

## **A GUIDE TO SAFER RECRUITMENT**

### **1. INTRODUCTION**

- 1.1 Experience has shown that it is vital for organisations that provide services to children and vulnerable adults to operate recruitment and selection procedures that help deter, reject or identify people who might abuse children and the vulnerable, or are otherwise unsuited to work with them. Many unsuitable people may not have a criminal conviction. It is therefore important that we do our utmost to stop such people gaining access to children and vulnerable people. Making safeguarding and promoting the welfare of children and vulnerable adults an integral factor in staff recruitment is an essential part of creating safe environments.
- 1.2 These guidelines have been developed to ensure that safer recruitment practices are carried out across the borough, ensuring that as a Council we are fulfilling our responsibility of ensuring that the children and vulnerable adults that use our services are as safe as possible. These guidelines comply with the safe recruitment recommendations of the Bichard Enquiry (2004) into the Soham Murders and the DCSF guidance on Safeguarding Children 2007.
- 1.3 These guidelines cover the full recruitment process. Supplementary guidance is available on the following aspects of the recruitment process:
- Guidance for carrying out interviews
  - Protocol for Criminal Record Bureau Checks
  - Guidance for managers on accepting references.

### **2. SCOPE**

- 2.1 This guidance has been produced to support supervisors and managers in recruiting the best qualified and safest staff and volunteers whilst ensuring that the recruitment and selection procedures used are consistent fair and safe for the recruiter as well as the children, families and vulnerable adults they work with.
- 2.2 Schools should refer primarily to the guidance issued by the DCSF, "Safeguarding Children and Safer Recruitment in Education" which came into force on 1 January 2007:

<http://www.teachernet.gov.uk/doc/8592/Recruit.pdf>

### **3. SAFER RECRUITMENT POLICY STATEMENT**

3.1 In accordance with guidance issued by the DCSF, Hounslow shall incorporate a policy statement in relevant recruitment adverts expressing its commitment to safeguarding and promoting the welfare of children. The statement to be used is as follows:

***“The London Borough of Hounslow is committed to safeguarding and promoting the welfare of children, young people, and vulnerable adults and expects all staff and volunteers to share this commitment.”***

3.2 This statement should be included on:

- London Borough of Hounslow website
- Job descriptions/Employee specifications for all jobs advertised after 1 October 2009

#### **4. WORKING WITH CHILDREN AND VULNERABLE ADULTS**

4.1 The Safeguarding Vulnerable Groups Act 2006 defines **“Regulated Activity”** in relation to children and vulnerable adults in Schedule 4 Parts 1 and 2.

[http://www.opsi.gov.uk/acts/acts2006/ukpga\\_20060047\\_en\\_8#sch4-pt1](http://www.opsi.gov.uk/acts/acts2006/ukpga_20060047_en_8#sch4-pt1)

The following is a summary.

| <b>Regulated Activities</b>   |   |
|---|---|
| Involve contact with children or vulnerable adults and are:   |   |
| <p><b>Of a specified nature</b><br/>e.g. teaching, training, care, supervision, advice, treatment or transport.</p> <p><b>Or</b></p> <p><b>In a specified place</b><br/>e.g. schools, children’s homes and hospitals, juvenile detention facilities, adult care homes.</p>                            | <p><b>AND ARE</b></p> <p><b>Frequent, Intensive and/or Overnight</b></p> <ul style="list-style-type: none"> <li>- Once a month</li> <li><b>Or</b></li> <li>- Three or more occasions in a period of 30 days</li> <li><b>Or</b></li> <li>- Overnight: Between 2 – 6am</li> </ul> |
| <p>- <b>Also covers Fostering and “Defined Office Holders”</b><br/>e.g. Directors of Children’s Services, Trustees of children’s charities, School Governors</p> <p>- <b>No distinction between paid and voluntary work</b></p>   |   |
| <p>A full list of positions where it is eligible to undertake a CRB is available from the link below. Regulated positions are categories 1 and 2.<br/><a href="http://www.crb.gov.uk/guidance/rb_guidance/eligible_posts.aspx">http://www.crb.gov.uk/guidance/rb_guidance/eligible_posts.aspx</a></p> |   |

#### **6. LEGISLATION**

## The Safeguarding Vulnerable Groups Act 2006

- 6.1 Under the Safeguarding Vulnerable Groups Act it is an offence to offer employment in posts defined as *regulated positions* to someone who is identified on the Independent Safeguarding Authority's barred lists

The Act provides that:

- There will be two barred lists – one for those who are barred from engaging in regulated activity with children (the “children’s barred list”), and one for those who are barred from engaging in regulated activity with vulnerable adults (the “adults’ barred list”).
- There will be an Independent Barring Board (“IBB”). The IBB will maintain the children’s barred list and adults’ barred list and will make decisions about whether an individual should be included in one or both barred lists.
- An individual who is included in the children’s barred list must not engage in regulated activity in relation to children. An individual who is included in the adults’ barred list must not engage in regulated activity in relation to vulnerable adults.
- Broadly, regulated activity will cover a range of specified activities that provide an opportunity for close contact with children or vulnerable adults, other activities in key settings such as schools and care homes which provide an opportunity for contact and key positions of responsibility such as the Children’s Commissioner and the Director of Adult Social Services.
- There are a series of criminal offences to:
  - a. prevent barred individuals from engaging in regulated activity in relation to children or vulnerable adults
  - b. ensure that people permitted to engage in regulated activity in relation to children or vulnerable adults with the permission of a “regulated activity provider” are subject to monitoring
  - c. ensure that relevant employers check an individual’s status in the scheme before permitting an individual to engage in regulated activity in relation to children or vulnerable adults
  - The Act also confers power on the Secretary of State to make regulations about controlled activity. This covers certain activity other than regulated activity. There is no current intention to prevent a barred individual from engaging in controlled activity. However, in part the regulations will be used to require employers (and others with responsibility for managing controlled activity) to put in place appropriate safeguards to manage the risks posed by barred individuals.

Broadly, controlled activity covers support work in general health settings, further education settings and adult social care settings. It also covers work which gives a person the opportunity for access to sensitive records about

children and vulnerable adults, including education and social services records.

A fuller explanation of the Safeguarding Vulnerable Groups Act 2006 is available at:

[http://www.opsi.gov.uk/acts/acts2006/en/ukpgaen\\_20060047\\_en.pdf](http://www.opsi.gov.uk/acts/acts2006/en/ukpgaen_20060047_en.pdf)

## **7. VOLUNTEERS**

- 7.1 Volunteers are seen by children and vulnerable adults as safe and trustworthy adults. Engagement of volunteers for work which meets the definition of regulated activity will require the same level of checks as would be required for paid employment.
- 7.2 This does not mean that all volunteers will be subject to a CRB check – it is important to consider whether the position involves regular, intensive or overnight working. Paragraph 4.56 of the Safeguarding Children and Safer Recruitment in Education guidance may be helpful in determining the required level of checks.

<http://www.teachernet.gov.uk/doc/8592/Recruit.pdf>

## **8. SCHOOL GOVERNORS**

- 8.1 In line with other volunteers, governors in positions that include direct contact with children, or who care for, train, supervise or are in sole charge of children should be subject to these recruitment measures, and an Enhanced CRB Disclosure should be obtained.
- 8.2 If the governor attends the governing body meeting only and does not go into school at times when children are present an Enhanced CRB disclosure is not currently required. With the extension of the operating hours of schools, Headteachers must carry out regular reviews of the need for governing body members to have CRB checks.
- 8.3 Appropriate vetting and barring schemes should be checked on the appointment of a new governor.

## **9. AGENCY WORKERS**

- 9.1 The Conduct of Employment Agencies and Employment Business Regulations 2003, requires employment agencies to vet temporary staff who work with vulnerable groups such as children, the elderly and infirm. They are required to carry out additional checks including obtaining copies of relevant qualifications, two references and taking all reasonable steps to confirm the individual's suitability for a post. If new, adverse information later emerges,

they must withdraw the temporary worker or inform the employer where they have introduced the worker for a permanent contract.

- 9.2 Managers recruiting supply or agency workers to work with children or vulnerable adults must obtain written notification from the agency that indicates that relevant ID checks, right to work in the UK, NI number, references and CRB Disclosures have been obtained for the individual and outlines whether it included any disclosed information.
- 9.3 Where there is disclosed information, the appointing manager must obtain a copy of the Disclosure from the agency. If the CRB Disclosure has not been received yet by the agency, the manager must require the agency to notify them of the content as soon as it is received.
- 9.4 Where there has been a gap of 3 months or more between assignments worked by the temp then a new CRB check should be requested from the Agency.
- 9.5 Where a CRB Disclosure indicates cause for concern, the agency worker must be immediately withdrawn pending further enquiries.
- 9.6 As a safeguard, Managers should arrange for temporary workers working with children or vulnerable to bring with them on their first day documentary evidence of their identity (e.g. either a current driving license or passport including a photograph, or a full birth certificate) plus a document such as a utility bill or financial statement that shows the candidates name and address, and where appropriate change of name documentation. They should also be asked to produce an original CRB disclosure.

## **10. CONTRACTORS**

- 10.1 Contractors who may not have direct contact with children or vulnerable adults, but because of their job have regular presence in a setting/establishment should also be subject to the measures in this guidance.
- 10.2 In particular, managers and procurement departments involved in the appointment of contractors should ensure that:
  - the contractual terms include the requirement for the contractor to adopt these procedures in respect of staff having contact with children and vulnerable adults
  - the contract includes provisions relating to the confidentiality of any data relating to children or vulnerable adults that the contractor may come into contact with
- 10.3 Managers and procurement departments involved in the appointment of contractors should assess whether the role needs a CRB/ISA registration check. Where a CRB check is considered necessary for the role this must be undertaken prior to commencement of any work on site.

## **11. JOB DESCRIPTIONS/PERSON SPECIFICATION**

- 11.1 For safer recruitment, it is important that candidates have the ability to assess their own suitability for a job. The development of accurate job descriptions/role profiles and person specifications is therefore vital.
- 11.2 Job Descriptions should clearly state the main duties and responsibilities of the post, including where appropriate the individuals responsibility for promoting and safeguarding the welfare of service users that they will be responsible for, or come into contact with.
- 11.3 The person specification sets out a profile of the job and of the ideal person to fill it. This should include the following
- The qualifications and experience, registration requirements and any other qualifications needed to perform the role in relation to working with service users
  - The competencies and qualities that the successful candidate should be able to demonstrate or show the potential to develop
  - An indication of how the requirements will be tested and assessed during the selection process
  - If a CRB check is required for the post
  - The statement

***“The London Borough of Hounslow is committed to safeguarding and promoting the welfare of children, young people, and vulnerable adults and expects all staff and volunteers to share this commitment.”***

## **12. DECLARATION OF CRIMINAL OFFENCES**

- 12.1 Posts involving access to children vulnerable adults and positions of trust are considered exempt under the provisions of The Rehabilitation of Offenders Act 1974, and therefore all offences, convictions, cautions, bindovers or any pending court cases **must** be declared.
- 12.2 Candidates should be reminded on the application form/ person specification that they are required to declare any convictions.
- 12.3 Failure to declare any of the above mentioned which are later highlighted in the CRB check may result in the withdrawal of an offer or dismissal.

## **13. INVOLVING SERVICE USERS IN RECRUITMENT AND SELECTION**

- 13.1 To empower and give service users a voice, consideration should be given as to whether it would be useful to have them included in the recruitment and selection process.
- 13.2 Involving service users in aspects of the recruitment and selection process can send a powerful signal to potential applicants about the philosophy of the organisation/school. It is likely to encourage applicants who are comfortable with and committed to listening to service users and respecting their rights and wishes. Experience has shown that service users can be more adept than professionals at drawing out a candidate's attitudes and values.
- 13.3 This may take different forms depending on the nature of the job and service user group. The panel should consider the best way of involving service users.
- 13.4 There are several ways in which service users can be involved in the process, e.g. Visits by candidates to the facilities which service users use, such as children's units.
- 13.5 Where such visits take place, they must be undertaken and managed carefully so as to take the needs of service users into account.
- 13.6 Other ways of involving service users could be to arrange for service users to meet candidates individually where a set of agreed questions is put to candidates; a group of service users meeting a group of candidates in order to undertake a group exercise; or including a service user as a member of a panel interview. Service users will need appropriate support and preparation for participation in any such activity.

#### **14. PREPARING FOR SHORT- LISTING**

- 14.1 To ensure that the best candidates are selected, and have been selected fairly, standard procedures for short-listing should be used. This ensures that you have a concise record of the decision, which can be referred to at a later date.
- 14.2 When applicants apply for a post they are asked to address each point on the person specification, detailing how their previous experience, knowledge, skills and abilities fit the requirements on the person specification. The fundamental principle of short-listing is that each candidate should be assessed against the person specification and not in relation to other irrelevant criteria.
- 14.3 Ideally, applications should be short-listed by all interview panel members, but at least by two of them. Short-listing should never be done by only one member of the panel.

- 14.4 If any items on the person specification require further detail to assist the panel to decide if an applicant meets the criteria or not, this detail should be agreed and documented.

## **15. THE INTERVIEW PANEL**

- 15.1 It is important to decide who will be short-listing, who will be on the interview panel, and who will be chairing the panel prior to the advert being placed. The chair of the panel should manage the whole process.
- 15.2 To ensure consistency the panel should remain the same throughout the whole process. Panels should consist of at least two people, and if a member of the panel knows any of the applicants, they must disclose this.
- 15.3 All panel members must have been trained in recruitment and selection procedures and be aware of safer recruitment in relation to the relevance of previous convictions, assessing and confirming gaps in education and employment and assessing people skills.

## **16. SHORT LISTING AND SCRUTINISING**

- 16.1 All applications should be scrutinised to ensure that they are fully and properly completed; that the information provided is consistent and does not contain any discrepancies, and to identify any gaps in employment. Incomplete applications should not be accepted.
- 16.2 Any anomalies, discrepancies or gaps in employment identified by the scrutiny process should be noted so that they can be taken up as part of the consideration of whether to short-list the applicant. As well as reasons for obvious gaps in employment, reasons for a history of repeated changes in employment without clear career or salary progression should be explored and verified.

## **17. INVITATION TO INTERVIEW**

- 17.1 The invitation to interview should stress that the identity of the successful candidate will need to be checked thoroughly to ensure that the candidate is the person who he or she claims to be. Candidates who are required to register with the General Teaching Council (Teachers) or General Social Care Council (Social workers) should be asked to bring to the interview their certificate of registration which will help to confirm, identity, qualifications and any conditions attached to registration.
- 17.2 All candidates should be instructed to bring with them documentary evidence of their identity e.g. Either a current driving license or passport including a



photograph, or a full birth certificate, plus a document such as a utility bill or financial statement that shows the candidates name and address, and where appropriate change of name documentation.

- 17.3 Candidates should also be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post, e.g. the original or a certified copy of a certificate, diploma, or a letter of confirmation from the awarding body. NB. If the successful candidate cannot produce original documents or certified copies, written confirmation of his/her relevant qualifications must be obtained from the awarding body before an offer of employment is confirmed.
- 17.4 A copy of any documents used to verify the successful candidates identity and qualifications should be signed by the manager who verifies it and retained for the personnel file. Such documentation should be destroyed in relation to unsuccessful candidates at the end of the recruitment and selection process.

## **18. SCOPE OF THE INTERVIEW**

- 18.1 When carrying out interviews of candidates for posts that work with children or vulnerable adults the interview panel should explore:
- The candidates attitude's towards the relevant client group(s)
  - The candidates ability to support the authority's agenda for safeguarding and promoting the welfare of children and vulnerable adults;
  - Gaps in the candidates employment history
  - Concerns or discrepancies arising from the information.
- 18.2 Further guidance on the conduct and scope of the interview is provided in the separate guidance:

### ***Guidance on carrying out interviews***

## **19. PRE-EMPLOYMENT CHECKS - REFERENCES**

- 19.1 The purpose of seeking references is to obtain objective and factual information to support appointment decisions.
- 19.2 Where practical, references should be sought prior to interview for all short-listed candidates. This will enable interview panels to take up any relevant issues arising from the references at the interview. In some circumstances it might not be possible to obtain the references before the interview, e.g. because of shortness of time between shortlisting and interview dates, delay on the part of the referee, or because a candidate strongly objects to their current employer being approached at this stage of the process.
- 19.3 All requests for references should seek objective verifiable information and not subjective opinion. A reference request form has been designed to help

achieve this. A copy of the job description and person specification for the post the person is applying or should be included with all requests and every request should ask:-

- About the referee's relationship with the candidate, e.g., did they have a working relationship; if so what; how long has the referee known the candidate and in what capacity;
- Whether the referee is satisfied that the person has the ability and is suitable to undertake the job in question, and for specific comments about the applicant's suitability for the post, and the candidate has demonstrated they meet the criteria on the person specification;
- Whether the referee has any concerns about the candidate's ability to work with children and vulnerable adults.
- Confirmation of details of the applicant's current post, salary and sick record
- Details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current
- Details of any disciplinary procedures the applicant has been subject to involving issue related to the safety and welfare of children or young people, or vulnerable adults or behaviour towards children or vulnerable adults, and the outcome of those concerns e.g. whether the allegations or concern was investigated, the conclusion reached, and how the matter was resolved.

19.4 When clearing a reference it is important to keep the following points in mind:-

- Normally at least two references should be obtained for external candidates. These should be from the candidates' most recent employers. If the candidate is newly qualified or a school or college leaver a reference must be sought from their educational establishment.
- A minimum of one reference must also be sought for internal candidates.
- They should be on the organisations' headed notepaper or have the organisations' stamp on them.
- Any gaps or missing information needs to be identified and noted.
- The content of the references should be checked against the application form to ensure that the information provided by the candidate and referee is consistent. Any discrepancy should be taken up with the applicant at interview or after if, the reference is received later.
- If you are uncertain about the content of the reference, or have identified gaps. These can be followed up in a telephone conversation with the referee. If a telephone call is made it is important to ensure that you verify that the person on the telephone is who they say they are. You can do this by asking them to confirm some of the personal details they provided on the reference form.
- If the reference raises concerns these can be discussed with the candidate.
- If the reference and the candidate's explanations are not adequate, these are grounds for not appointing the candidate.

19.5 Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an

issue was satisfactorily resolved some time ago, or where an allegation was determined to be unfounded or did not require formal disciplinary sanctions, and in which no further issues have been raised, are less likely to cause concern than more serious or recent concerns, or issues that were not resolved satisfactorily. A history of repeated concerns or allegations over time is likely to give cause for concern.

- 19.6 It is important not to accept references or testimonials provided by the candidate, or open references or testimonials addressed to whom it may concern. There have been instances of candidates forging references, also open references or testimonials might be the result of a “compromise agreement” and are therefore unlikely to include any adverse comments

## **20. PRE-EMPLOYMENT CHECKS - HEALTH**

- 20.1 All offers of appointment must be subject to the satisfactory completion of a medical assessment form, and if required an examination by the Council’s Occupational Health Physician.

## **21. CONDITIONAL OFFER OF APPOINTMENT**

- 21.1 A provisional offer of appointment will be sent to the successful candidate by the Shared Services Centre. This will be conditional upon the following mandatory employment checks;
- The receipt of at least two satisfactorily references (if they have not already been received prior to the interview)
  - Verification of the candidate’s identity (if not verified at interview)
  - For Regulated Positions and Controlled Positions, a check of the relevant barred list and where appropriate, a satisfactory CRB disclosure.
  - Verification of the candidate’s medical fitness
  - Verification of qualifications (if not verified after the interview)
  - Verification of professional; status where required, e.g., GTC registration, QTS status (unless properly exempt), NPQH, GSCC registration (if not verified at interview)
  - (For teaching posts) verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999) and

All checks should be;

- Confirmed in writing
- Documented and retained on the personnel file (subject to certain restrictions on the retention of information imposed by CRB regulations); and
- Followed up where they are unsatisfactory or there are discrepancies in the information provided

## 22. ACTIONS REQUIRED WHERE PRE EMPLOYMENT CHECKS ARE UNSATISFACTORY

- 22.1 If a candidate is found to be on a list barring them from the work to which they have applied; the offer of employment should be withdrawn and the facts should be reported to the police and/or the Independent Safeguarding Authority.

If an applicant has provided false information in, or in support of their application, consideration should be given to the offer of employment being withdrawn. Advice should be obtained from the HR Advisory Team.

Where there are other serious concerns about an applicant's suitability to work with children or vulnerable adults, the facts should be considered with a member of the HR Advisory Team.

## 23. CRIMINAL RECORDS

- 23.1 A criminal record arises from a conviction. There are also police records but these are not criminal convictions, and include reprimands, and final warnings.

- 23.2 Cautions (for adults) are based on the seriousness of the offence committed. A caution is a warning about future conduct given by a senior police officer, usually in a police station, after a person has admitted an offence. It is used as an alternative to a charge and possible prosecution. Reprimands and final warnings (for offenders under 18 years of age) are issued by police as an alternative to putting a young person before the courts. Again, the person has to have admitted to the offence.

### **The Rehabilitation of Offenders Act 1974**

- 23.2 The rehabilitation of offenders act was designed to help ex-offenders become law abiding and productive members of society.

- 23.3 Under the rehabilitation of Offenders Act 1974 any conviction for a criminal offence can be regarded as spent provided:

"The conviction did not carry a sentence excluded from the Act, such as a custodial sentence of over two and a half years and no further convictions occurred within the rehabilitation period."

- 23.4 A conviction is not spent until the rehabilitation period is complete. Once it is spent, the rehabilitated person does not have to reveal its existence in most circumstances and can answer no to the question "do you have a criminal record".

- 23.5 The Act applies to offences where a custodial sentence in prison (or detention in a young offenders' institution) of less than 30 months imprisonment was imposed. Any sentence above 30 months **never** becomes spent

- A sentence of imprisonment between 6 months and 30 months becomes spent after 10 years.
- Imprisonment for less than 6 months becomes spent after 7 years
- Fines, community service orders become spent after 5 years
- Probation orders, conditional discharge or binding over become spent after a year or until the order expires (whichever is the longer)
- Absolute discharges become spent after 6 months.

23.6 Certain occupations however are exempt from this; these include posts involving access to children, young people, the elderly, disabled people, alcohol or drug users and the chronically sick. Many posts within the health service and jobs involving the administration of justice, banking and other financial services and national security are also exempt.

## **24 CRIMINAL RECORD BUREAU (CRB) CHECKS**

24.1 The Criminal Records Bureau (CRB), an Executive Agency of the Home Office, provides wider access to criminal record information through its Disclosure service. This service enables organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially that involve children or vulnerable adults. The CRB was established under Part V of the Police Act 1997 and was launched in March 2002.

24.2 The Criminal Records Bureau allows us as an employer to ask successful job applicants to apply for one of two types of check. The type of check required will depend upon the nature of the position. These are called Enhanced and Standard Disclosures; both require a fee but are free of charge to volunteers.

### **Standard Disclosures**

24.3 From 12 October 2009, Standard Disclosure will only provide details from the Police National Computer and will not provide details from barred lists. Therefore, Standard Disclosures will not be suitable for posts undertaking Regulated Activities.

### **Enhanced Disclosures**

24.5 Enhanced Disclosures should be obtained in respect of all posts undertaking Regulated Activities with children or vulnerable adults. Reference should be made to the CRB category lists (see Regulated Activities – section 4 above). From 12 October 2009, only Enhanced Disclosures will identify if someone is included on a barred list.

## **Additional Checks on Overseas staff**

- 24.6 If the post undertakes Regulated Activities, an Enhanced CRB check must be undertaken even if the appointee has never previously lived in the UK. For overseas candidates who have not previously lived in the UK, and UK candidates who have lived abroad for significant periods, organisations should make an additional check by obtaining a certificate of good conduct from the relevant embassy or police force where that is available as well as obtaining an enhanced CRB Disclosure. The CRB website gives information about the availability and coverage of these certificates. The level of information contained in these certificates varies from country to country. Some are complete extracts from the criminal record; others are partial.
- 24.7 Where an applicant is from or has lived in a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining relevant information, employers must take extra care in taking up references and carrying out other background checks. For example, additional references should be sought, and references followed up by phone as well as letter.

## **25 STARTING WORK PENDING A CRB DISCLOSURE**

- 25.1 Ideally, where a CRB Disclosure is required, it should be obtained before an individual begins work. It must in all cases be obtained as soon as practicable after the individual's appointment and the request for CRB Disclosure must be submitted in advance of the individual starting work.
- 25.2 Chief Officers have the discretion to allow an individual to start work pending receipt of the Disclosure but they must ensure that the individual is appropriately supervised, and that all other checks, including checks against barred lists and references have been cleared and the employee must have completed the CRB disclosure application form.
- 25.3 Appropriate supervision for individuals who start work prior to the outcome of the CRB Disclosure being returned, needs to reflect what is known about the person concerned, their experience, the nature of the duties and the level of responsibility they will carry.
- 25.4 For those with limited experience and where references have provided limited information, the level of supervision required should be high. For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous relevant work, a lower level of supervision may be appropriate.
- 25.5 For all staff without confirmed CRB disclosures, it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision, spelt out. The arrangements should be reviewed regularly, at least every two weeks until the CRB Disclosure is received.

## **26. ACTION NEEDED IF A CRIMINAL RECORD IS REVEALED ON A DISCLOSURE**

- 26.1 Appointments can be confirmed if there are no convictions, cautions, reprimands, final warnings, or other non-conviction information on the disclosure.
- 26.2 An Enhanced disclosure will show whether the person is barred from working or seeking work with young people under the age of 18, or vulnerable adults.
- 26.3 If the person is barred the matter should be referred to the HR Business Partner who should contact the police. The police will take appropriate action, as it is an offence for a barred person to apply for such work and also for an employer knowingly to employ a banned person in such a capacity.
- 26.4 If criminal record information is listed, this would normally simply confirm what the applicant has previously revealed, and the appointments panel will have taken this into account when offering the applicant the post provisionally. Where a Disclosure confirms information that has already been taken into account, this would normally not be a reason to rescind the offer.
- 26.5 Where information is provided, it will generally only provide the basic facts – the name and date of the offences, for instance and the sentence. It will not put them into context. Nor will it explain what particular offences mean, in which case you may need to take advice from the HR Advisory Service.
- 26.6 If, however, there are significant discrepancies between the information that the applicant has provided on the Declaration of Offences section of the application form and the information on the Disclosure, or if the information on the Disclosure has not been disclosed earlier, further consideration by the manager in conjunction with an HR Adviser will be necessary.
- 26.7 The CRB code of practice recommends that any new matters revealed by Disclosures should be discussed with the applicant before making a final decision. This does NOT extend to non-conviction (“additional information”) matters on the Enhanced Disclosure that must not be revealed to the applicant. In the past, some employers have not given further consideration to anyone who failed to disclose an offence, no matter how irrelevant the offence was. This is now considered unreasonable, as applicants should not be dismissed or rejected outright.
- 26.8 If it is clear from an early stage that an appointment is subject to a CRB Disclosure, applicants will be less likely to conceal their records deliberately.
- 26.9 If the discrepancies are serious, there is a possibility that a mistake might have been made, for instance the information contained in the Disclosure may relate to someone else with the same name. While every effort is made by the CRB to ensure that Disclosures are accurate, mistakes do occur from time to time.

26.10 In some instances, it may be clear immediately that the applicant is unsuitable for the post they have applied for because of their record.

- 26.11 It may be that at a subsequent discussion with the applicant, they can provide the reassurance that is needed, for example by making it clear that the offence(s) is (are) in the past, or they were committed when the applicant was young or going through particular difficulties which have since been resolved.

26.12 If the offence is not work related or if the post is at a level of responsibility which means that the applicant does not represent a risk, you could consider appointing the applicant if in all other respects they are suitable for the job.

26.13 In a small number of cases, an Enhanced Disclosure check may result in the local police force disclosing non-conviction information to the registered contact only, and not to the applicant; this may include information about a current investigation. This may be very important in detailing whether someone is suitable for a particular post, but it must be remembered that this information must not be discussed with or passed to the applicant. HR Business Partners will advise managers on the most appropriate way to deal with this information should this situation arise.

## **27. WHAT TO DO IS SOMEONE HAS A CRIMINAL RECORD**

27.1 When deciding whether to appoint (or short-list) someone, you should determine how well the applicant can do the job; whether the person has the essential skills or experience for the post or an ability to develop these skills. Only then, if the person has the skills or experience, should convictions be taken into account.

### **Assessing the Relevance of criminal records**

27.2 It is best to avoid using a blanket ban on employing people convicted of a particular category of offence, as such bans fail to take into account the precise nature of such offences or the applicant's attitude to them. No two offences are exactly alike. Similarly a particular type of conviction or pattern of convictions may be deemed to make someone unsuitable for some types of post in the organisation but not for others.

27.3 Even violent offences can also cover a very wide range of behaviour and attitudes. The length of time since the offence, the circumstances which lay behind the committal of offences, the degree of intention on the part of the offender, the damage caused, the sense of remorse or otherwise of the offender, and the degree of risk the offence suggests that the applicant represents, will differ every time and may only be judged on the basis of a thorough individual risk assessment,



- 27.4 Where an applicant is still under probation or youth justice supervision, with the person's consent HR could seek advice from the relevant probation officer or youth justice worker on behalf of the appointing manager about their suitability for the post.
- 27.5 To facilitate this process, an applicant's criminal record should be assessed in relation to the tasks he or she will be required to perform and the circumstances in which the work is to be carried out. Managers in consultation with HR Advisers should therefore consider the following when deciding on the relevance of offences to particular posts:
- Does the post involve one-to-one contact with children or other vulnerable groups, customers or clients,
  - What level of supervision will the post holder receive
  - Does the post involve any direct responsibility for finance or items of value
  - Does the post involve direct contact with the public
  - Will the nature of the job present opportunities for the post holder to re-offend in the place of work?
- 27.6 The answers to such questions should help managers to determine the relevance of convictions to specific posts. For example, paedophile, or child pornography offences would almost certainly disqualify any person required to work with children; some violent offences would be relevant to positions involving unsupervised contact with the public, fraud should be considered in relation to posts involving the handling of significant amounts of money; and theft in relation to involving handling stock/supplies.
- 27.7 Whilst it may not be possible to carry out a risk assessment on each individual, managers should take the following issue into account as a minimum requirement:
- 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
  - Any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties
  - The circumstances surrounding the offence and the explanations offered by the candidate
  - Whether the offence was 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
  - The country in which the offence was committed, some activities are offences in Scotland and not in England and Wales and vice versa
  - Whether the offence has since been de-criminalised by parliament
  - The degree of remorse, or otherwise, expressed by the applicant and their motivation to change

- 27.8 Despite this legislation, a court cannot compel an employer to engage a rehabilitated offender; it can only declare the exclusion of the applicant to be unlawful.
- 27.10 If a provisional offer of employment is withdrawn because the Director decides that the criminal record of the applicant makes them unsuitable for the post, the applicant must be informed of the reason for the rejection.
- 27.11 If the employee wishes to lodge a complaint this can be done in accordance with the Council's Code on Recruitment and Selection.
- 27.12 If an applicant/employee does not disclose information, which is subsequently revealed by the CRB, the non-disclosure will be considered a breach of contract, and dealt with accordingly.

## **28. THE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF DISCLOSURES AND DISCLOSURE INFORMATION**

- 28.1 As an organisation using the Criminal Records Bureau (CRB) Disclosure service to help assess the suitability of applicants for positions of trust, the Council complies fully with the CRB code of practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. We also comply fully with the data protection Act.
- 28.2 Disclosure Information will not be kept on an applicants personal file and is always kept separately and securely, in lockable, non-portable storage containers) e.g. a lockable filing cabinet) with access strictly controlled and limited to only those who are entitled to see it as part of their duties.
- 28.3 Once a recruitment decision has been made, disclosures and associated correspondence should be retained by the Shared Services Centre for a period not exceeding 6 months (other than where specific exceptions are made in accordance with Government or Regulatory Body guidelines – e.g. Children's' Homes National Minimum Standards). This period allows for any dispute about the accuracy of a disclosure or a recruitment decision to be made and considered. In the case of a dispute the information may need to be retained for a longer period, but in general this should not exceed six months.
- 28.4 Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## **29. PORTABILITY OF CRB CHECKS**

- 29.1 Portability refers to the re-use of a Criminal Records Bureau Disclosure, obtained for a position in one organisation/establishment and later used for another position elsewhere.

- 29.2 Due to risks involved in portability, the Council does not accept the re-use of Disclosures originally obtained by an external organisation.
- 29.3 The risks include the following.
- A Disclosure has no formal period of validity. It is for use immediately after issue and reflects the record available at that date. That record might change subsequently. A further Disclosure would reveal such change.
  - The Disclosure might not be at the correct level of check required.
  - Only the employer's copy of an Enhanced Disclosure would indicate additional police information. Employers receive such information by separate letter, and it remains confidential to that employer.
- 29.4 In exceptional circumstances, we may allow internal portability of a Disclosure where:
- the Disclosure is at Enhanced level.
  - the candidate is moving between posts within Hounslow schools or the Council and their Disclosure was obtained within the last three years.
  - the Disclosure was obtained within the past twelve months for a similar position.
  - an individual is to undertake two positions (paid and/or voluntary) that both require a CRB check.

### **30. RE-CHECKING CRB DISCLOSURES**

- 30.1 Employees in certain posts, which require Disclosure checks, will be subject to being re-checked every 3 years. In accordance with past practice this incorporates all professional Social Care posts. Posts subject to re-checking will be identified on the Oracle HR/Pay system and Chief Officers will be asked to review the list of these posts from time to time in conjunction with advice from the HR service.
- 30.2 A new CRB check should be carried out where sessional or casual staff have a break in employment of more than three months.

### **31. SINGLE CENTRAL RECORD OF RECRUITMENT AND VETTING CHECKS**

- 31.1 Certain services are required to set up and maintain a single central record of recruitment and vetting checks (e.g. children's homes and schools).
- 31.2 This central record must cover all staff who are employed to work at the establishment, including agency staff. This record should also include all others such as volunteers, and governors who will have regular contact with children.
- 31.3 The central record must indicate whether or not the following pre-employment checks have been completed:

- identity checks
- Qualification checks for any qualifications legally required for the job, e.g.QTS
- Checks of right to work in the UK
- List 99 checks
- CRB Enhanced Disclosure
- Further overseas records checks where appropriate

31.4 The record must show the date on which each check was completed or the relevant certificate obtained, and should show who carried out the check. A suggested template for the record is provided below:

| Identity |         |               |                    | Qualification                 |                                  | List 99                 | CRB                     | Right to work in the UK | Overseas Criminal records check |
|----------|---------|---------------|--------------------|-------------------------------|----------------------------------|-------------------------|-------------------------|-------------------------|---------------------------------|
| Name     | Address | Date of birth | Evidenced and date | Qualification required yes/no | Qualification evidenced and date | Check evidence and date | Check evidence and date | Check evidence and date | Check required yes/no           |
|          |         |               |                    |                               |                                  |                         |                         |                         |                                 |
|          |         |               |                    |                               |                                  |                         |                         |                         |                                 |

## 32. INDUCTION

32.1 It is important that there is an induction programme for all staff and volunteers newly appointed in an establishment, including social workers and teaching staff, regardless of previous experience. The purpose of the induction is to; -

- Provide training and information about the establishments /authority's policies and procedures;
- Support individuals in a way that is appropriate for the role for which they have been engaged;
- Confirm the conduct expected of staff ;
- Provide opportunities for a new members of staff or volunteers to discuss any issues or concerns about their role or responsibilities; and,
- Enable the person's line manager or mentor to recognise any concerns or issues about the persons' ability or suitability at the outset and address them immediately.

32.2 The content and nature of the induction process will vary according to the role and previous experience of the appointee or volunteer, but as far as safeguarding and promoting the welfare of children and vulnerable adults is concerned the induction programme should include information about, and written statements of:

- Policies and procedures in relation to safer recruitment, safeguarding and promoting welfare, e.g. Child protection, anti-bullying, anti racism, physical

intervention/restraint, intimate care, internet safety and any local child protection/safeguarding procedures;

- Safe practice and standards of behaviour expected of staff, and children, or residents using the facility/setting.
- Other relevant personnel policies and procedures e.g., capability, disciplinary and whistle-blowing
- Where relevant to the individual's role, the programme should also include attendance at child protection training.

## CONVICTIONS WHICH WOULD BAR AN OFFER OF APPOINTMENT

A conviction for any of the following would preclude a person from work involving access to children and vulnerable adults. (There may, however be exceptional circumstances where an offer of employment could be offered for some of the offences listed in this Appendix. Each case should be carefully considered).

### **Offences where death results, violence is used or threatened or life recklessly endangered by a persons actions.**

- Murder and Manslaughter
- Grievous Bodily Harm or Unlawful Wounding
- Robbery
- Aggravated Burglary
- Rioting
- Violent Disorder
- Infanticide and Child Destruction
- Arson
- Offences included in the Prevention of Terrorism (Temporary Provisions) Act 1989
- Firearms offences – Possession of Firearms with Intent, Use of Firearms to Resist Arrest and Possession in Relation to Certain Offences
- Threats to kill
- Destroying or Damaging Property with Intent to Endanger Life
- Incitement of Racial Hatred
- Aggravated Vehicle Taking

### **Sexual offences**

- Rape and Attempted Rape
- Abduction

- Incest
- Buggery when the offence was committed with a child under 16 or any person without consent
- Gross Indecency
- Indecent Assault
- Intercourse with a Girl under 16 or a Mentally Retarded Person.
- Indecent Contact with Children

### **Drug offences**

Importation and Exportation, Production, Supply and Possession with Intent to Supply.

## OFFENCES DISCLOSED WHERE MANAGEMENT DISCRETION COULD BE EXERCISED

It is recognised that there are a variety of “other” offences where convictions may or may not indicate that the person is unsuitable for work providing substantial access to children and vulnerable adults. The reason for having such a category is that circumstances surrounding some offences vary widely. It is not possible to establish the precise circumstances of the arrest or details of the offence merely from the information provided by the CRB. A person charged with “assault” may have been acting in self-defence or the offence of threatening behaviour, could arise from a dispute with a neighbour etc.

**Careful consideration should be given where discretion is exercised and senior management and HR must be involved in the decision making process. Offences where discretion could be exercised include:**

- ◆ **Any Bound Over Orders or Cautions**
- ◆ **Breaches of the Peace**
- ◆ **Offences committed when the candidate was under 17 years of age therefore legally considered a juvenile, unless those detailed above**
- ◆ **Offences against the person**
  - Common Assault
  - Carrying an Offensive Weapon
  - Affray
  - Intentional Harassment, Alarm or Distress
- ◆ **Criminal Damage**
  - Destroying or Damaging Property
- ◆ **Thefts**
  - Theft
  - Making off without payment
  - Burglary



Taking a Conveyance

Obtaining property by Deception

Obtaining a Pecuniary Advantage

Handling Stolen Goods

Going Equipped

◆ **Sexual Offences**

*Depending on the circumstances, some offences concerning indecency may afford discretion. The circumstances must be clearly established.*

◆ **Drug offences**

Possession of Class A, B & C Drugs. (Verify how long ago the offence occurred, and whether there is any medical history of drug taking).

**These guidelines do not provide an exhaustive list but cover those most likely to be recorded.**

## CRIMINAL RECORD BUREAU BANDING TABLES

The Criminal Records Bureau has identified 68 categories of professions, employments, work and occupations for which CRB Disclosures can be applied for. The categories that apply to roles within the Council or schools are listed in the table below.

When CRB Disclosures are applied for the job role must be assigned one of the CRB categories below. Managers are responsible for ensuring that postholders carrying out the job roles listed below have CRB checks.

The banding categories applicable for Hounslow Council are explained below the table. The full list can be accessed at

[http://www.crb.gov.uk/guidance/rb\\_guidance/eligible\\_posts.aspx](http://www.crb.gov.uk/guidance/rb_guidance/eligible_posts.aspx)

| <b>CRB CATEGORY</b> | <b>BANDING</b> | <b>Job roles</b>  |
|---------------------|----------------|---|
| 1                   | 3              | Any work which is defined as regulated activity relating to children within the meaning of <a href="#">Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006</a>  |
| 2                   | 3              | Any work which is defined as regulated activity relating to vulnerable Adults within the meaning of <a href="#">Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006</a>   |
| 3                   | 3              | Any office or employment which is concerned with the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment; and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services. |
| 4                   | 3              | Any work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18.  |
| 13                  | 1              | Chartered accountant, certified accountant.   |
| 35                  | 1              | Traffic wardens.  |
| 48                  | 2              | Any employment which is concerned with the monitoring for the purposes of child protection, of communications by means of the internet.   |
| 49                  | 2              | An individual designated under section 2 of the Traffic Management Act 2004.  |
| 52                  | 2              | Any office, employment or other work which is concerned with the establishment or operation of a database under section 12 of the Children Act 2004 ,   |

| <b>CRB<br/>CATEGORY</b> | <b>BANDING</b> | <b>Job roles</b>   |
|-------------------------|----------------|--|
|                         |                | and which is of such a kind as to enable the holder of that office or employment, or the person engaged in that work, to have access to information included in the database.  |
| 53                      | 2              | Any office, employment or other work which is of such a kind that the person is or may be permitted or required to be given access to a database under section 12 of Children Act 2004.  |
| 54                      | 2              | Any work which is normally concerned with the provision of any form of information, advice or guidance wholly or mainly to children which relates to their physical, emotional or educational well-being and is provided by means of telephone or other form of electronic communication including the internet and mobile telephone text messaging. |
| 64                      | 3              | For adoption purposes.   |
| 65                      | 3              | For foster caring purposes.  |

## HOUNSLOW BANDING CATEGORIES FOR SAFER RECRUITMENT

| Band  | Pre appointment/recheck requirements   | Circumstances in which candidates can start work pending CRB checks   |
|---|--|---|
| 1   | <ul style="list-style-type: none"> <li>• Standard Criminal Record Bureau (CRB) checks</li> <li>• Identity checks</li> <li>• Standard reference form</li> </ul> | Allowed to start work prior to CRB check.   |
| 2   | <ul style="list-style-type: none"> <li>• Enhanced Criminal Record Bureau (CRB) checks</li> <li>• Identity checks</li> <li>• Enhanced reference form</li> </ul> | Allowed to start work prior to CRB check only where close supervision can be guaranteed, the candidate has an Enhanced CRB Disclosure which is less than a year old and with the agreement of a Head of Service.                                      |
| 3   | <ul style="list-style-type: none"> <li>• Enhanced Criminal Record Bureau (CRB) checks</li> <li>• Identity checks</li> <li>• Enhanced reference form</li> </ul> | Normally would not start until checks are completed except on a limited range of duties where supervision can be guaranteed, the candidate has an Enhanced CRB Disclosure that is less than a year old and with the agreement of the Head of Service. |
| 4<br>CRB checks may need to be carried out for posts that fall into these categories at the discretion of the Head of Service. The CRB category guidance should be consulted to identify the appropriate category code. | <ul style="list-style-type: none"> <li>• Standard Criminal Record Bureau (CRB) checks</li> <li>• Identity checks</li> <li>• Standard reference form</li> </ul> | Allowed to start work prior to CRB check.   |

# DISCLOSURE FLOWCHART

