure and the decision on whether they were employed or not, for an indefinite period of time.

**If you require any further guidance in relation to this policy,
please contact Human Resources**

APPENDIX A

Categorisation of Roles for vetting with the Disclosure & Barring Service

| Enhanced |
|--|
| Role |
| Fire Safety Inspection staff and associated managers |
| Public Safety Advocates and associated managers |
| Public Safety Centre staff and associated managers |
| Youth Engagement staff including Road Safety staff |
| ICT Specific Data Handling staff |
| Falls Team members |
| |

| Standard |
|-------------------------|
| Role |
| Head of Finance |
| Senior Finance Officers |
| Finance Officers |
| |

| Basic |
|---|
| Role |
| All operational staff including control |
| All Control staff |
| All Green book staff |
| |
| |
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| |
| |

APPENDIX B

Guidance on Regulated activity in relation to adults

This document provides information on the scope of Regulated Activity in relation to adults, as defined in the Safeguarding Vulnerable Groups Act 2006 (SVGA) and as amended by the Protection of Freedoms Act 2012 (PoFA).

The definition of regulated activity for adults identifies any activities provided to any adult which, if any adult requires them, would mean that the adult will be considered vulnerable at that particular time. The SVGA no longer labels adults as 'vulnerable' because of the setting in which the activity is received and because of the personal characteristics or circumstances of the adult receiving the activities. For example, anyone providing personal care to an adult is in regulated activity irrespective of whether that occurs in a hospital, a care home, a day care centre, a prison or in sheltered housing.

There is no longer a requirement for a person to carry out the activities a certain number of times before they are engaging in regulated activity. Any time a person engages in the activities set out below, they are considered to be engaging in regulated activity.

There are six categories of people who fall within the new definition of regulated activity and this includes anyone who provides day to day management or supervision of those people. An adult is considered to be a person aged over 18 years of age.

Regulated activity:

1. Providing Health Care

The provision of health care by any health care professional to an adult or, the provision of health care to an adult under the direction or supervision of a health care professional, is regulated activity. A health care professional is a person who is regulated by professional regulators i.e. General Medical Council, General Dental Council. Health care includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care.

The provision of psychotherapy and counselling to an adult which is related to health care the adult is receiving from, or under the direction or supervision of, a health care professional, is regulated activity.

2. Providing Personal Care

Anyone who provides an adult with physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of the adult's age, illness or disability, is in regulated activity.

Anyone who prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting and supervision, is in regulated activity.

Anyone who trains, instructs or provides advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability, is in regulated activity.

A volunteer who prepares and serves a meal to an adult in their own home (but does not feed the adult), is not engaging in regulated activity. To be engaged in regulated activity you must provide physical assistance to the person, for example spoon feeding that person, or you must be prompting and supervising (for example, prompting and supervising a person with dementia because, without it, they would not eat), or training or instructing (for example, teaching a person who has suffered a stroke to eat using adapted cutlery).

3. Providing Social Work

The activities of regulated social workers in relation to adults who are clients or potential clients are a regulated activity. These activities include assessing or reviewing the need for health or social care services and providing on-going support to clients.

4. Assistance with general household matters

Anyone who provides day to day assistance to an adult because of their age, illness or disability, where that assistance includes at least one of the following, is in regulated activity; managing a person's cash, paying a person's bills, shopping on their behalf.

Illustrative examples:

A volunteer who collects a shopping list and the cash to pay for the shopping from older adults' homes, who then does the shopping on their behalf, would be engaging in regulated activity.

A befriender who helps a disabled person compile their weekly shopping list is not in regulated activity.

5. Assistance in the conduct of a person's own affairs

Anyone who provides assistance in the conduct of an adult's own affairs by virtue of:

- Lasting power of attorney under the Mental Capacity Act 2005
- Enduring power of attorney within the meaning of the Mental Capacity Act 2005

- Being appointed as the adult's deputy under the Mental Capacity Act 2005
- Being an Independent Mental Health Advocate
- Being an Independent Mental Capacity Advocate

would be engaging in regulated activity.

6. Conveying

Any drivers and any assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are in regulated activity.

Conveying does not include licensed taxi drivers or licensed private hire drivers and does not include trips taken for purposes other than to receive health care, personal care or social work (for example, trips for pleasure are excluded).

Illustrative examples:

A person who volunteers to take an adult to and from their GP appointment on behalf of a community group is in regulated activity, regardless of whether there is a personal relationship

- A friend who takes their neighbour to a hospital appointment would not be in regulated activity, as this is a personal relationship.

General points:

- Regulated activity continues to exclude any activity carried out in the course of family relationships, and personal, non-commercial relationships.
- Personal, non-commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.
- A person whose role includes the day to day management or supervision of any person who is engaging in regulated activity.

Guidance on Regulated activity in relation to children:

The new definition of regulated activity relating to children comprises only:

(i) Unsupervised activities: teach, train, instruct, care for, or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children.

(ii) Work for a limited range of establishments ('specified places') with opportunity for contact with children: for example, schools, nurseries, pupil

referral units, children centres, children's homes, childcare premises. This definition does not include work by supervised volunteers.

NOTE: Work under (i) or (ii) is regulated activity only if done 'regularly'.

(iii) Relevant personal care, for example washing or dressing or health care by or supervised by professional.

(iv) Registered childminding and or foster carers.

Activities no longer covered by the new definition of regulated activity:

- Activities supervised at a reasonable level – children
- Health care not by, or directed, or supervised, by a health care professional
- Legal Advice
- Treatment/therapy.

APPENDIX C

Risk Assessment Form - Pre DBS check

This form is only for use in exceptional cases where the recruiting manager wishes to consider an individual commencing work with children/young people/vulnerable adults prior to the receipt of a valid, satisfactory DBS check. The form should be completed by the recruiting manager and authorised by the Director of People and Development and then retained on the employee's PRF. The form should not be used as an alternative to submitting a DBS form.

| | |
|--|--|
| Employee Details | |
| Name | |
| Date of Birth | |
| Date of Commencement in Post | |
| Post recruited to | |
| Date completed DBS application form submitted for checking | |
| Pre-employment checks | |
| Have all breaks in employment been satisfactorily explained by the candidate? | |
| Have relevant, original documents been seen, checked and copied? | |
| Proof of ID – have original documents been seen, checked and copied? | |
| Right to Work – have original documents been seen, checked and copied? | |
| Have two references been received, including one from the last employer? | |
| Does one reference relate to working with the relevant client group, e.g. children, young people or vulnerable adults? | |
| Have the references been verified with the referee and any issues clarified? | |
| Safeguarding Checks | |
| Has the candidate disclosed any previous convictions/cautions? | |
| If so, have these been satisfactorily explained? | |
| Do these pose a risk to the safety of children/young people or vulnerable adults? | |
| Do the duties of the post require unsupervised access with | |

| | |
|--|--|
| children/young people or vulnerable adults? | |
| If so, are there duties which can be performed without direct contact with children/young people or vulnerable adults? | |
| In the course of such duties can the employee be observed or supervised by another? | |
| Please state reasons to support the individual commencing employment prior to a DBS check being received: | |

I confirm that I have considered the risk to children/young people or vulnerable adults of allowing this person to be employed prior to receipt of a satisfactory DBS check. I am willing for them to commence employment subject to any conditions outlined above.

Signed: (Recruiting Manager)

Name:

Job title:

Date:

Authorisation by Director of People and Development

I have considered the content of this risk assessment and give approval for the candidate to commence employment with any relevant restrictions/safeguards as outlined by the Recruiting Manager:

Signed:

Name:

Date:

APPENDIX D

Cause for Concern Risk Assessment Pro-Forma

This form must be completed by the Recruiting Manager and the relevant HR Service Partner with the candidate present. This risk assessment will form the basis of a decision to appoint/not to appoint someone into a position where adverse disclosures have been identified on a returned DBS Certificate.

| Nature of Crime | | |
|-------------------------|---|-------|
| Level | Examples | Score |
| Minor Offence 1 | Fixed penalty driving offences, Civil Disputes | 0 |
| Minor Offence 2 | Alcohol related offences including traffic. Convictions for fraud, theft or criminal damage to property | 1 |
| Major Offence (Class 1) | Conviction for battery or assault with minor injury | 3 |
| Major Offence (Class 2) | Conviction for physical damage to another person. Serious burglary or theft involving physical harm to a third party | 5 |
| Serious Offence | Registration as a sex offender or other sex related offences. Homicide | 20 |

| Outcome | |
|---|-------|
| Description | Score |
| Caution | 0 |
| Absolute Discharge | 1 |
| Conditional Discharge | 2 |
| Community Sentence (fine, referral, reparation, community service etc.) | 3 |
| Suspended Sentence | 5 |
| Custodial Sentence | 10 |

| Time since Offence | |
|--------------------|-------|
| Description | Score |
| 20 years+ | 0 |
| 10 to 20 years | 1 |
| 5 to 9 years | 2 |
| 2-5 years | 3 |
| Less than 2 years | 4 |

| Repeat Offences | |
|---------------------------------------|-------|
| Description | Score |
| One offence only | 1 |
| Two or more offences on the same date | 2 |
| Offences on more than one date | 3 |

| Relevance to the Role | |
|--|-------|
| Description | Score |
| "Victimless crimes" (i.e. offences against the community or state) | 1 |
| Property offences (e.g. criminal damage to property) | 2 |
| Offences against the person (e.g. theft, assault) | 3 |

| Scores | |
|-----------------------|-------|
| Description | Score |
| Nature of Crime | |
| Outcome | |
| Time since Offence | |
| Repeat Offences | |
| Relevance to the Role | |
| TOTAL | |

| Action | |
|---------|---|
| Score | |
| < 10 | Could be approved following agreement by the Executive Director of People and Development. |
| 10 – 20 | Further detailed discussion with the Executive Director of People and Development regarding any risks imposed. |
| > 20 | Executive Director of People and Development to decline employment or instigate Disciplinary procedure (for current staff). |

DBS Disclosure – review of positive disclosure

Date of DBS Disclosure:

Date of review:

Reviewed by:

DBS Risk Assessment score:

Outcome:

Signed:
Executive Director of People and Development