



# Criminal Record Checks Policy

Dorset Association of Parish & Town Councils (DAPTC)

**Please note:**

Text in blue is for guidance when developing this policy and should be deleted before it is finalised.

**Guidance Notes:**

**Basic checks:**

Employers can carry out a basic disclosure check on new employees regardless of their role. However, some roles will require a higher level check (see below). A basic disclosure check will only contain details of convictions and conditional cautions considered to be 'unspent' under the terms of the Rehabilitation of Offenders Act 1974.

Employers can request a basic DBS check on behalf of an individual through a 'responsible organisation' registered with DBS to process checks, or can ask the individual to make the request themselves via <https://www.gov.uk/request-copy-criminal-record>

**Standard, enhanced and enhanced with barred list(s) checks:**

There are certain exceptions where the employer can ask an individual to disclose their caution or conviction even if it is spent. These exceptions are set out in the Rehabilitation of Offenders Act (Exceptions) Order 1975 (the "Exceptions Order").

Standard and enhanced DBS checks can only be carried out for posts which are listed as one of these exemptions in the rehabilitation of offenders act. The positions listed in the Exceptions Order mainly relate to particularly sensitive areas such as work with children or other people in vulnerable circumstances.

To establish if a role is eligible for a standard or enhanced DBS check you can visit: <https://www.gov.uk/find-out-dbs-check>.

The Safeguarding Vulnerable Groups Act (2006) requires employers to perform DBS checks for certain occupations, including those working with children or vulnerable adults.

## **1. Aims of the policy**

The aim of this policy is to set out DAPTC's approach to carrying out Criminal Record Checks.

The Council recognises that although criminal record checks are important to make safe recruitment decisions, the check only forms one part of the process. Therefore, any decisions which the Association makes will be made on the balance of what a criminal record check provides against all other evidence presented.

## **2. Basic Disclosure Checks - For Jobs Covered by the Rehabilitation of Offenders Act 1974**

The Council has discretion to request a Basic Disclosure for any role.

## **3. Standard and Enhanced Disclosure Checks - For Jobs That Are Exempt from the Rehabilitation of Offenders Act 1974**

The Association will only carry out standard or enhanced disclosure checks for roles which are defined as exempt from the Rehabilitation of Offenders Act 1974.

## **4. Disclosure procedure**

If the Association concludes that to assess an applicant's suitability for a post a criminal record check is required then this will be processed through the Disclosure and Barring Service (DBS). The Council ensures that they comply fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly.

The Association will only make an application for a criminal record check to the DBS after due consideration has been given and a decision has been reached that one is both proportionate and relevant to the position concerned.

The nature of the post will determine which level of disclosure check is required: basic, standard, enhanced or enhanced with barred list(s).

For those positions where a criminal record check is identified as necessary, the relevant recruitment documents, such as the job advert, will state that an application for a DBS certificate will be submitted in the event of the individual being offered the position. The Association will make every job applicant who will need a criminal record check submitted aware of the existence of the [code of practice](#) and will make a copy available on request.

If the applicant declares any spent or unspent convictions on their application form then the Association will consider their application alongside others. If they meet the criteria to be interviewed an open and measured discussion will be arranged with the job applicant. This may take place at the interview or in a separate discussion. The Association will discuss with the job applicant any offences or other matters declared which may be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

Once the Council has selected the person to whom it wishes to offer employment, the Association will seek the applicant's agreement to make a joint application to the Disclosure and Barring Service (DBS).

If the post requires a Basic check then, once the Association has selected the person to whom it wishes to offer employment, the Association may ask the individual to do make the request for a check themselves via <https://www.gov.uk/request-copy-criminal-record>. Alternatively the Council may arrange this through a responsible organisation.

If the post requires a Standard or Enhanced check then, once the Association has selected the person to whom it wishes to offer employment, the Association will seek the applicant's agreement to make a joint application to the Disclosure and Barring Service (DBS). This may be arranged through a responsible organisation.

Where the individual is member of the DBS update service, the Association may instead, with their permission, carry out a status check on any current certificate.

The Association will meet the cost of obtaining the appropriate DBS certificate, regardless of the level of the check.

The DBS check will provide the Council with documentary evidence about the person's criminal convictions. The Association will undertake to discuss any matter revealed on a DBS certificate with the individual seeking the position before deciding whether or not to withdraw a conditional offer of employment.

## **5. Subsequent checks**

For roles which require a criminal records check, the Council will usually carry out a new check every three years.

## **6. Training for employees**

For posts which require a DBS check, the Association will ensure that the Chief Executive and/or other any employee/member involved in the recruitment process have received or have access to appropriate advice and guidance on the criminal record check process.

## **7. Data protection**

The Association processes information about an individual's criminal convictions in accordance with its data protection policy / policy on processing special category personal data and criminal records data. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Association's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure.

## **8. Record keeping**

## **8.1. General principles**

As an organisation using the DBS checking service to help assess the suitability of applicants for positions of trust, DAPTC complies fully with the code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information.

It also complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

## **8.2. Storage and access**

The Association will ensure that DBS certificate information should be kept in a secure folder, separate from the individual's personnel file. The folder will be stored in lockable, non-portable, storage area with access strictly controlled and limited to those who are entitled to see it as part of their duties.

## **8.3. Handling**

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. The Association will maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

## **8.4. Usage**

DBS certificate information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## **8.5. Retention**

### **Guidance notes:**

**Organisations which are inspected by the Care Quality Commission (CQC) or Ofsted may be legally entitled to retain the certificate for the purposes of inspection. In addition, organisations that require retention of certificates in order to demonstrate 'safer recruitment' practice for the purpose of safeguarding audits may be legally entitled to retain the certificate.**

**Otherwise certificates must not be kept for longer than necessary to consider the information and resolve any disputes or complaints. When destroying the certificate, employers may wish to add a brief record to the employee's personnel file to record the dates on which a certificate was obtained, considered and subsequently destroyed.**

**This practice will need to be compliant with the Data Protection Act, Human Rights Act, General Data Protection Regulation (GDPR), and incorporated within**

## **the individual organisation's policy on the correct handling and safekeeping of DBS certificate information.**

Once a recruitment decision has been made, the Association do not keep certificate information for any longer than is necessary. This retention will allow for the consideration and resolution of any disputes or complaints, or be for the purpose of completing safeguarding audits.

Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

### **8.6. Disposal**

Once the retention period has elapsed, the Association will ensure that any DBS certificate information is immediately destroyed by secure means, for example by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

The Association will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, the Association may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

### **8.7. DBS logo**

The DBS logo is protected by crown copyright, the copying and use of the DBS logo is not permitted without prior approval of the DBS.