



Version Control	Changes Made	Author
<p>Version December 2018</p>	<p>Update in line with feedback following procedure implementation and revised statutory guidance</p> <ul style="list-style-type: none"> • Removal of information relating to disclosure by association. • Format change to the risk assessment template • Additional guidance about verifying and corroborating information relating to criminal activity. • Removal of annual self-declaration form • Guidance on circumstances where a candidate is under HCPC investigation 	<p>People Management</p>
<p>Version January 2021</p>	<ul style="list-style-type: none"> • Amendment from LSCB reference to CSCP • Additional information in relation to references • Additional information in relation to protected offences according to the amended legislation in Nov 2020 • Data handling information expanded. 	<p>People Management</p>

Introduction

Cumbria County Council is committed to safeguarding and promoting the welfare of children and vulnerable adults and expects all employees, volunteers and the Externally Provided Workforce (EPWs) to share this commitment.

This is reflected in the way we recruit, contract services, undertake our duties and address any safeguarding concerns which may arise. The purpose of this procedure is to ensure that those engaging in work for Cumbria County Council or Schools (on a paid or unpaid basis) are aware of their responsibilities and expectations relating to:

- Safe and fair recruitment,
- The Disclosure and Barring Service (DBS)
- Safer employment and;
- Matters arising due to criminal convictions, cautions, or an individual's actions that may be the subject of a police investigation.

Where applicable, this procedure must be used in conjunction with the [Recruitment, Appointment and Induction procedure](#) (or equivalent schools procedure), the disciplinary procedure and the DBS Data Handling procedure.

Scope

This procedure will apply to:

- All employees
- Volunteers, School Governors or people on work experience
- Candidates seeking paid work or volunteering opportunities
- The externally provided workforce (EPW) and contractors
- Elected members

It is expected that governing bodies of all community and voluntary controlled schools would adopt this procedure. Foundation and voluntary aided schools and academies are encouraged to do the same, but as a minimum they must adhere to the safeguarding procedures established by the Cumbria Safeguarding Children Partnership (CSCP). [Link to: CSCP Procedures](#)

Process

Safe and Fair Recruitment

The safe and fair recruitment of employees is the first step to safeguarding and promoting the welfare of children and vulnerable adults. The purpose of a safe and fair recruitment process is to help deter, reject or identify people who are unsuitable to work in specific roles.

As a matter of course, the recruitment process outlined in the Recruitment, Induction and Appointment procedure should be followed. Relevant pre-employment checks for the role should be received and deemed to be satisfactory before the individual starts work. Allowing an individual to start work without the necessary pre-employment clearances is a disciplinary matter. Appendix A provides a comprehensive list of pre-employment checks.

Work in an Education Setting

In line with the “**Keeping Children Safe in Education**” guidance, additional actions are needed when the work will be undertaken within an education setting such as a school, college or maintained nursery school. As a minimum, the following approach must be taken:

- Application forms should be scrutinised before shortlisting is undertaken for any gaps in employment. These should be discussed with the candidate and accounted for during the interview.
- Two written references should be taken up, ideally before interview so that any concerns that are raised through the reference process can be discussed with the candidate at interview.
All references should be scrutinised and any concerns resolved before appointment is confirmed. Recruiting managers can contact the referee for further clarification as appropriate.
- Interviews should be undertaken face to face.
- Prior to employment, all essential qualifications and registrations for the role must be verified.
- The relevant pre-employment checks for the role must be carried out. This includes a DBS check. See Appendix A.

Working in Health and Social Care

In addition, references for those working in Health and Social Care should cover a minimum of three years of consecutive employment or training / education.

If it's not possible to validate three years of consecutive employment or training, then it's recommended that a reference is obtained from the last known employer and an additional character reference or personal reference should be obtained to validate the required three-year period.

Periods of unemployment where the applicant has been claiming benefits can be confirmed via a Jobcentre Plus summary letter or other government source.

If an employer reference cannot be obtained, it's recommended that employers seek suitable character or personal references, volunteer-activity references, training history references or self employment references.

Additionally, for the period pre-dating the 3 year period, efforts should be made to ensure that wherever possible satisfactory evidence of conduct is received where the individual has previously been employed in a role concerned with the provision of services relating to— (a)health or social care, or (b)children or vulnerable adults. For example, this evidence could be in the form of a further reference, or a appraisal document etc.

The above information can sometimes prove difficult to obtain, for example if the work was undertaken some time ago, or the company no longer exists. Recruiting managers should make and document all efforts taken to secure this information. In circumstance where obtaining this information is not reasonably practicable to obtain, they must make an assessment on whether the information they do have, and make an assessment on the candidate's suitability “in the round”. (e.g. if an applicant has a history of short-term appointments dating back years without references

and/or unaccounted gaps in employment, they should be deemed unsuitable in the absence of a plausible and verifiable explanation).

All decisions and reasoning should be documented and recruiting managers can ask candidates for supplementary referees or documents where necessary. People Management advice should be sought where needed.

Risk Assessments- When an applicant has a Criminal Conviction

It is recognised that in order to appoint on merit, and to comply with legislation, we must consider candidates for employment from the broadest range possible, which includes ex-offenders. Obtaining a job is an essential part of successful rehabilitation. Further information on the Rehabilitation of Offenders Act can be found in Appendix C and refer to the Council's guidance - **The Suitability of Ex-Offenders**.

Anyone with a criminal record should not automatically be ruled out of any appointment process. If, through the recruitment or pre-employment process it comes to light that a candidate has a criminal conviction or caution, the recruiting manager must discuss the matter with the successful candidate and complete a risk assessment, which will form part of the process for considering their suitability for employment.

Criminal conviction and offence information provided on a DBS certificate is often very limited, providing the offence category and sentencing / penalty information only. It does not provide context to the incident. For example, "Sexual Offences" can range from urinating in the street to indecent assault, rape and other very serious offences.

When an individual has a criminal conviction and needs a risk assessment, they are encouraged to be open and transparent about it. Where possible, individuals should look to provide any additional evidence which can corroborate their description of events and provide more details about the seriousness of the incident. For example, to support their case, the individual may wish to provide the police incident report or court information etc. This is especially encouraged in cases where the individual has received more than a caution as a sanction.

Once the manager has completed the risk assessment details, it should be considered by the Assistant Director or Head teacher. An offer of employment will be withdrawn if the risk assessment indicates the appointment is unsuitable due to the nature of the incident in question, or if an applicant concealed or failed to disclose a relevant criminal conviction. The Assistant Director / Headteacher has responsibility for making this decision following advice from People Management / HR Provider, the Local Authority Designated Officer (LADO) or Position of Trust Lead.

The risk assessment can be found in Appendix D.

All Assistant Directors will have received appropriate training, updated on an annual basis on carrying out risk assessments and assessing an individual's suitability for employment where there is cause for concern about that individual working with children and/or vulnerable adults.

Failure to disclose a criminal conviction

The failure to disclose an unspent conviction could be seen as a deliberate attempt to gain employment by deception, and as such would result in the withdrawal of any conditional offer of employment.

It is important to note that there are a number of criminal offences in place to deter and prevent barred people from working in regulated activities. These offences can not only be committed by individual workers but also by the employers and employment agencies who give barred individuals access to regulated activities. If a manager/Headteacher becomes aware that an offence has been committed then they should seek advice from People Management/their HR Provider/LADO immediately as it may be appropriate to refer the matter to the police.

DBS Checks

Types of DBS Checks and eligible roles

There are 3 types of DBS clearances which return different levels of information about a person's criminal background and / or ability to work with children and /or adults. These are; standard DBS, Enhanced DBS and Enhanced DBS with barred list check. See Appendix E for more detail.

Not all roles that involve working with children or vulnerable adults require a DBS check and employers can only request a barred list check against specific roles. **It is a criminal offence to undertake a DBS check when there is no requirement for one.** It is therefore essential that the correct level of DBS check is identified against the role to ensure the appropriate safeguards are in place and no-one is checked unnecessarily.

The DBS requirements of roles within Cumbria County Council are held centrally against the post details within ITrent.

Considering the need for a DBS

Senior Managers in conjunction with People Management / HR Provider should consider whether a role needs a DBS check in the following circumstances:

- When a new role is created
- Where the activities undertaken within the role change
- When there is a change in frequency of certain activities (e.g. the role now involves working with children more than once a week or more than 3 times a month when previously this was undertaken on an ad hoc basis)
- When the role's work base changes (e.g. where an office based admin role is relocated to work in a care home or school)
- When a line management role has a new responsibility and now supervises individuals that require a DBS check and /or will be undertaking regulated activity.*

*Regulated activity is activity that you are not permitted to undertake or seek to undertake if you are barred from working with children and / or vulnerable adults. Additionally, line managers should receive the same level of check of those within their team, provided the employee(s) they directly manage or supervise carry out their activity on "the front line". The regulations outlining what activities are regulated can be found in Appendix E.

Assessing the level of DBS check needed

If a DBS is thought to be needed in the circumstances outlined above senior managers must take steps to assess the level of DBS check required. In the first instance, they should do this by completing the on-line eligibility assessment tool here: [link to DBS Eligibility Tool](#).

This tool covers most roles, however if further clarification is needed, Senior Managers can refer to the regulations relating to regulated activity and the DBS workforce guidance which outlines the circumstances a check can be made. This information can be found in Appendix E.

Further advice can be sought from People Management / the HR Provider if needed.

If there is still a question about DBS eligibility, Senior Managers should contact DBS customer services for clarification. They can do this by emailing CustomerServices@dbs.gsi.gov.uk who will aim to respond within 10 working days. Any response received from the DBS regarding the DBS eligibility of a post should be forwarded to People Management.

The DBS eligibility must be indicated on the post specification for the job and this information should be signed off by the Assistant Director / Headteacher. The information should be sent to Service Centre/ HR Provider who will record the DBS eligibility against the role within iTrent or equivalent School Management information system.

Requesting a DBS Check

DBS checks will be undertaken as part of the recruitment process or the 3 yearly rechecking process. If a new DBS check is required for reasons other than this, line managers / head teachers must inform the service centre/ school provider who will initiate the checking process.

Handling DBS Certificates

Under no circumstances, should managers copy, scan, transcribe or email a DBS certificate. This is unlawful practice and if this occurs, the incident will be recorded as a data breach. If the DBS certificate contains criminal offence information, managers should discuss the incident (s) with the individual and complete the risk assessment (appendix D), with the individual, for relevant AD to review.

Only in limited circumstances, should managers retain an individual's DBS certificate. In the majority of circumstances, it should be sufficient to view this certificate, even where the certificate contains offence information. If a DBS certificate is retained by any officer involved in the DBS decision making process, there are a number of provisions that officer needs to follow in order to ensure that data is handled correctly. These are outlined in the [DBS Data Handling, Use, Storage, Retention and Disposal procedure](#).

Managers should inform the service centre via the ticketing system of any officer (other than themselves, or the owner of the DBS certificate) that has viewed or stored the DBS certificate so this information can be held centrally.

Safer Employment

Professional Registrations

A number of roles require individuals to be registered with a professional body in order to legally practice in their field, e.g. solicitor, social work roles. Where this applies, registration is a condition of employment and individuals are required to renew memberships seamlessly during the course of their employment / engagement. If a professional body has placed restrictions on an individual's ability to practice, or registration has expired, the individual should inform their line manager immediately who will take the appropriate action with advice from People Management / their HR Provider.

If any external candidates are under investigation by their regulated body, CCC require the candidate's investigation to conclude and have an outcome before a judgement can be made regarding this pre-employment clearance.

CCC employees are under an ongoing duty to disclose to their manager any matters which are subject to a referral to their professional body.

Professionals cannot be permitted to practice when their registrations have lapsed for any reason. Line managers are required to monitor and validate this renewal on an annual basis (or sooner where required).

Declaring a Change of Personal Circumstances (Safeguarding)

Individuals are contractually required to declare any convictions, cautions or, actions that may be the subject of a police investigation, where these are relevant to the role that the individual is carrying out.

Additionally, individuals should report any change in personal circumstances that may impact on their suitability or appropriateness to carry out certain activities, or work with particular individuals / service users, e.g. where there is a conflict of interest or where a restraining order is in place. All declarations should be made, without delay to their line manager and failure to disclose will be a disciplinary matter.

Identifying and Reporting a Cause for Concern

It is the responsibility of all employees to support a safe working environment and report any cause for concern appropriately. A cause for concern could include; suspected neglect, abuse, mistreatment, exploitation, theft, poor care / professional practice, criminal activity or disqualification from working with certain groups. It extends to conduct or circumstances outside of the working environment which may impact on the suitability of individuals undertaking certain activities.

Any cause for concern regarding the conduct of an individual should be reported to their line manager without delay. Where the cause for concern relates to that manager, the issue can be raised to the next level of line management. Alternatively, employees may wish to use the [Whistleblowing Policy](#) to raise concerns.

Addressing a Cause for Concern

A line manager can receive a cause for concern from a number of sources (i.e. a fellow colleague, the DBS, police etc.). Line managers must arrange to meet with the individual immediately to discuss any new concerns. This should be addressed in line with the *preliminary* stages of the **Disciplinary Procedure**.

Safeguarding allegations involving Children

Cumbria County Council has a Local Authority Designated Officer (LADO) who is involved in the management and oversight of individual cases involving safeguarding allegations against individuals who work with children. The LADO **must be informed of all safeguarding allegations against adults who work with children** as soon as possible and no later than 1 working day. The LADO provides advice and guidance on safeguarding procedures and where applicable, is involved in the initial phase of the allegation through to the conclusion of the case. Further information is available on the CSCP Website. [Link to: CSCP Procedures](#)

Safeguarding allegations involving Adults at Risk

Cumbria County Council has a Position of Trust Lead who is involved in the management and oversight of safeguarding cases involving Adults at risk. The Position of Trust Lead **must be informed of all allegations against staff members where there is a cause for concern relating to individuals who work with adults that appear to have health and /or social care needs**.

Referrals to the DBS and Regulators

Some incidents may require a referral to the DBS for their determination as to whether the individual needs to be barred from working in certain activities. Managers/Headteachers must seek advice from People Management/the HR Provider and the LADO/Position of Trust Lead as soon as they are advised of an incident which may need to be referred to DBS.

The Position of Trust Lead can advise if the matter should be made known to the Care Quality Commission (CQC) who must be notified of certain incidents, events and changes that affect a service or the people using it. This includes where there is a risk of abuse or allegation of abuse involving a person using adult social care services.

Employers and employees are responsible for adhering to guidance, codes of conduct and best practice of regulators such as Ofsted, the Nursing and Midwifery Council and the Health and Care Professions Council. Referral to the candidate's professional body may be appropriate and advice must be sought from People Management/HR Provider.

Continuous Safeguarding

As part of our commitment to safeguarding, individuals are required to undertake safeguarding declarations and training on appointment and as required by Cumbria County Council/ the School.

Induction

During the induction process, all individuals who work with vulnerable adults / children are required to undertake "Safer Employment" training. This is an E-Learning course which is available on the Learning pool or School Portal. This training applies to individuals who will be working for the council or school on a paid basis and individuals who *regularly* volunteer with the council/ school.

In addition, before an individual can work unsupervised with a child or vulnerable adult, their induction must take account of recognised standards and safeguarding arrangements within their sector and role.

E-Learning

If an individual is working in a role that requires a DBS check, they will be required to complete the Safer Employment e-learning training on an annual basis. This includes those that work for the council on a Volunteering/ EPW basis.

Changes to the job / Internal Movers / Portability

If an individual transfers to another role within Cumbria County Council, a Community School or Voluntary Controlled School, their move is classed as an internal move and their DBS will be transferable. This is provided that a) they have been working regularly in the position, b) there is no gap in employment and c) the same level of clearance is needed between their old and new role.

However, if the level of DBS clearance needed between their old and new role is different, managers need to consider if a new DBS check is needed. For example, if an existing employee has had a standard DBS check and they move to an internal position that requires an enhanced check, they will need a new DBS check as the level of clearance needed in the new role is higher than their existing role.

DBS checks are not “portable” where the individual changes employer, unless the individual is registered with the DBS Update Service. See appendix A for more details on the update service.

A tool to help assess if a new DBS is needed can be found in Appendix F.

Automatic Rechecks every 3 years

Employees who occupy particular roles within Cumbria County Council will be required to undertake a new DBS check, every 3 years. Those registered with the update service will have their status checked no less than once every 3 years. Employees and managers will receive a reminder email if their DBS recheck is due.

Schools can request a DBS recheck for employees every 3 years should they wish to do so. Where rechecks are carried out, schools should ensure the information is recorded accordingly and not held against the Single Central Record which requires **pre-employment** DBS information.

The Council/School reserves the right to regularly check an individual’s Disclosure and Barring Service (DBS) status where necessary.

Resources and ICT Access

When individuals move roles or are suspended / redeployed from duty, consideration needs to be given to the resources, equipment and ICT systems they have access to. Managers must take the appropriate steps to ensure that employees have relevant and appropriate access to what is required in the course of their employment, e.g. access to an ICT system is removed or uniforms are retrieved when an individual moves roles or leaves.

Engaging Contractors

All employees involved in commissioning/procurement must ensure that, where applicable, all contracts and agreements are compliant with the safeguarding principles, practices and obligations on CCC / the school relevant to the services they are providing.

For example, service providers are required by Cumbria County Council to ensure relevant DBS checks are carried out on their employees where applicable. Contractual terms must require providers to give declarations that they are compliant with the appropriate recruitment and DBS referral practices for their contracted service area.

Externally Provided Workers (such as Agency Workers, Consultants etc.)

An agency is legally the employer of any agency workers and the responsibility to obtain a relevant check is theirs. When using staff from a supply agency, managers/ headteachers must satisfy themselves by having a written confirmation from the supplier that the appropriate pre-employment checks, including DBS checks, have been carried out.

When an agency deploys an agency worker (e.g. to a school or Cumbria County Council etc), the individual does not usually require a new DBS check between their placements, provided that their DBS check is at the right level for the work being carried out.

However, where an agency / casual worker, who works intermittently, has not worked for 3 months or more their employer must apply for a new DBS check. Alternatively, if the casual worker has registered with the DBS Update Service, a DBS status check may be undertaken (See Appendix A.)

If an agency worker changes their employer (e.g. a supply teacher changes agency over the summer holidays, but wishes to continue to carry out work in the same school at the beginning of the new term) they will require a new DBS check and the manager / headteacher will need written confirmation as above.

Self-employed contractors who are engaged will be subject to the same DBS check requirements as employees. If a self-employed contractor does not have an appropriate DBS check then the Cumbria County Council Service Centre or HR Provider may be able to facilitate this.

For further advice or guidance on the content on this procedure, please contact People Management or the School HR provider.

For Schools:

Name of School:	
Date by which School have adopted procedure:	
Signature of Chair of Governors	

September 2017