

MANAGERS' GUIDANCE

CRIMINAL BACKGROUND CHECKS

Version History			
Version	Date	Detail	Author
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Links and Dependencies
DCC Criminal Background Checks Policy

1. Introduction

The Council's policy with regard to Criminal Background checks is set out in a separate document. This supplementary guidance is to provide managers who are closely involved in this area with advice on how to deal with the issues which may arise.

2. Scope

The Council's Equality and Diversity policy underlines our commitment to recruiting and developing a workforce from as broad a spectrum as possible. We recognise that finding employment is an important part of the rehabilitation of ex-offenders and having an unspent criminal conviction will not of itself prevent an applicant from being considered for a job with the Council.

At the same time we have a duty to avoid recruiting anyone who might pose a risk to our clients or employees. This document sets out how we keep these two aims in balance.

The principles in this guidance apply to both paid and volunteer positions. Additional guidance specifically for schools can be found in Appendix 1.

3. Before advertising a post

Prior to advertising a post, the recruiting manager needs to determine whether the successful candidate will be required to undergo a Disclosure and Barring Service (DBS) check (also known as a disclosure and formerly known as a Criminal Records Bureau or CRB check) based on the duties of the job. If so, it is their responsibility to ensure that potential applicants are aware that a DBS check will be required by advising the Shared Services Centre (SSC) when initiating the recruitment process.

For all posts which involve regulated activity an enhanced DBS check together with a check against the barred list must be undertaken. A definition of regulated activity is shown at Appendix 2 (Children) and Appendix 3 (Adults). If you are unsure about whether a certain post is eligible for a DBS check or not, you can use the DBS eligibility tool [here](https://www.gov.uk/find-out-dbs-check) (<https://www.gov.uk/find-out-dbs-check>)

Applicants who are offered employment to those posts must have a criminal record check and a barring list check before their appointment can be confirmed. For these posts both spent and unspent convictions must be declared.

Enhanced checks contain details of spent and unspent convictions, cautions, reprimands and warning held on the Police National Computer together with information from local police records which the Chief Police Officer reasonably believes to be relevant.

Positions with administrative privileges to IT systems require postholders to have a satisfactory basic check at the pre-employment stage in accordance with the Public Services Network requirement.

The legislation enables an employer to undertake DBS checks for other roles which are considered to be 'eligible'. This is discretionary, and Derbyshire County Council will not usually undertake DBS checks in respect of roles which do not involve regulated activity. However, there are a small number of roles eligible for DBS checks which do not involve regulated activity where the Senior Management Team on the advice of the HR Service Partner of a Department may consider it appropriate for a DBS check to be undertaken. The HR Service Partner will notify both Recruiting Managers and the DBS Team at the Shared Service Centre of any such roles.

Many posts within the Council do not require a DBS check and it is important that only those applicants for posts which are eligible are checked. The DBS closely monitors the applications for DBS checks which it receives and will take action against those organisations seeking for checks to be undertaken for roles which are not eligible.

Whilst DBS checks, where they are appropriate, have an important part to play in recruitment, the robust processes managers use to ensure that we recruit suitable candidates are also key. Free e-learning training about safer recruiting can be accessed via www.education.gov.uk for those in the schools sector and also the children and young people's workforce.

Currently, the Council's Job Application Form contains a section asking candidates to indicate whether they have any unspent criminal convictions, warnings, reprimands, cautions, pending prosecutions or criminal investigations. Some criminal convictions are considered spent (under the Rehabilitation of Offenders Act 1974) after a certain length of time and Appendix 4 sets out more details about the length of time that must elapse before offences are spent.

The filtering rules for criminal record entries on DBS certificates are as follows

For those aged 18 or over at the time of the offence:

An adult conviction will be removed from a DBS certificate if:

- 11 years have elapsed since the date of conviction and
- it is the person's only offence, and
- it did not result in a custodial sentence

Even then, it will only be removed if it does not appear on the list of offences which will never be removed from a certificate. If a person has more than one offence, then details of all their convictions will always be included. An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those aged under 18 at the time of the offence:

The same rules apply as for adult convictions, except that the elapsed time period is 5.5 years. The same rules apply as for adult cautions, except that the elapsed time period is 2 years.

Advice in dealing with this kind of information for posts that do not require a DBS check is included in section 14 below.

4. During the interview for a post requiring DBS clearance

You should ask candidates if they are registered with the DBS Update Service. If the successful candidate has registered their current DBS check with the Update Service, they can present it to the recruiting manager. Providing that the existing check has been carried out against the appropriate barred list (children or adult), a free online status check should then be carried out by the DBS Team. The recruiting manager will complete the 'update service' form, Appendix 5 which can be obtained from the DBS team. If the online status check reveals no change to the existing certificate, the recruiting manager will be informed of the outcome and will make a decision based on the information of the existing certificate including any conviction information. Any additional information will prompt the recruiting manager to request a new DBS check. For the successful candidate who is not in the update service or without a portable DBS check, the DBS Team will send an email with a link to the online DBS system, employmentcheck.org.uk along with a username and password. This will allow the applicant to complete their part of the application process.

If the applicant cannot access an email account, they can complete their part of the application in the presence of the recruiting manager/id verifier by using their computer. In exceptional circumstances a paper DBS application form can be requested from the DBS Team.

The recruiting manager or nominated ID verifier will need to verify the applicant's identity by checking the identification documents that they will also have been asked to bring with them in their invitation to interview correspondence. This process applies to both paper and online applications for both basic and enhanced checks. The recruitment pack from the Shared Services Centre contains guidance to support this process, a copy is shown in Appendix 6. Additionally the online DBS process will also provide information regarding the relevant documentation required.

The recruiting manager/nominated ID verifier will receive a link to the online DBS system, username and password and should log onto employmentcheck.org.uk and complete the ID verification for the **successful applicant** only. This should be done within 5 working days of the request to do so. Once completed, this will be submitted to the workflow of the DBS Team at the Shared Services Centre.

5. Certificates of Good Conduct

It is the Council's policy to seek a Certificate of Good Conduct for anyone who has lived or worked abroad for 6 months or longer in any one country since their 18th birthday and is the successful candidate for any job which requires a Disclosure and Barring Service (DBS) check. This is in addition to the normal DBS check and other pre-employment requirements which are required before a new employee can start in post.

Therefore you need to check the application form to see if the successful candidate has ticked the relevant box to show they meet the criteria for needing a Certificate of Good Conduct. If this box is ticked or you become aware in another way that the successful candidate qualifies for needing a Certificate of Good Conduct, you must:

- 5.1 Ask the candidate to provide a Certificate of Good conduct when you contact them to say you are going to proceed to offer them the job
- 5.2 Complete the relevant box on the Successful Candidate form to confirm that the individual is required to provide a Certificate of Good Conduct and that you have asked them to provide it. The relevant paragraph will then be included in the Proceed to Offer letter, which gives guidance to the candidate as to how to get the certificate.
- 5.3 When the candidate provides the certificate you should take a copy, sign and date the copy as evidence that you have seen the original and give the original back to the candidate. Send the copy to the DBS team at the Shared Services Centre (SSC).
- 5.4 If the candidate has incurred expenses in obtaining a certificate they should present the receipt to you when they show you the certificate. If you consider the expenses to be reasonable, send the receipt to the SSC at the same time as the certificate and the appointments team will reimburse the expenses as part of the employee's first salary payment.
- 5.5 If the certificate contains any information about criminal activity, you should deal with this in the same way as a DBS disclosure and only proceed if you have Assistant/Service Director approval.
- 5.6 If the candidate experiences difficulties in obtaining a certificate and you are convinced that they have made all reasonable efforts to do so but it has not been possible, employment can go ahead in these circumstances. You must contact your HR representative for further advice and get Assistant/Service Director approval to proceed. All other checks – references and DBS – should be clear.

6. Disqualification by Association

Employees who provide childcare/education to children up to reception age or childcare out of school hours to children up to the age of 8 have, in addition, to declare if a person with whom they live or who works in the same household is disqualified from working with children. Please see Appendix 7 for more information should a declaration be made after completion of the recruitment process.

7. Outcome of DBS Check (disclosure)

All disclosures will contain details of convictions, cautions, reprimands or warnings from the Police National Computer. In addition enhanced disclosures can contain non-conviction information from local police records which a Chief Police Officer reasonably believes to be relevant. Enhanced disclosures with a barred list check will also contain information about whether the applicant is barred from working with children or adults.

The disclosure is sent to the individual applicant by the DBS, and the SSC no longer receives a copy. The recruiting manager will receive an email notification with the result of the DBS check containing the disclosure number and date, or advising them to wait for the applicant to produce the disclosure. Only where the disclosure has to be seen by the recruiting manager, should they make arrangements with the applicant to see their original

DBS certificate and complete and return the Trace Approval form to the SSC after Assistant/Service Director approval (Appendix 8). Most DBS checks are carried out on line; however where this is not possible for the applicant, a paper version is used. In these cases the manager will always need to see the certificate and complete a verification form and send it to the Shared Services Centre, as there is no other way of obtaining the disclosure information. In instances where the applicant has registered with the Update Service, the Recruiting Manager should complete the Update Service form (Appendix 5) and forward to the SSC who will carry out an online status check. The manager will be informed of the result of the check, (see Section 7). Copies of the DBS certificate should not be retained once the recruitment decision has been made. Where the successful candidate has a trace the recruiting manager should retain a copy of the Trace Approval form for their records.

8. When the disclosure contains details of convictions

If the disclosure contains any convictions, the recruiting manager should only complete and return the Trace Approval form (Appendix 8) to the SSC after reporting this to the relevant Departmental HR contact and obtaining the decision of the relevant Assistant/Service Director in their department. Before a decision can be made the recruiting or line manager should see the applicant, unless the matter had already been disclosed and fully discussed at interview or another time.

The following points should be considered:-

- Relevance to the post
- The individual's ability to do the job
- Nature and seriousness of the offence/matter
- Circumstances surrounding the offence and explanation offered
- Whether the offence would cast doubt on the individual's or organisation's reputation
- Length of time since it occurred and age of the person when it occurred
- Whether there is a pattern of offending behaviour/related matters
- Efforts to avoid re-offending
- Whether the person's circumstances have changed since the offence making re-offending less likely
- Possible reactions of employees, service users etc., objectively assessed
- The country in which the offence was committed (what constitutes an offence may differ between countries)
- Whether the offence has since been decriminalised by Parliament
- The degree of remorse or otherwise expressed by the individual

Following the meeting the recruiting manager should decide if they feel that the appointment should continue. Each case will need to be considered on its own merits but in order to help in assessing the risk and making sound judgements about suitability consistently, guidance about timescales is given in Appendix 9 and about offences and penalty levels in Appendix 10. In addition advice should be sought from departmental HR in difficult cases.

The recruiting or line manager should then make a recommendation to the designated Assistant/Service Director in the relevant department who will ratify the final decision. If the decision is made to withdraw the provisional offer of employment, this should initially be confirmed to the candidate by the line manager or other departmental decision maker. The recruiting manager should then fill in the Trace Approval form at Appendix 8 giving the reasons for the decision and return this form to the SSC. The SSC will then send a letter to the person withdrawing the provisional offer of employment. In the event that the appointment does not proceed, there is no appeal.

9. Portability of Disclosures

If the successful applicant has maintained their registration with the DBS Update Service the recruiting manager should complete and submit the Update Service form to the SSC – see Appendix 5. If the applicant has not registered with the DBS Update Service, but has a DBS certificate the following applies:

DBS portability (accepting as valid a DBS disclosure received previously for a different appointment within the Council) can achieve considerable efficiencies when balanced with appropriate safeguarding measures. The process for utilising portability is as follows:-

- Where appropriate, the SSC email the recruiting manager asking if they wish to consider appointment on the basis of an existing DBS disclosure
- Should the recruiting manager wish to pursue this, they must contact the successful candidate to ascertain:
 - if the candidate has been subject to any police or criminal investigation, which would potentially compromise them undertaking their new role
 - if the candidate has been subject to any conviction or police caution or other issues arising since the check was undertaken. As part of this discussion, the recruiting manager should ensure that the candidate is clear that, should information subsequently be received to the contrary, this may nullify the offer of appointment and result in dismissal. Notes of this discussion should be retained.
- On completion of the above checks the recruiting manager advises the SSC that they wish to accept portability of the check.

Portability cannot be accepted in the following situations and a new application for DBS must be sought:

- Where the level of the existing disclosure is different to that required in the new post.
- If it is from a volunteer post as there is no underlying contract.
- Where the DBS Barring List against which the existing disclosure was checked is different from that required for the new post (e.g. children's barred list or adults barred list). For example, if an employee has been checked against the adults barred list as a Care Assistant they may still be barred from working with children.
- If the applicant has confirmed they have received a caution or conviction since their last approved DBS certificate.

- If the existing DBS disclosure indicates a conviction, reprimand, caution or warning. The SSC do not have access to detailed reasons for this. In such a case the successful candidate's DBS application will be processed again before starting the new post. In these cases the SSC will not ask the recruiting manager if they wish to use the portability provision.
- A DBS clearance by another employer cannot be considered as DCC has not made the initial recruitment decision. The exception to this will be if they have subscribed to the Update Service and the existing check is against the appropriate workforce.

10. Rechecking

If employees choose to register with the DBS Update service, they will need to pay an annual fee to maintain their membership. Derbyshire County Council will not reimburse them for this.

The rechecking of the DBS status of employees is no longer carried out routinely. The council still retains the right to instigate rechecks where circumstances dictate that it would be prudent to do so and Assistant/Service Director approval has been gained. The SSC administers this process for both those employees who have chosen to register with the update service for whom online checks can be made, and all other employees.

Employees are contractually bound to declare any convictions, cautions, reprimands, or final warnings which arise during the course of their employment. If anyone discloses anything new of this nature to you, you should request a DBS check to be done and consider the issues which are raised about the possibility of continued employment or redeployment in conjunction with your HR contact and Assistant/Service Director as outlined in section 8 above.

11. Pre-authorisation

In certain exceptional circumstances when the pressure to fill a vacancy is acute e.g. in order to maintain legal staffing levels in a regulated establishment, it may be appropriate to appoint an individual prior to DBS clearance being received (known as pre-authorisation). No individual should be cleared to commence work prior to a DBS clearance unless:-

- The preferred candidate has provided a written statement that they have no convictions, cautions, and are not subject to investigation
- A DBS check has been applied for and sent to the Disclosure and Barring Service
- A DBS Barring List check has been submitted and is satisfactory
- All other pre-employment checks have been carried out and are clear
- References including statements regarding the individual's suitability for working with children/ adults have been received
- A complete risk assessment has been carried out detailing supervision arrangements and adjustment made to the working practice of the employee prior to receipt of DBS clearance. A risk assessment form is at Appendix 11
- The employee accepts that the appointment is subject to subsequent receipt of satisfactory DBS clearance and that in the interim all employment is regarded as conditional.

Requests for pre-authorisation will only be considered:

- Where there is an identified high service risk of not having a person in post
- Where there are identified staffing shortages in the service area
- Where there are high volumes of unallocated work for key services, the risks of which are deemed greater than appointing subject to clearance
- Where it is a hard to recruit group and there is a real risk of losing recruits if the appointment is delayed.

All cases of pre-authorisation must have approval at Assistant/Service Director level before the appointment starts.

If the DBS check for someone who has been pre-authorised to start work comes back with a trace, then the procedure as outlined in section 8 above must be undertaken immediately to see if the appointment can continue.

12. Retention and Disposal of DBS certificates

Once the Verification of Criminal Records Information form has been completed, the DBS certificate should not be retained by the manager. No photocopies or other images of certificates or any copy or representation of the contents of a certificate should be kept. However, notwithstanding the above, it is permissible to 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.

13. Contract and Agency workers

Where agency or contract workers are supplied to carry out duties within the council, the manager must obtain written confirmation from their employer (agency or contractor) that the relevant DBS check has been carried out and is satisfactory before the individual commences work. Where there is disclosed information on the DBS check then the manager must view the DBS disclosure from the employer before the individual starts work to allow a proper assessment to be undertaken in case of trace information. Managers must ensure that the contract with the agency or contractor imposes an obligation on them to carry out the same checks as the council would for its own employees in advance of the work starting.

14. Dealing with disclosures made by applicants for posts not requiring a DBS check

If a candidate for a job which does not require DBS clearance has ticked the box on the application form indicating that they have a criminal conviction or warning etc. which is not spent, they will bring the details in a sealed envelope to interview. If, after the interviews have taken place, the preferred candidate has provided such an envelope, the recruiting manager should forward this to the appropriate manager at Assistant /Service Director level, along with the rest of the paperwork for the candidate. Envelopes from unsuccessful candidates should be destroyed.

It will then be up to the appropriate manager at Assistant/Service Director level to decide if the information in the envelope is relevant to the job and if it should affect the recruitment decision. See section 8 for advice. The outcome should be made known to the recruiting manager and appropriate action taken re continuing or ceasing the candidate's appointment process. If any senior manager needs further advice, this can be obtained from their HR Service Partner.

15. Reporting to the Disclosure and Barring Service (DBS)

Employers are under a legal duty to notify the DBS of relevant information, so that individuals who pose a threat to vulnerable groups can be identified and barred from working with these groups. If an employee is dismissed or removed from working with children and/or adults (in what is legally defined as regulated activity) because they have harmed a child or vulnerable adult, this must be reported to the DBS by departmental HR (in conjunction with the relevant operational manager) and to any other relevant professional bodies for them to consider whether to place the individual on their barred lists. This is in addition to the matter being dealt with as part of the Council's disciplinary procedure.

16. Legal Position

Under the Rehabilitation of Offenders Act 1974, it is unlawful to discriminate against an ex-offender on the grounds of a spent conviction with the exception of those posts exempt from the Act.

The Safeguarding Vulnerable Groups Act 2006, as amended, identifies a number of offences which prevent barred people from working in regulated activities. Derbyshire County Council, as an employer and regulated activity provider, and individuals can both be convicted of a criminal offence if a person who is barred from engaging in a particular activity does actually engage in that activity. A regulated activity provider also commits an offence if it permits a person to engage in a regulated activity while knowing or having reason to believe that the individual is barred.

The maximum sanctions for these offences are fines of up to £5,000 or up to five years in prison.

All information provided by DBS, as a consequence of applying for a DBS product must be handled in accordance with the Data Protection Act 1998. Failure to comply with the requirements of the Data Protection Act may result in enforcement action from the Information Commissioners Office.

Recipients of disclosure information, through electronic means or via the applicant's copy of the disclosure, must note that it is an offence to disclose information contained within a DBS Certificate to any person who is not a member, officer or employee of the Registered Body or their client, unless a relevant legal exception applies. Furthermore, it is also an offence to:

- Disclose information to any member, officer or employee where it is not related to that employee's duties

- Knowingly make a false statement for the purpose of obtaining, or enabling another person to obtain, a Certificate

Registered Bodies and those in receipt of Update Service information believed to have committed an offence will be liable to prosecution, suspension or de-registration.

Appendix 1 Additional Guidance for Schools

Maintenance staff attending a school site

If a member of staff or contractor needs to attend a school site once a week or more or on 4 days or more in a 30 day period, and has the opportunity for unsupervised contact with children, then an enhanced DBS check with a barring list check must be carried out. If these criteria do not apply, then DBS checks cannot be done.

Barring List Checks

The Barring List incorporates the checking of several lists namely List 99, the POCA list and also includes disqualification orders.

The Barring List check forms part of an enhanced DBS check. In some circumstances this check can be carried out prior to an enhanced DBS check as part of a pre-employment risk assessment. Before this can be requested you will need to be in receipt of a completed DBS application (or alternatively it will need to have been received by the DBS Team). The Risk Assessment Form needs to be completed in this instance. (Please be aware the check cannot be undertaken for an applicant who has stated they have any spent/unspent cautions, convictions, reprimands - excluding minor driving offences.)

In a small number of cases it is possible to undertake a Barring List Check without undertaking an enhanced DBS check where the person in question is undertaking regulated activity. These are instances where the frequency test is not required (ie the task only needs to be performed once). It is anticipated that this will mainly apply to volunteers.

The instances that apply are as follows:

Care or supervision of children (other than covered in point 7 of Appendix A) at anytime overnight, between 2.00 am and 6.00 am and with the opportunity for face to face contact with children.

Relevant personal care of children either

- i. Physical help with eating or drinking necessary due to illness or disability;
- ii. Physical help with toileting, washing, bathing or dressing necessary due to age, illness or disability;
- iii. Prompting, with supervision, in relation to i or ii where the child is otherwise unable to decide; or
- iv. Any form of training, instruction, advice or guidance given to the child in relation to i or ii.

NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and

NOT activity merely incidental to activity with adults.

There is no longer the facility to undertake this check unless the person is covered by one of the instances above.

Department for Education (DfE) Statutory Guidance- Disqualification under the Childcare Act

Following a new requirement for staff to self-declare any disqualifications which would prevent them from working in a childcare setting from October 2014, a revised version of Disqualification under the Childcare Act 2006 was issued by the DfE in February 2015, which clarifies the next steps for Schools. Where staff are deployed to work in relevant childcare setting it is the School's responsibility to ensure such staff are compliant with the requirements of the guidance. Detailed documentation and advice for schools can be located on the Learning in Derbyshire (LiD) site under the Safer Recruitment and Safer Working Practices section.

Appendix 2 Regulated Activity relating to Children

General exceptions:

Regulated activity relating to children does not include:

- Family arrangements; and personal, non-commercial arrangements.
- Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children.

Regulated activity relating to children is:

1. **Teaching, training or instruction of children:**

- a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period **or** at any time overnight (between 2am-6am *and* with an opportunity for face-to-face contact with children);
- b. NOT supervised – i.e. under reasonable day-to-day supervision by another person engaging in regulated activity;
- c. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
- d. NOT activity merely incidental to activity with adults

2. **Care or supervision of children** (except that covered by points 6 or 7):

- a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period **or** at any time overnight (between 2am-6am *and* with an opportunity for face-to-face contact with children);
- b. NOT supervised – i.e. under reasonable day-to-day supervision by another person engaging in regulated activity (unless providing relevant personal care or health care by or under a professional – see point 6 and 7 below);
- c. NOT health care provided by or directed or supervised by a health care professional;
- d. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
- e. NOT activity merely incidental to activity with adults.

3. **Advice or guidance:**

- a. Provided wholly or mainly for children; relating to their physical, emotional or educational well-being if carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30 day period **or** at any time overnight (between 2am and 6am *and* with an opportunity for face-to-face contact with children
- b. NOT legal advice; and
- c. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose.

4. **Moderating a public electronic interactive communication service** which is likely to be used wholly or mainly by children:
 - a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period; and
 - b. NOT activity by a person who does not have access to the content of the matter or contact with users.

5. **Driving a vehicle** being used only for conveying children and their carers/supervisors:
 - a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period; and
 - b. Done under an agreement, either with the driver or with a person with whom the driver works, for gain or not.

6. **Relevant personal care:**
 - a. Either:
 - i. Physical help with eating or drinking necessary due to illness or disability;
 - ii. Physical help with toileting, washing, bathing or dressing necessary due to age, illness or disability;
 - iii. Prompting, with supervision, in relation to i or ii where the child is otherwise unable to decide; or
 - iv. Any form of training, instruction, advice or guidance given to the child in relation to i or ii.
 - b. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
 - c. NOT activity merely incidental to activity with adults.

7. **Health care** provided for children:
 - a. By, or under the direction or supervision of, a health care professional;
 - b. NOT activity relating to a child, aged 16 or over, in the course of his employment, not by a person for whom arrangements exist principally for that purpose; and
 - c. NOT activity merely incidental to activity with adults.

8. **Childminding:**
 - a. On domestic premises, for reward; and
 - b. With a requirement to register, or voluntary registration, under Childcare Act 2006.

9. **Fostering** a child:
 - a. NOT care arranged by family members, not for reward; and

- b. NOT LA fostering a child with a barred person who is, or lives with, a relative of the child.

10. **Day-to-day management or supervision** on a regular basis of a person providing regulated activity as described by points 1-7 and 11 (or in relation to points 1, 2 and 11, activity which would be regulated activity if it was unsupervised).

11. Activity carried out at **certain establishments**:

- a. Carried out by the same person frequently (once a week or more) **or** on 4 or more days in a 30-day period;
- b. Carried out for or in connection with the purposes of the establishment;
- c. Gives the person the opportunity, in carrying out their work, to have contact with children;
- d. NOT activity by a person contracted or volunteering to provide temporary or occasional services (and not mentioned in points 1-7 above);
- e. NOT supervised volunteering – i.e. under reasonable day-to-day supervision by another person engaging in regulated activity; and
- f. Carried out at one of the following establishments:
 - i. A school;
 - ii. A pupil referral unit;
 - iii. A nursery school;
 - iv. An institution for the detention of children;
 - v. A children's home;
 - vi. A children's centre; or
 - vii. Any childcare premises, including nurseries (but not including the home of a parent of at least one child to whom the childcare is provided).

Guidance note on supervision

Work, which if it were unsupervised would be regulated activity, is not regulated activity if it is supervised. The statutory guidance on supervision in such cases is that:

- There must be supervision by a person in regulated activity
- The supervision must be regular and day to day
- The supervision must be reasonable in all the circumstances to ensure the protection of children

This gives local managers the flexibility to determine what is reasonable in their circumstances, bearing these three points in mind. The precise nature and level of supervision will vary from case to case. The duty that supervision must take place on a regular basis means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter becoming the exception rather than the rule. It must take place on an on-going basis. The following factors should be considered in deciding what level of supervision is appropriate:

- Ages of the children concerned, including whether their ages differ widely

- Number of children that the individual is working with
- Whether or not there are other workers helping to look after the children
- Nature of the individual's work (or, in a specified place such as a school, the individual's opportunity for contact with children)
- How vulnerable the children are
- How many workers would be supervised by each supervising worker

Appendix 3 Regulated Activity relating to Adults

General exception:

Regulated activity relating to adults does not include:

- Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity relating to adults.

Regulated activity relating to adults is:

1. **Health care** provided for adults:

- a. By, or under the direction or supervision of, a health care professional.
- b. Includes first aid provided by a person acting on behalf of an organisation established for the purpose of providing first aid such as St John Ambulance but not first aid in the workplace..

2. **Relevant personal care:**

- a. Either:
 - i. Physical help with eating, drinking, toileting, washing, bathing, dressing, oral care or care of skin, hair or nails, necessary due to age, illness or disability;
 - ii. Prompting, with supervision, in relation to i where the person is otherwise unable to decide; or
 - iii. Any form of training, instruction, advice or guidance given to the person in relation to i.

3. **Relevant social work:**

- a. Provided by a social care worker to an adult who is a client or potential client; and
- b. Required in connection with any health, education or social services provided.

4. **Day to day assistance in relation to general household matters:**

- a. Either:
 - i. Managing the person's cash;
 - ii. Paying the person's bills; or
 - iii. Shopping on their behalf.
- b. Necessary by reason of age, illness or disability.

5. **Relevant assistance in the conduct of an adult's own affairs:**

- a. Anything done on behalf of a person by virtue of:
 - i. A lasting power of attorney;
 - ii. An enduring power of attorney;
 - iii. A court order appointing a deputy or making decisions on the person's behalf;
 - iv. The appointment of an independent mental health/capacity advocate;

- v. The provision of independent advocacy services; or
- vi. The appointment of an appointee to receive the person's benefit payments.

6. Conveying:

- a. Necessary by reason of age, illness or disability;
- b. Transporting to, from or between places where the person receives health care, personal care or social work; and
- c. NOT by family, friends or taxi drivers or licensed private hire drivers.

7. Certain inspection functions

- 8. Day-to-day management or supervision** on a regular basis of a person who is providing a regulated activity relating to adults is also a regulated activity.

Note: There is *no* requirement for the above activities to be done a certain number of times before they become regulated activity.

Appendices 2 and 3 provide a summary of the main provisions and are intended as a general aid. They do not cover all aspects of regulated activity and all exceptions. In the event of any doubt as to the application of these provisions, further advice should be obtained. Contact the DBS Team at the Shared Services Centre in the first instance.

Appendix 4 Principles of the rehabilitation period

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered or the length of the sentence imposed.

Rehabilitation periods that run beyond the end of a sentence are made up of the total sentence length plus an additional period that runs from the end of the sentence, called the 'buffer period'. Other rehabilitation periods start from the date of conviction or the date the penalty was imposed.

The buffer periods are halved for those aged under 18 at the date of conviction, except for custodial sentences of six months or less where the buffer period will be 18 months.

The rehabilitation periods for sentences with additional buffer periods which run from the end date of the sentence are shown in the table below:

Custodial sentences

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). <i>This applies from the end date of the sentence (including the licence period).</i>	Buffer period for young people (Under 18 at the time of conviction or the time the disposal is administered). <i>This applies from the end date of the sentence (including the licence period).</i>
Custodial* sentence of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months but not exceeding 48 months	7 years from the date on which the sentence (including any licence period) is completed	42 months from the date on which the sentence (including any licence period) is completed
Custodial sentence of over 6 months but not exceeding 30 months	48 months from the date on which the sentence (including any licence period) is completed	24 months from the date on which the sentence (including any licence period) is completed
Custodial sentence of 6 months	24 months from the date on which the sentence (including any licence period) is completed	18 months from the date on which the sentence (including any licence period) is completed
Community order or youth rehabilitation order**	12 months from the last day on which the order has effect	6 months from the last day on which the order has effect

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

** In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

Non-custodial sentences

The following table sets out the rehabilitation period for sentences which do not have buffer periods and for which the rehabilitation period runs from the date of conviction:

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (Under 18 at the time of conviction or the time the disposal is administered).
Fine	12 months from the date of the conviction in respect of which the fine was imposed	6 months from the date of the conviction in respect of which the fine was imposed
Conditional discharge	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

Appendix 5 Update Service Status Check Form

Name of Manager/School requesting check _____
 Signature _____ Base/School _____
 Email Address _____

Please provide the below information from the original certificate presented by the applicant and submit/scan to the DBS Team at the SSC John Hadfield House, Dale Road or email DBS@derbyshire.gov.uk

Please ask the applicant to sign here to confirm that they are happy for Shared Services to undertake a Status Update Check _____

For completion by Shared Services Centre only

DBS Certificate number																				
Current name of the DBS Certificate Holder (as specified on their certificate)																				
Disclosure Type	Enhanced		Standard																	
Date of birth of the DBS Certificate holder - as recorded on the DBS Certificate																				
Position Applied for:																				
Workforce/barred list checked (please indicate with a cross)	Adult		Children																	
Trace information present on existing disclosure	Yes		No																	
Result of Status Check (please indicate with a cross)	<p>This Certificate did not reveal any information and remains current as no further information has been identified since its issue. This means that the individual's Certificate contains no criminality or barring information and no new information is available.</p> <input type="checkbox"/>																			
	<p>This Certificate remains current as no further information has been identified since its issue. This means that the individual's Certificate did contain criminality or barring information and no new information is available.</p> <input type="checkbox"/>																			
	<p>This Certificate is no longer current. Please apply for a new DBS check to get the most up to date information. This means that the individual's Certificate should not be relied upon as new information is now available and you should request a new DBS check.</p> <input type="checkbox"/>																			
Completed by																				
Date (ddmmyy) & time of check	Date																		Time	:

Manager/School notified of result	Date							Time	:
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Appendix 6

Criminal Background Checks ID Checking Process for Managers

ID Checking for an enhanced disclosure

Derbyshire County Council is a Registered Body for the Disclosure and Barring Service (DBS). The Council has an online DBS system (eBulk). As a manager you should complete a successful candidate form which includes the name of your nominated ID verifier (if this is not yourself). On receipt of the successful candidate form, providing the applicant has an email address, the Shared Services Centre (HR) will send the applicant a link to the online DBS system (employmentcheck.org.uk) along with a user name and password. In instances where the applicant does not have an email address, the login details can be sent to recruiting manager/ID verifier so that the applicant can complete the online form in their presence. On submission of the online form by the applicant, the recruiting manager/ID verifier will receive an email notification and the ID verification process should then take place. In instances where the applicant completes their online form in the presence of the ID verifier, the ID verification could take place immediately after submission of the online form by the applicant.

As the recruiting manager you will be required to:

- Check and validate the information provided by the applicant on the online application form
- Establish the true identity of the applicant;
- Ensure that the applicant provides details of all names by which they have been known and all addresses where they have lived in the last 5 years
- Ensure the information on the application form is accurate prior to submitting the form online to the Shared Services Centre.

If you are unsure about any part of the DBS ID checking process, please contact the SSC (HR) – DBS Team on 01629 535118 option 2.

Identification checking process

The applicant must provide a range of ID documents as part of the DBS application process.

Managers/Identity Checkers must:

- Follow the three route ID checking process as outlined in the guidance using the list of Groups 1; 2a and 2b documents.
- Check and validate the information provided by the applicant on the application form/ continuation sheet.
- Establish the true identity of the applicant through the examination of a range of documents as set out in this guidance.

- Ensure that the applicant provides details of all names by which they have been known.
- Ensure that the applicant provides details of all addresses where they have lived in the last five years.
- Ensure that the application form is fully completed and the information it contains is accurate.

If there are any discrepancies in the information provided by the applicant and/or the identity documents supplied, and fraud is not suspected, please seek clarification from the applicant. Failure to do this may compromise the integrity of the DBS service and introduce risk into your recruitment or licensing arrangements.

Managers/ID Checkers will not be able to change the application form, if the applicant has made errors then the DBS Team at the Shared Services Centre should be notified as the online application form will need to be rolled back to the applicant.

Please note that:

- You must only accept valid, current and original documentation.
- You must not accept photocopies.
- You must not accept documentation printed from the internet e.g. internet bank statements.
- Identity information for the applicant's name, date of birth and address recorded in Section A and Section B on the DBS application form must be validated.
- You should in the first instance, seek documents with photographic identity (e.g. passport, new style driving licence, etc.) and for this to be compared against the applicant's likeness.
- All documents must be in the applicant's current name as recorded in Section A (see below for guidance on recent changes of name).
- One document must confirm the applicant's date of birth as recorded in Section A.
- You must ensure that the applicant declares all previous change of name, and provides documentary proof to support the change of name.
- You must see at least one document to confirm the applicant's current address as recorded in Section B, in accordance with the guidance.
- You must provide a full and continuous address history covering the last five years. Where possible you should seek documentation to confirm this address history.
- You should cross-match the applicant's address history with any other information you have been provided with as part of the recruitment, such as their CV. This can highlight if an address has not been given e.g. if the applicant's CV shows that they have worked in Liverpool in the last five years, but the application form only shows London addresses, you may wish to question the applicant further about this.
- A document from each of the groups should be included only once in the document count e.g. do not accept two bank statements as two of the required documents, if they are from the same bank.
- You should not accept the foreign equivalent of an identity document if that document is listed as '(UK)' on the list of valid identity documents.
- If an identity document is provided in a foreign language, you must obtain a translation of that document, certified by a Notary Public.
- When applying for lead or countersignatory status at least one document must show the candidates signature.

The Manager/ID Checker should follow the three routes as outlined below:-

Route One

All applicants must initially be considered for Route One.

If the applicant can produce a Group 1 document, then the applicant must produce 3 documents in total:

- 1 document from Group 1 (refer to list of Valid Identity Documents below); and
- 2 further documents from Group 1, 2a or 2b; one of which must verify their current address.

If the applicant has satisfied this route, then the document check is complete.

Only when the applicant **cannot** produce a Group 1 document should you proceed to Route Two.

NOTE – EEA Nationals (Non-UK):

Where an EEA National has been resident in the UK for five years or less, the Manager/ID Checker should validate identity via Route One through the checking of a Current Passport or Current UK Driving Licence (photo card) plus 2 further documents. In the absence of a Group 1 document, the Manager/ID Checker must satisfy themselves of a valid reason for using Route Two.

NOTE - Non-EEA Nationals:

All Non-EEA Nationals should be validated via Route One only. If you're not a national of the UK or the EEA and you're applying for voluntary work you may need to be fingerprinted if you can't show these documents.

Route Two

The applicant must produce:

- 3 documents from Group 2 comprising of;
- 1 document from Group 2a; and
- 2 further documents from Group 2a or 2b; one of which must verify their current address.

AND

The ID Checker must:

- Complete an *External Validation ID Form*;
- Provide DBS Team with copies of **all** ID documents produced (with a signature and date confirming when the original documents have been seen by the Manager/ID Checker).
- The DBS Application Form should be retained by the ID Checker until they have received notification of the result of the '*External Validation ID Check*' from the DBS Team.
- A FAILED check may result in proceeding to **Route 3**.
- A PASS **along with** the production of the required Route Two documents will complete the ID verification process and the DBS application form should be marked **YES at BOX W59** with the name of the Manager/ID Checker.
- The completed DBS application form should be returned to the DBS Team at the above address.

If you're an EEA national who's been resident in the UK for 5 years or less you may need to be fingerprinted if you can't show these documents.

Please note the DBS Team will conduct the *External Validation ID Check* via the appointed '*External ID Validation Service*' who will check the applicant against their records to establish the applicant's name and living history footprint.

If the ID Checkers have endeavoured to use Route Two but have been unable to validate the applicant's identity successfully, the ID Checker will be informed of the failed *External Validation ID Check* by the DBS Team and the ID Checker **may** consider proceeding to Route Three. **However please be advised that Route Three should only be used in circumstances once the ID Checker has fully explored with the applicant why their identity has not been successfully validated via Routes One or Two.**

Route Three

EEA nationals who've been resident in the UK for 5 years or less can't use Route 3.

For Route Three, the applicant must produce:

- Birth certificate (UK and Channel Islands) – (issued after the time of birth by the General Register Office/relevant authority i.e. Registrars – Photocopies are not acceptable) and
- 4 further documents from Group 2 comprising of:
 - 1 document from Group 2a; and
 - 3 further documents from Group 2a or 2b; one of which **must** verify their current address.

Should the ID Checker still be unable to validate the applicant's identity using Routes One, Two or Three, they should indicate this on the DBS application form at **Box W59** and return the form to the DBS Team. The applicant will then be sent for fingerprinting by the Police, which is likely to cause delay to the DBS application process and subsequently the recruitment process.

List of Valid Identity Documents

Group 1 – Primary Trusted Identity Credentials

- Current valid Passport.
- Identity Card for Foreign National (ICFN) / Biometric Residence Permit (UK).
- Current Driving Licence Photo Card (Full or provisional) UK Isle of Man /Channel Islands and EU
- Birth Certificate (UK, Isle of Man and Channel Islands – including those issued by UK authorities overseas, for example embassies, High Commissions and HM Forces) - issued at the time of birth (registration within 12 months of birth ;
 - Full or short form acceptable including those issued by UK authorities overseas, such as Embassies, High Commissions and HM Forces. (Photocopies are not acceptable).

Adoption Certificate (UK and Channel Islands)

Group 2a – Trusted Government/State Issued Documents

- Current Driving Licence (full or provisional) – old style paper version (if issued before 1998) UK, Isle of Man, Channel Islands and EU.
- Current Driving Licence – Photo Card (full or provisional). All countries outside EU (excluding Isle of man and Channel Islands).
- Birth Certificate (UK, Isle of Man and Channel Islands) - (issued after the time of birth by the General Register Office/relevant authority i.e. Registrars – Photocopies are not acceptable).
- Marriage/Civil Partnership Certificate (UK and Channel Islands).
- HM Forces ID Card (UK).
- Firearms Licence (UK, Isle of Man and Channel Islands).

- Immigration document, visa or work permit – issued by a country outside the EEA. Valid for roles whereby the applicant is living and working outside of the UK. Visa/permit must relate to the non EEA country in which the role is based.

All driving licences must be valid – this can be checked at <https://www.gov.uk/driving-nongb-licence>

Group 2b – Financial/Social History Documents

- Mortgage Statement (UK or EEA) ** (Non-EEA statements must not be accepted).
- Bank/Building Society Statement (UK and Channel Islands or EEA)* (Non-EEA statements must not be accepted).
- Bank/Building Society Account Opening Confirmation Letter (UK).*
- Bank or building society statement (Countries outside the EEA) – issued in last 3 months – branch must be in the country where the applicant lives and works
- •Credit Card Statement (UK or EEA)* (Non-EEA statements must not be accepted).
- Financial Statement ** - e.g. pension, endowment, ISA (UK).
- P45/P60 Statement ** (UK & Channel Islands). **
- Council Tax Statement (UK & Channel Islands). **
- Work Permit/Visa (UK) (UK Residence Permit). ***
- Letter of Sponsorship from future employment provider (Non-UK/Non-EEA only – valid only for applicants residing outside of the UK at time of application).***
- Utility Bill (UK)* – Not Mobile Telephone.
- Benefit Statement* - e.g. Child Allowance, Pension. *
- A document from Central/ Local Government/ Government Agency/ Local Authority giving entitlement (UK & Channel Islands)*- e.g. from the Department for Work and Pensions, the Employment Service , Customs & Revenue, Job Centre, Job Centre Plus, Social Security.
- EU National ID Card. ***
- Connexions card; including those cards carrying the PASS accreditation logo (UK, Isle of Man and Channel Islands). ***
- Letter from Head Teacher or College Principal (16/17 year olds in full time education – (only used in exceptional circumstances when all other documents have been exhausted). ***
- Vehicle registration document (document V5 old style and V5C new style only)
- NHS Card/Letter (UK and Channel Islands)
- General Medical Council (GMC) certificate
- Mail order catalogue statement*
- Exam certificate e.g. GCSE, NVQ, O Levels, Degree
- Documentation issued by court services*
- Addressed payslip*
- Store cared statement*
- TV licence**
- Insurance certificate**
- DBS and Disclosure Scotland certificate (UK)**
- GMC registration certificates. Upto date information about a doctor’s registration status can be found in the list of Registered Medical Practitioners on the GMC website (<http://www.gmc-uk.org/>)
- Immigration status document (ISD)
- Certificate of British nationality (UK)
- Do not use more than one of the following documents; Convention Travel Document (CTD) – Blue/stateless Person’s Document (SPD) – Red / Certificate of Travel (CIT) – Brown (Formerly Certificate of Identity) / Application Registration Card (ARC)

Please note:

If a document in the List of Valid Identity Documents is:

- Denoted with * - it should be less than three months old.
- Denoted with ** - it should be issued within the past 12 months.
- Denoted with *** – Must still be valid.

Additional informationWhat is an external ID validation check?

An external ID validation check is an alternative way of verifying the identity of an applicant. It will involve the provision of an applicant's details (as presented on the application form) to the Council's chosen supplier, who will compare the data obtained from the applicant against a range of independent, external data sources.

How can I check driving licences?

Do not accept licences, other than those stated in the list of Valid Identity Documents. English, Welsh and Scottish driving licence numbers contain information about the applicant's name, sex and date of birth. This information is written in a special format.

Please note that the date of birth on English, Welsh and Scottish driving licences, issued before 1977, is not recorded as a separate entry on the licence. The date of birth can be deciphered from the driving licence number and checked against the date of birth field on the application form.

For example the format of the number for Christine Josephine Robinson, born 2 July 1975

R O B I N 7 5 7 0 2 5 C J 9 9 9 0 1
N N N N Y M M D D Y I I C C C C C

- N = 1st five letters of the surname (if the surname begins MAC or MC it is treated as MC for all).
- Y = YEAR of birth.
- M = MONTH of birth (In the case of a female, the number represented by the first M will have the value 5 added to the first digit e.g. a female born in November (i.e. 11) would display '61' in the MM boxes or if born in February (i.e. 02) would display '52').
- D = DAY of month of birth.
- I = Initial letter of the first two forenames - if only one, then 9 will replace the second letter. If the licence indicates that the applicant has a middle name, ensure that one has been provided in Section A.
- C = Computer generated.

Please note, for Northern Ireland; Isle of Man and Jersey and EU driving licences, the licence number is in a different format. The licence number is unique to the driver and the 'name' or 'date of birth' validation, as shown above, cannot be used.

What if the applicant has been adopted?

Managers/ID Checkers should inform applicants that if they were adopted before the age of 10, they do not need to provide their surname at birth, they should give their adoptive name in this section. This is because the age of criminal responsibility is deemed to be 10 years, under the Children and Young Persons Act 1933, Chapter 12, Section 50. This

means that there is no possibility that an individual could have a criminal record in a name that was used until the age of 10.

What if the applicant has changed their name recently and cannot provide ID documents in this new name?

Documents in a previous name can be accepted ONLY where the applicant can provide documentation supporting a recent change because of:

- Marriage/civil partnership (marriage/civil partnership certificate).
- Divorce/civil partnership dissolution (decree absolute/civil partnership dissolution certificate).
- Deed poll (Deed Poll certificate).

In these instances, you must:

1. Ensure the applicant provides:-
 - Current and previous names.
 - Date of the change.
 - Reason for the change.
 - The document you have seen to support this change.
2. Ensure that all 'Previous names' and 'Dates used' are recorded on the online application.

What should you do if you suspect false identity or documents?

If you suspect that you have been presented with a false identity or documents at the time of application, do not proceed with the application process.

- Inform the DBS Team who will then report the suspected identity fraud to the Disclosure and Barring Service
- If you suspect identity fraud once a DBS check has been submitted, you must contact the DBS Team

You are also advised that under Section 8 of the Asylum and Immigration Act 1996 all employers in the United Kingdom are required to make basic document checks to help prevent anyone from working illegally. By carrying out checks employers will be able to establish a defence for themselves if any of their employees are found to be working illegally at a later date.

How do I check for indicators of fraud?

Always check for signs of tampering when checking identity documents. Documents should be queried if they display any signs of damage, especially in the areas of personal details such as the name and the photograph. The following guidelines should help you look out for any suspicious signs when authenticating documents.

Checking a passport

Check the general quality and condition of the passport. Treat it with suspicion if it is excessively damaged; accidental damage is often used to conceal tampering. Photographs should be examined closely for signs of damage to the laminate or for excessive glue or slitting of the laminate; these signs would indicate photo substitution. If the photograph appears excessively large, this might indicate an attempt to hide another photograph underneath. There should also be an embossed strip embedded into the

laminated, which will catch a portion of the photograph. Check there is no damage to this area. If the passport is from a foreign national, you can still follow the same general procedures as above.

Checking a photo driving licence

Examine the licence for evidence of photo tampering or any amendment of the printed details.

Checking an old style driving licence (no photograph)

Remove the document from the plastic wallet and check that it is printed on both sides. It should have a watermark visible by holding the licence up to the light and there should be no punctuation marks in the name or address. The 'Valid To' date should be the day before the bearer's 70th birthday (unless the bearer is already over 70). The 'Valid To' date can therefore be cross-referenced with the applicant's date of birth on the application.

Checking a birth certificate

Birth certificates are not evidence of identity, and are easily obtained. Although certificates issued at the time of birth may give more confidence that it belongs to the individual, unlike a recently issued certificate they will not show if any information has been corrected or superseded by a new registration.

Check the quality of paper used; genuine certificates use a high grade. There should be a watermark visible when the document is held up to the light. Any signs of smoothness on the surface would indicate that original text might have been washed or rubbed away. There should be no signs of tampering, changes using liquid paper, overwriting or spelling mistakes.

The following list provides some general information about certificate completion which may help to establish whether the certificate and/or the details have been falsified. This is provided solely as a guide and is not exhaustive:

- The certificate format used should be appropriate for the year of registration.
- Only the surname should be entered in upper case, not the forename(s).
- Dates of birth should be shown with the day and month in words and the year in figures.
- The following information might indicate that the certificate has been altered:
 - Spacing between falsely added particulars might be irregular compared to original information. 'Thick' or 'thin' spacing might infer particulars have been added.
 - False particulars might not have been aligned with other words.
 - Characters may not be of the same size or shape with the rest of the particulars.
 - Movement of handwriting may look mechanical and does not flow with the rest of the particulars.
 - Changes might not be consistent e.g. parents' surnames might be altered, but not the signatures.
 - The area around falsely added or removed particulars may react differently under an ultra violet light i.e. show signs of staining. In addition, such areas of paper may appear thinner where the paper fibres have been disturbed by abrasion.

Checking a biometric residence permit

The features of a permit and how to check them can be found on the UK Visas and Immigration website (<https://www.gov.uk/government/publications/biometric-residence-permits-overseas-applicant-and-sponsor-information>)

Checking an EU photo identity card

Examine the card for evidence of photo tampering or any amendment of the printed details.

Checking an HM Forces ID card

Examine the card for evidence of photo tampering or any amendment of the printed details.

Checking a firearms licence

Check the licence is printed on blue security paper with a Royal crest watermark and a faint pattern stating the words 'Home Office'. Examine the licence for evidence of photo tampering or any amendment of the printed details, which should include home address and date of birth. The licence should be signed by the holder and bear the authorising signature of the chief of police for the area in which they live, or normally a person to whom his authority has been delegated.

Other forms of identification

Ensure all letters and statements are recent, i.e. within a three month period. Do not accept documentation printed from the internet. Check letter headed paper is used, bank headers are correct and all documentation looks genuine. The address should be cross-referenced on the online form.

ID Checking for a basic disclosure

As the recruiting manager you will be required to establish the true identity of the applicant through the examination of the documents provided. The applicant must provide at least three documents one of which must verify their current address. The list below shows the valid ID documents that can be used to verify a basic check. You must only accept valid, current and original documentation. You must not accept photocopies. You must not accept documentation printed from the internet e.g. internet bank statements.

Current valid Passport

Current Driving Licence Photo Card (Any Country) (Full or provisional)

Current Driving Licence - Old style paper version (Any Country) (Full or provisional)

Birth Certificate - Full or Short certificates are acceptable

EU National ID Card

National Insurance Number – This number is available from various documents including – payslip, P60/P45 and National Insurance Certificate

National Entitlement Card

Electricity Supplier (Please bring in latest statement with 21 digit supplier number).

You are also able to accept other forms of ID, from the list below that confirm the applicants current address, date of birth and name history

Biometric Residence Permit (UK)
 Marriage/Civil Partnership Certificate
 Adoption Certificate
 HM Forces ID Card (UK)
 Fire Arms Licence (UK and Channel Islands)
 Mortgage Statement**
 Bank/Building Society Statement*
 Bank/Building Society Account Opening Confirmation Letter (UK)*
 Credit Card Statement*
 Financial Statement** - e.g. pension, endowment, ISA (UK)
 Council Tax Statement**
 Work Permit/Visa (UK) (UK Residence Permit)**
 Sponsorship Letter from future employer (Non-UK/Non-EEA only)
 Utility Bill (UK)*
 Benefit Statement* (UK) - e.g. Child Allowance, Pension
 Government entitlement document (UK/Channel Islands)*
 Connexions card: including those cards carrying the PASS accreditation logo (UK/Channel Islands)
 Vehicle registration document (document V5 old style and V5C new style only)
 NHS Card/Letter (UK and Channel Islands)
 General Medical Council (GMC) certificate
 Mail order catalogue statement
 Documentation issued by court services*
 Addressed payslip*
 Store card statement*
 TV licence**
 Insurance certificate**
 DBS and Disclosure Scotland certificate (UK)**
 GMC registration certificates

Please note:

* Documentation should be less than 3 months old

** Issued within the past 12 month

***Current

If you are unsure about any part of the DBS ID checking process, please contact the SSC (HR) – DBS Team on 01629 535118 option 2

Appendix 6a

External ID Verification Form

This form must be fully completed for all applicants that require an enhanced Disclosure and Barring (DBS) clearance and are unable to satisfy the requirements for Route One.

Applicants should, wherever possible, produce documentation for Route One as Route Two involves an additional procedure and will increase the time taken to obtain a DBS clearance.

Section 1 – To be completed by the applicant where there is a requirement to establish identity using Route Two.

Surname _____

First Name(s) _____

Date of Birth _____

Current Address
(inc postcode) _____

If you have lived in your current address for less than 6 months please provide your previous address (inc postcode)

I am aware that the information I provide will be used to establish my identity using an external ID verification service.

Signed _____

Date _____

You are required to produce 3 documents from the list on page 3 one of which must confirm your current address. The documents provided will be used to establish your identity using an external ID verification checking process. Copies of all the documentation used to establish your identity will be retained on your personal file.

Section 2 – to be completed by the ID checker verifying the applicant’s identity

The applicant identified in Section 1 has been unable to produce the documents required to establish their identity using Route One.

Route One could not be completed because _____

_____ (please provide reason)

The following original documents (copies attached) from Group 2 have been produced to enable a Route Two external ID verification check to be undertaken. One or more of these documents confirms the applicant’s current address.

1 _____ (Group 2a)

2 _____ (Group 2a or b)

3 _____ (Group 2a or b)

I certify that I have seen the original documentation and signed and dated each copy. I also confirm that the applicant has been offered a position with the Council subject to successful completion of the necessary checks.

Signed _____ Name _____

Position _____

Contact Telephone Number _____

Please either attach all relevant documentation to this form and forward it to the DBS Team, Shared Services Centre, John Hadfield House, Dale Road, Matlock, Derbyshire DE4 3RD or scan the form and documentation and email it to DBS@Derbyshire.gov.uk.

Appendix 7

Guidance on Disqualification under the Childcare Act 2006 as revised from February 2015

Information for staff/managers in the event of a declaration being made following completion of the pre-employment checks.

Employees are required to self-declare any disqualifications which would prevent them from working in a childcare setting. (e.g. peripatetic music teachers & special needs teachers). This includes disqualification through association.

As part of the Council's recruitment and selection procedures, it is the responsibility of the chair of the interview panel to provide relevant information about this to shortlisted candidates and to seek appropriate documentation from the successful candidate in order to be able to confirm their appointment. However, individual circumstances may change and it may become necessary to make a declaration at a later stage. This appendix provides guidance on this.

It is important to read the attached information carefully and look up any of the links provided to further documentation.

The details included in this appendix will enable individuals to determine whether they need to complete **Form A** (provided with this factsheet).

The specific relevant regulations are the 'Childcare Disqualification Regulations 2009' which were made under 'Section 75 of the Childcare Act 2006'. This statutory guidance clarifies the required Childcare Disqualification checks to be carried out by all organisations that provide education or childcare for children up to the age of 8.

Safeguarding Requirements

In addition to the existing pre-employment checks which DCC must carry out to identify risks to children and make informed decisions about the suitability of individuals to work with young people, the Childcare Act 2006 and Childcare (Disqualification) Regulations 2009, place separate requirements on employers. The requirements relate to employees who:

- provide early years childcare/education to children of up to and including reception age (to 1st September, following a child's 5th birthday),
- provide later years childcare, out of school hours, to children who are not yet 8 years of age,
- are employed in connection with such provision.

The DfE guidance 'Disqualification under the Childcare Act 2006' sets out the disqualification criteria which are:

- inclusion on the Disclosure & Barring Service (DBS) Children's Barred List,
- being found to have committed certain violent criminal offences against children and adults, which are referred to in Reg 4 & Schedules 2 & 3 of

2009 Regulations (note that Reg 4 also refers to offences that are listed in other pieces of legislation),

- certain orders made in relation to the care of children, which are referred to in Reg 4 and listed at Schedule 1 of the 2009 Regulations,
- refusal or cancellation of registration relating to childcare or children's homes, or being prohibited from private fostering, as specified in Schedule 1 of the 2009 Regulations,
- living in the same household, where another person who is disqualified lives or works (disqualification by association), as specified in Reg 9 of the 2009 Regulations,
- being found to have committed an offence overseas which would constitute an offence regarding disqualification under 2009 regulations, if it had been done in any part of the UK.

Further details can be found through the link at the end of this appendix.

Staff who are unsure of whether a particular offence or order is included are advised to follow the link as it includes relevant offences and orders towards the end.

Disqualification by Association

If a member of staff is living in a household with someone who has received a relevant offence/caution or order (that is not spent), then the staff member is disqualified from working with children of reception age or under within school hours or children up to age 8 in before/after school childcare, by reason of association. Association extends to every person with whom the staff member shares a household including, but not limited to, foster children, house sharers, and lodgers.

Where a person living in the household of a relevant employee meets the criteria for disqualification, the staff member should provide the details of the order, determination, conviction, or other grounds, for disqualification as specified on **Form A**.

This requirement guards against an individual working with young children who may be under the influence of a person who lives with them, and where that person may pose a risk to children. **Individuals are not required to take action to discover the background of people living in the same household but to provide a declaration where relevant information is known to them to the best of their knowledge.**

Eligible Staff

- Staff who work in early year's provision within school hours and/or delivering before/after school childcare.
- Staff working in later year's provision for children of above reception age but who have not yet attained the age of 8 in before or after school settings e.g. breakfast clubs and after school provision. This does not include education/supervised activity in extended school hours for curricular learning activities, like choir, sports teams.
- Those employed with management responsibility for the above.

This means that staff who work in the following roles are **not** included:

- Those who provide education, childcare or supervised activity during school hours to children **above reception age**.

- Those who only provide childcare or supervised activities out of school hours for **children who are aged 8 or over**.
- Those who have no involvement in the management of relevant provision.
- Staff such as caretakers, cleaners, drivers, transport escorts, catering and office staff, who are not employed to directly provide childcare, are not covered by the legislation.
- Health care staff, e.g. school nurses, speech therapists and educational psychologists are excluded from the legislation.

Most staff that are only occasionally deployed with relevant age groups of children and are not regularly required to work in relevant roles will not automatically come within the scope of the legislation. Managers will therefore have to exercise their judgement about when and whether such staff are within scope. They will need to evaluate the risks, whether any control measures are required and make a record of this, which will be lodged in the staff member's file, taking advice from HR or more senior management as appropriate.

It is important that staff check the details of the disqualification requirements, so that they can determine if, and how, the requirements apply to them. Full details of the relevant offences can be accessed through the link at the end of this appendix.

Two Important Points:

- **Staff completing a declaration of their own convictions/cautions/orders need only declare relevant offences and need not include details about any protected cautions or convictions.** Some roles working with young people are exempt from the rehabilitation of offenders act (ROA) so staff are normally required to disclose all their convictions and or cautions but there are a few minor cautions that are 'protected', and they are also filtered from DBS certificates. If in doubt please check.
- **Staff completing a declaration relating to the convictions of a third party (person living or working in their household) are not required to disclose spent cautions or convictions.** Staff should respond to questions relating to the criminal record of a person living or working in their household as though it only relates to 'unspent' cautions/convictions, which are included on the list of relevant offences.

Form A must be completed if the individual's personal circumstances change and they need to make a declaration after the recruitment exercise is completed. It should be returned to their line manager within 5 working days in a sealed envelope marked personal and confidential, **only if** they or someone in their household meet any of the criteria for disqualification.

It is important that staff understand that, should their personal circumstances change at any time, with respect to the disqualification requirements, their manager must be informed immediately.

Positive Declarations

If a manager is provided with information which may lead to the disqualification of an employee, this **must** be reported to Ofsted by the manager as soon as possible, and at the latest, **within 14 days**.

Failure to do so is a breach of the Regulations. Individuals who may be disqualified by association may apply to Ofsted for a waiver to allow them to continue working with children. The employee must make the application, not the manager. Ofsted will consider each application on its own merits and a full or partial waiver may be granted, depending on the circumstances. Further information is available from the following link:

www.ofsted.gov.uk/resources/applying-waive-disqualification-early-years-and-childcare-providers

Managers are required to make any third party aware of declarations received concerning their convictions and or cautions and or orders. This will be done in writing by special delivery post. The third party will be informed of the process that will be followed, what will be retained on record, and offered the opportunity to confirm or correct any of the information received.

When it is known that an employee fulfills the disqualification criteria, **they are not permitted to work** in the provision for children up to and including reception age, or provision for children from reception age to 8 years of age, out of school hours, or be directly employed in the management of that provision.

While Ofsted is considering a waiver request, the individual must not continue to work in these settings and where possible the manager will seek to deploy the employee elsewhere.

Depending on the context of the service concerned and the nature of the reason for disqualification, the manager may need to consider whether it is appropriate to suspend the employee.

If a waiver is granted by Ofsted, it is the manager's responsibility to decide whether to continue to employ the person. In doing so the manager will consider whether any conditions on the waiver can be fulfilled.

Where a waiver is not granted, the manager must decide whether the employee can be permanently deployed to alternative duties which do not involve provision for the relevant age groups of children.

If this is not practicable, the absence of a waiver may lead to a hearing to consider the allegation that the employee is disqualified from working with young children and which may be a reason to terminate the contract of employment.

Agency Staff

Managers must ensure that any external agency providing staff in relevant settings carry out these checks prior to placing them.

DfE Link to Further Information

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414345/disqual_stat-guidance_Feb_15_3_.pdf

Appendix 7 Continued

Form A - Employee & Volunteer Disqualification Declaration – Following completion of the pre-employment checks

Only to be completed where the staff member/volunteer believes they, or a household member, may have a conviction, caution or order made against them which may disqualify them from working with children in the relevant age groups, under the 2009 Childcare (Disqualification) Regulations.

Staff member

Children's Service

Post/Role

A single list of the relevant cautions, convictions and orders can be found at the end of the DfE document 'Disqualification under the Childcare Act 2006. The link is at the end of the staff factsheet and below:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/414345/disqual_at-guidance_Feb_15_3_.pdf

Please remember to check whether any cautions/convictions made against you are 'protected'. Follow the link in the DfE document for information on this very small number of offences.

*Please remember that the Rehabilitation of Offenders Act (ROA) will apply, where relevant, to the convictions/cautions received by any 3rd party whose details are included in this declaration. Any offences that are 'spent' **need not** be declared. The DfE document includes a link to more information about when certain convictions/cautions may be spent. While remembering that there is no requirement on staff to make enquiries of those living/working in their household to discover whether they have cautions, convictions or orders against them, if you are aware of such details please endeavour to the best of your ability to include all relevant information and exclude any material relating to convictions that are not listed in the regulations or where a third party's conviction is spent. (ROA does not apply to employees in childcare settings, so the convictions do not become spent)*

Circle one option for every question

Where a 'yes' response is given, you will be asked to provide details at the end of the form.

Section 1 – Orders or other restrictions

Available from the link below:

www.legislation.gov.uk/ukxi/2009/1547/schedule/1/made

Have any orders or other determinations related to childcare been made in respect of you?
YES / NO

Have any orders or other determinations related to childcare been made in respect of a child in your care? YES / NO

Have any orders or other determinations been made which prevents you from being registered in relation to child care, children's homes or fostering? YES / NO

Are there any other relevant orders, restrictions or prohibitions in respect of you as set out in the Schedule 1 of the Regulations? YES / NO

Are you barred from working with children (Disclosure & Barring Regulations, DBS)? YES / NO

Are you prohibited from teaching? YES / NO

Section 2 – Specified and Statutory Offences

Available from the links below:

www.legislation.gov.uk/ukxi/2009/1547/schedule/2/made

www.legislation.gov.uk/ukxi/2009/1547/schedule/3/made

Have you ever been cautioned, reprimanded, given a warning for or convicted of:
Any offence against or involving a child? (a child is a person under the age of 18)? YES / NO

Any violent or sexual offence against an adult? YES / NO

Any offence under the Sexual Offences Act? YES / NO

Any other relevant offence? YES / NO

Have you ever been cautioned, reprimanded, given a warning for or convicted of any similar offence in another country? YES / NO

Section 3 – Disqualification by Association

To the best of your knowledge, is anyone including family, lodgers, house-sharers, household employees in your household, disqualified from working with children under the Regulations?

This means does anyone in your household have an Order or Restriction against them as set out in Section 1 or have they been cautioned, reprimanded, given a warning for or convicted of any offence in Section 2.

YES / NO

Section 4 – Provision of Information

If you have answered YES to any of the questions above you should provide the details below in relation to yourself or, as relevant, a member of your household.

You may supply this information separately if you so wish, but you must do so without delay.

Details of the order, restriction, conviction caution includes dates:

The relevant court(s) or body(ies)

Section 5 - Declaration

In signing this form, I confirm that the information provided is true to the best of my knowledge and that:

1. I understand my responsibilities to safeguard children.
2. I understand that I must notify my manager immediately of anything that affects my suitability including any cautions, warnings, convictions, orders or other determinations made in respect of me or a member of my household that would render me disqualified from working with children.

Signed: _____ Date: _____

Applications can be made to Ofsted for a waiver to disqualification, please see website below. Reference:

<http://www.ofsted.gov.uk/resources/applying-waive-disqualification-early-years-and-childcare-providers>

Support will be provided with this process.

Please remember that management must make any third party aware of declarations received concerning their convictions/cautions/orders. This will be undertaken in writing by special delivery post. The third party will be informed of the process DCC is required to follow, what will be retained on record and offered the opportunity to confirm or correct any of the information received.

Appendix 8 VERIFICATION OF CRIMINAL RECORDS INFORMATION FORM

For use by Managers to record details of a DBS disclosure

Employee/Volunteer Name (as recorded on the Disclosure)
Date of Birth
Position held as recorded on the Disclosure
Employee pay number (for existing DCC employees)
Disclosure Number (12 Digits) <input style="width: 100%; height: 20px;" type="text"/>
Date of Disclosure (ddmmyy) <input style="width: 100%; height: 20px;" type="text"/>
Please specify the information held on disclosure in field ' DBS Children's Barred List
Please specify the information held on disclosure in field ' DBS Adults' Barred List
Please specify the information held on disclosure in field ' Other relevant information at Chief Police Officer(s) discretion
<p><u>Does the Disclosure contain a conviction, reprimand, caution or warning? YES/NO</u></p> <p>If YES, the Manager should establish the suitability of the applicant/employee for the position. Please contact your Departmental HR Team for further guidance on the decision making process and to seek approval from the Assistant Director. For new starters this should be before the recruitment process continues.</p> <p>Please specify the name of the HR contact providing the guidance</p> <p style="text-align: center;"><u>Disclosures with a Trace</u></p> <p>Following consultation/approval by the Assistant Director, please tick below:-</p> <p><input type="checkbox"/> I am unable to approve the appointment on the grounds of information provided by the criminal records check.</p> <p><input type="checkbox"/> I am able to support the appointment on the following grounds:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Signature of Manager Print Name</p> <p>Base address Date</p>

How to ensure that the DBS certificate is authentic

A DBS certificate contains a number of security features which can be used to verify whether it has been counterfeited or altered in any way:

- a 'crown seal' watermark repeated down the right hand side of the certificate, which is visible both on the surface and when holding the certificate up to a light source
- a background design incorporating the word 'Disclosure', which appears in a wave-like pattern across both sides of the document - the colour of this pattern is uniform across the front of the certificate but alternates between pink and green on the reverse side
- ink and paper that will change colour in the presence of water or solvent-based liquid

Note that the security features for a CRB certificate, issued before 1 December 2012, are the same as for the DBS certificate.

Appendix 9 Guidance on Timescales for Consideration of Suitability

Offence	Number of years until suitable	
Possession of drugs	Class A	5 years after full sentence period has expired
	Class B	4 years after full sentence period has expired
	Class C	3 years after full sentence period has expired
Intent to supply drugs	Class A	7 years after full sentence period has expired
	Class B	5 years after full sentence period has expired
	Class C	3 years after full sentence period has expired
Risk to Children (formerly known as Schedule One Offence)	Not suitable – discuss with Assistant/Service Director	
Indecency Offences (Inclusion on Sex Offenders Register)	Not suitable – discuss with Assistant/Service Director	
Other	Discuss with Senior Manager to determine period - 5 years after full sentence period has expired	
Grievous Bodily Harm	4 years after full sentence period has expired	
Actual Bodily harm	3 years after full sentence period has expired	
Driving without insurance (drivers only)	2 years after full sentence period has expired	
Drink Driving (drivers only)	2 years after full sentence period has expired	
Other motoring offences attracting a ban (drivers only)	2 years after full sentence period has expired	
Fraud	2 years after full sentence period has expired	
Theft	2 years after full sentence period has expired	
If there is no sentence then 'years until suitable' runs from the date of conviction		

These are suggested minimum figures and applicants with a recent persistent offending history may be excluded for longer periods or permanently. Please note the advice above is only a guide. If you are unsure in any way, please seek further assistance.

Appendix 10

Conviction, reprimand, caution or warning Information on a DBS check

Consider how long it is since the offence/s occurred and the age at which it occurred. Look at the pattern and frequency of offending – was it a series of unrelated trivial offences committed by a teenager, is it a consistent pattern of, for example, violent offending or is it a one-off.

1. DISPOSALS – PRE COURT

Fixed penalty notices are given for less serious offences such as parking tickets, speeding, graffiti, dog fouling, litter and public disorder. These appear on the Policy National Computer and are classed as offences.

1.1 Adults

Restorative Disposal is given where a victim of crime requests an alternative to the criminal justice system to deal with a local minor crime. The crime is dealt with in a way which achieves a positive outcome in accordance with the victim's wishes without the case going through the court process. The crime will still be recorded as usual but dealt with in a more proportionate way.

Cannabis warning is a form issued to the offender by a police officer. Only one Cannabis warning can be given, with a second offence requiring a fixed penalty notice and a third a charge to court. Admission of ownership is recorded and the person will sign the record.

Simple Caution is a formal notice from a police officer that the individual has committed a minor offence (usually only if the individual has not been in trouble before).

Conditional Caution involves the individual keeping to certain conditions – e.g. paying compensation, writing a letter of apology, cleaning graffiti or engaging in a drug-rehabilitation programme.

Penalty Notice for Disorder (also available for 16 and 17 year olds) is available for some less serious offences whether or not the individual admits the offence. The individual can then admit the offence and pay a fixed fine within 21 days or deny the offence within the same 21 day period and ask for a court hearing.

1.2 Young People

Youth Restorative Disposal is given where a victim of crime requests an alternative to the criminal justice system to deal with a local minor crime. The crime is dealt with in a way which achieves a positive outcome in accordance with the victim's wishes without the case going through the court process. The crime will still be recorded as usual but dealt with in a more proportionate way.

Reprimand was a formal verbal warning given by a police officer to a young person who admits a minor first offence.

Final Warning was a formal verbal warning given by a police officer to a young person who admits a minor first or second offence. They will be assessed by the Youth Offending Service to determine the causes of their offending behaviour. These were replaced by Youth Cautions and Youth Conditional Cautions in April 2013.

2. COURT DISPOSALS

2.1 Adults

Fines are available to both magistrates' and crown courts for a wide variety of offences.

Conditional Discharge A discharge of a convicted defendant without sentence on condition that he/she does not re-offend within a specified period of time.

Bind Over Ordered by the court to do (or not do) something e.g. keep the peace. Failure will incur a penalty.

Community Order (older convictions may have Probation Order) combines punishment with changing offenders' behaviour and making amends – sometimes directly to the victim of the crime. It can also encourage the offender to deal with any problems that might be making them commit crime – like drugs and comes with a range of requirements to cover this e.g. unpaid work, participation in specified activities or programmes aimed at changing offending behaviour.

2.2 Young People

Young people who committed an offence before 30 November 2009 may have been sentenced to one of the following: Supervision Order, Community Rehabilitation Order, Community Punishment Order, Action Plan Order, Attendance Centre Order. They have been replaced by, and are now a part of, the Youth Rehabilitation Order:

Youth Rehabilitation Order is a robust alternative to custody and comes with a range of requirements designed to address young people's offending behaviour e.g. curfew requirement, unpaid work requirement, drug testing requirement, education requirement.

Reparation Order a young person will complete work to repair the harm caused.

Referral Order a young person will appear before a Community Panel to agree a contract designed to repair the harm and prevent reoffending by addressing the issues which have contributed to offending.

Prison Sentences are imposed on both adults and juveniles only for the most serious offences. The length of sentence imposed by the court will be limited by the maximum penalty for that crime.

A custodial sentence can only be imposed if:

- the offence is so serious that neither a fine alone nor a community sentence can be justified for the offence; or
- the offender refuses to comply with the requirements of a community order; or
- the offender is convicted of a specified sexual or violent offence (see Dangerous Offender provisions under Criminal Justice Act 2003) and the court finds that the offender poses a risk of harm to the public.

Assaults

By way of easily understood legal definition, an assault is committed when a person intentionally or recklessly applies unlawful force to another.

Intentionally is self-explanatory, i.e. the assailant intended to do what they did. Recklessly means that whilst what resulted from their actions might not have been intentional, the assailant should have reasonably foreseen the consequences of what they did e.g. that pushing somebody from a high wall was likely to result in injury.

Different levels of seriousness

As a general rule the only factors that distinguish between the various offences involving assault is the degree of injury that results.

In ascending order of seriousness, the different offences involving assault likely to come within the ambit of Referral Orders are as follows:-

Common Assault, contrary to Section 39, Criminal Justice Act 1988

This offence is sometimes described as “battery” or “assault by beating” resulting for example, in comparatively minor injuries not amounting to more than the following:

- Grazes
- Scratches
- Abrasions
- Minor bruising
- Swellings
- Reddening of the skin
- Superficial cuts
- A “black eye”

Such injuries are regarded as likely to be short term in nature.

Assault occasioning actual bodily harm, contrary to Section 47, Offences Against the Person Act, 1861.

By comparison, injuries falling within the ambit of this offence are those where for example, any pain and/or discomfort is likely to last longer. Examples in this category might be:

- Loss or breaking of tooth or teeth
- Temporary loss of sensory functions e.g. unconsciousness
- Extensive or multiple bruising
- Displaced broken nose
- Minor fractures
- Minor but not merely superficial cuts probably requiring medical treatment e.g. stitches
- Psychiatric injury that is more than mere emotions such as fear, distress or panic.

Offences above this category generally involve even more serious injury and unlawful force.

Unlawful wounding/inflicting grievous bodily harm, contrary to Section 20, Offences Against the Person Act, 1861

Grievous bodily harm means serious bodily harm; wounding means the breaking of the whole outer skin or inner skin of the cheek or lip. As a reminder, generally, it is the seriousness of any harm that will determine the appropriate offence.

Examples of what would usually amount to serious harm include:

- Injury resulting in permanent disability or permanent loss of sensory function e.g. blindness
- Injury which results in more than minor permanent, visible disfigurement e.g. serious scarring
- Broken or displaced limbs or bones, including fractured skull, broken cheek bone, jaw, ribs etc.
- Injuries resulting in lengthy treatment or incapacity, including psychiatric injury

The essence of this offence is that whilst the assailant may not have intended it, the assault nonetheless resulted in serious injury to the victim. This is the most important element in deciding between this and the more serious offence falling within Section 18, Offences Against the Person Act 1861 outlined below.

Wounding/causing grievous bodily harm with intent, contrary to Section 18, Offences Against the Person Act, 1861

The essence of this offence is that the assailant intended to inflict the serious injury or injuries to the victim. Evidence of such intent might include:

- A repeated or planned attack
- Deliberate selection of a weapon or adaptation of an article to cause injury e.g. breaking a beer glass before an attack
- Making prior threats
- Using an offensive weapon e.g. knife
- Kicking the victim's head

To illustrate the seriousness of this offence, next comes attempted murder and murder. (The difference between murder and manslaughter again depends on the intention of the assailant.)

Appendix 11

RISK ASSESSMENT**FOR STARTING WORK PRIOR TO RECEIPT OF DBS CLEARANCE**

Name of Employee/Volunteer:	
Employing/Authorising Service:	
Manager responsible for individual:	
Post applied for:	
Brief nature of duties:	
Will the employee be required to have access to children/vulnerable adults as part of their role?	
If Yes – please indicate the nature of the access:	
Is the individual already working for the Authority?	Yes/No
Have they previously been subject to a DBS check?	Yes/No
If yes, what level of check? - Standard/Enhanced	
Date of Disclosure	
Position applied for	
Do you have completed and authenticated references for the individual which includes statements for working with children /vulnerable adults?	
Can you confirm that the DBS Disclosure has been applied for? Yes/No	
Can you confirm that the individual has confirmed that they do not possess a criminal record and are not subject to pending prosecutions/investigations? Yes/No	
Can you confirm that the individual has been subject to an appropriate workforce DBS Barring List check? Yes/No	Please indicate the barred list checked - Children/Adults
NO ONE WILL BE EMPLOYED/PERMITTED TO VOLUNTEER (TO WORK) WITHOUT SUPERVISION PRIOR TO DBS CLEARANCE.	
Please detail the proposed supervision arrangements for this individual on taking up their	

post. (Please include the setting in which they will be working, the name of the supervisor and the level of supervision that will be possible).

What are the proposed adjustments/restrictions to the duties of the employee/volunteer whilst awaiting the receipt of the DBS check?

Recruiting Manager comments:

Signed Date

Senior Manager comments:

Pre-Authorisation agreement Yes/No

Signed Date

Please send completed form to the Shared Services Centre, John Hadfield House, Dale Road, Matlock for processing of provisional offer of appointment or alternatively email to recruitment@derbyshire.gov.uk