# People & Talent Procedure

## DBS Refusal/Concerns Procedure

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| **Version Control** | **Changes Made** | **Author** |
| Version 1  December 2023 | Refresh of presentation and format | P&T Team |

### Purpose

Managers are to use this procedure to consult with staff who either fail to complete a DBS check or their DBS check produces a concern which may lead to the employee being unsuitable for the role that they are employed in. The purpose of this procedure is to consider all available alternatives such that as many staff as possible can be retained within the organisation, with dismissal being an option of last resort.

### Scope

The procedure applies to all Cumbria Fire and Rescue Service staff who are eligible for a DBS check following the inclusion of Fire and Rescue Authorities in the Rehabilitation of Offenders Act 1974 (Exceptions).

### The Procedure

**STAGE 1 –** Employees will receive an email and or a letter to their home address reminding them to complete the DBS check application and associated ID verification. This communication will include a deadline by which the application should be completed, unless the employee is able to provide a reasonable reason as to why the deadline cannot be met. In this circumstance an alternative appropriate deadline will be set. Line managers will be notified of this. Employees are encouraged to contact the HR team with any questions about the process.

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**STAGE 2 –** If the DBS application remains incomplete following the deadline given at Stage 1, employees will be invited to a meeting with their line manager to discuss any concerns they may have about the DBS process and offer as much support as appropriate to assist the employee in completing the application. Again, a suitable deadline for completion will be given at this stage. Employees may wish to invite a work colleague or trade union representative to accompany them to the meeting. A HR representative will be present at the meeting.

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**STAGE 3 –** If the DBS application remains incomplete following the deadline given at Stage 2, the employee may be invited to a formal meeting with a senior manager to discuss the continuation of their employment with the Service, in light of non-compliance with the Safer Recruitment policy and/or DBS requirements for their role. This meeting may result in dismissal with notice. In cases of dismissal, employees will receive a letter confirming dismissal and informing them of their right of appeal. Employees are entitled to bring a trade union representative or work colleague to the meeting and are to be informed of this right prior to the meeting. A HR representative will be present at the meeting (See detailed procedure for stage 3 & 4 below).

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**STAGE 4 –** Appeal hearing following written appeal from employee - to be heard by an appointed member of SLT (not involved in dismissal).

### Dismissal Meetings (Stage 3)

The manager must write to the employee confirming the circumstances that are leading to potential dismissal, inviting them to a meeting to discuss the matter and advising them of their right to be accompanied by a trade union representative or work colleague. The employee will be notified of the meeting as soon as possible but must be given not less than five working days' notice in writing of the date, time and place of the meeting.

The meeting will be conducted by a senior manager.

If an employee first reports sick on the day of the meeting and the employee informs the service, they are unfit to attend, the meeting will usually have to be postponed. The meeting must be rearranged for as soon as reasonably practicable.

The matter may need to be referred to Occupational Health to obtain advice on the employee’s condition/fitness to attend meetings. The meeting should then be rearranged according to this information.

Where an employee simply fails to attend their meeting, they should be written to and informed of the following:

(a) That the meeting has been rearranged for a specific later date and time.

(b) That if they are unable or unwilling to attend the meeting, without good cause, the meeting will proceed in their absence.

(c) A representative may attend in their absence to present their case.

(d) Any written submission which the employee may wish to submit will be considered.

At the meeting, the employee and/or their representative will be given the opportunity to state their case. The manager and others who have been involved in providing support to the employee or seeking redeployment will provide information on what actions have been taken.

Where the senior manager decides that dismissal is the appropriate outcome, the employee should be given their notice, and informed of their right of appeal.

After the meeting, the senior manager must notify the employee in writing of the decision and notify the employee of their right to appeal against the decision if they are not satisfied with it. This will include details of the senior manager who the appeal should be addressed to.

If the employee does wish to appeal, they must inform the relevant senior manager within 5 working days of the date of notification of the decision of the meeting. The appeal will be acknowledged within 5 working days.

**Appeals Procedure (Stage 4)**

Where the action proposed and appealed is dismissal, the employee will be invited to have their appeal heard by another senior manager who was not involved in the original decision. Employees have the right to be accompanied by a trade union representative or work colleague at the appeal meeting.

Any documents and submissions made at the original meeting will be considered at the appeal.

The employee will be informed in writing of the outcome of their appeal.

There is no further right of appeal.