

## **Appendix A**

### **CRB Policy and Procedure Revised June 2007**

#### **Introduction**

##### **1. Background**

The Criminal Records Bureau (CRB) was formed under Part V of the Police Act 1997. The role of the CRB is to reduce the risk of abuse by ensuring that those who are unsuitable are not able to work with children and vulnerable adults.

The Disclosure service implemented through the CRB has been designed so that relevant information can be made available to more organisations but always with the consent of the individual.

The effect of asking for a disclosure is to ask exempt questions under the Rehabilitation of Offenders Act. If a person is sentenced to more than 2 years in prison, the conviction can never be considered as spent and would have to be declared whatever the job role. Sentences of less than 2 years can be rehabilitated and considered as spent and therefore there is no need for this information to be disclosed. The exemption orders allow for questions to be asked about previous convictions for certain roles.

At South Cambridgeshire District Council a request for a disclosure will be made for staff: -

- working with children under the age of eighteen
- working with vulnerable adults

Final appointment will be subject to the results of the disclosure and other references.

##### **2. Levels of Disclosure**

There are 2 levels of check used by the Council: -

- **Standard Disclosure (checks)**

This disclosure is used for job roles, which involve working with children and vulnerable adults. Standard checks may also be issued for people entering certain professions such as members of the legal and accountancy professions. This disclosure will give details of all convictions held on the Police National Computer including current and spent convictions, cautions, reprimands and final warnings. If a position involves working with children, the CRB check will indicate whether information is held on three government lists of those banned from working with children or the vulnerable.

- **Enhanced Disclosure (checks)**

Enhanced checks are for posts that involve a far greater degree of contact with children or vulnerable adults. In general the type of work will involve regularly caring for, supervising, training or being in sole charge of such people. Examples include a Teacher, Scout or Guide leader. Enhanced checks are also issued for certain statutory purposes such as gaming and lottery licences. This level of check involves an additional level of check to those carried out for the Standard CRB check; a check on local police records. Where local police records contain additional information that may be relevant to the post the applicant is being considered for, the Chief Officer of police may release information for inclusion in an Enhanced check. Exceptionally, and in a very small number of circumstances (typically to protect the integrity of current police investigations), additional information may be sent under separate cover to the Counter signatory and should not be revealed to the applicant.

### **3. The Registration Process and signatories**

The Council is an approved Registered Body and has appointed a lead counter signatory, usually the HR Manager or HR Officer, who will be the main point of contact with the CRB and a number of counter-signatories. Either the lead signatory or one of the counter signatories can sign the disclosure application form. All registered bodies must follow a code of good practice, the latest version of which is available at [http://www.crb.gov.uk/PDF/code\\_of\\_practice.pdf](http://www.crb.gov.uk/PDF/code_of_practice.pdf)

**The Council is subject to quality assurance inspection visits by the CRB.**

HR will counter sign all employment CRB checks.

The licensing section will carry out checks for licensed taxi drivers.

### **4. Costs of Applications**

South Cambridgeshire District Council has an account with CRB. The Council will pay for all applications sent through on behalf of the applicant, including volunteers who do not meet the definition in the CRB guidance.

#### **Procedure**

### **5. Pre recruitment**

Appendix 1 should be reviewed to decide whether a disclosure is needed and what type of disclosure.

The fact a disclosure will be required must appear in the advertisement for the role.

### **6. Portability**

Portability refers to the re-use of a CRB Disclosure (check), obtained for a position in one organisation and later used for another position in another organisation. The CRB no longer facilitates portability. The Council requires new checks to be carried out for all new appointments.

### **7. Supervised Workers**

In exceptional circumstances newly appointed staff that require a CRB check can begin working in a position as long as they are supervised throughout the work they are doing until the disclosure has been received. The job offer should still be subject to a satisfactory disclosure and the conditional offer letter must make it clear that the employment may be ended if their CRB check shows problems.

### **8. Processing of Results from the Disclosure**

#### **No criminal record appears**

Should the applicant have no criminal record then the appointment can be confirmed subject to other satisfactory references.

#### **Employing people with criminal records: risk assessment**

If the applicant does have a criminal record, and the matter was not discussed at interview the manager must arrange a meeting with the applicant to discuss the offence in line with the Rehabilitation of Offenders Act 1974 (see appendix 2)

Before an offer of employment is withdrawn the manager should consider the following: -

- Is the conviction or other matter revealed is relevant to the position in question?

The Council has responsibility under the Criminal Justice and Court Services Act 2002, if an applicant is either convicted of a Schedule Four Offence or on the DfES List 99, the DOH List (Protect of Children Act List Services) and the National Assembly of Wales. It is an offence for a person who has been convicted to apply for a job role involving children and it is also an offence for anyone knowingly to employ such a person in such a capacity either voluntary or on a paid basis.

Other types of offences that are relevant include:

- Any form of assault (working with either children or vulnerable adults);
- Theft offences, including shop lifting (particularly those working with vulnerable adults);
- Fraud or deception (particularly working with vulnerable adults).

This list is not exhaustive and each offence must be considered.

- the seriousness of any offence or other matter revealed;
- the length of time since the offence or other matter occurred.

Remember the disclosure (check) will show all convictions, many of which may be some considerable time ago and it can be helpful to consider if in other circumstances the conviction would be spent under the Rehabilitation of Offenders Act.

- Does the applicant have a pattern of offending behaviour or the other relevant matters?
- Has the applicant's circumstances changed since the offending behaviour or the other relevant matters?
- What were the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

Further information is available in the Recruitment of Ex-Offenders Policy or from the counter-signatories in HR.

## **9. Disclosures for Existing Staff**

Existing staff will be treated as new employees if they internally transfer to a new post that requires a CRB check or the scope of the post changes

Existing staff will be asked to have a CRB check if their post meets the criteria in Appendix 1 and they are already in that post and have not previously been subject to a CRB disclosure (check). The consent of the employee will be required, as there is no contractual obligation for the employer to proceed with the disclosure. Failure to agree to the disclosure could lead to disciplinary procedures if the management request is reasonable. Please consult the counter-signatories in HR for guidance.

## **10. Rules for living on a residential site**

If an employee is employed in a role which requires a CRB disclosure (check) and in the course of that role they live on a residential site such as a sheltered housing scheme or travellers site belonging to the Council, all occupants (over the age of 10 years) sharing this accommodation will also have to undergo a Standard Disclosure. This is because these people will also be living closely with vulnerable adults and may have one-to-one contact with them.

## **11. Rechecking Of Staff**

Staff will have to undergo re-checks at regular intervals (the maximum length of time will be three years) and at any time when there is a concern about an employee and when the employee has changed their job role. This will be under the terms and conditions stated in contracts and at the discretion of the Council.

## **12. Arrest, charge, caution or conviction during the course of employment**

Anyone charged with, cautioned or convicted of a relevant offence must declare the information to his or her line manager immediately. If they are not sure the offence is relevant they should either disclose directly to the manager or disclose to the counter-signatories in the HR team who will provide advice. The manager will then liaise with the counter-signatories in HR as to any action required.

Failure to disclose a charge, caution or conviction with a relevant offence will result in disciplinary action.

## **13. Additional information received for current employees**

Where local police records contain additional information that may be relevant to the post the applicant is being considered for, the Chief Officer of police may release information for inclusion in an Enhanced check. Exceptionally, and in a very small number of circumstances (typically to protect the integrity of current police investigations), additional information may be sent under separate cover to the Counter signatory. It is a criminal offence for the counter signatory to reveal this to the person subject to the check.

In these circumstances the counter signatory will conduct a risk assessment of the situation with the police, CRB and Principal Solicitor. Considerations will include the risks to clients of the Council, the potential for loss of reputation for the Council and the rights of the employee. It is acknowledged that in very exceptional circumstances the risk assessment could lead to a dismissal on the grounds of "some other substantial reason", without the employee being given a full explanation for the reason for dismissal.

## Appendix 1 – Assessing which roles should have a CRB check

CRB checks are for those roles, which involve either working with children or vulnerable adults.

Positions of trust, which involve, such as financial roles, should be checked through the reference process during recruitment and selection.

### Working with children

The Rehabilitation of Offenders 1974 (Exceptions) Order 1975 defines 'working with children'. Further guidance is available at <http://www.crb.gov.uk/Default.aspx?page=0>

1. It is not anticipated that any employee of SCDC will fall into the following categories:
  - A position whose normal duties include work in one of the following establishments:
    - an institution which is exclusively or mainly for the detention of children;
    - a hospital which is exclusively or mainly for the reception and treatment of children;
    - a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children;
    - an educational institution;
    - a children's home or voluntary home;
    - a home provided under 82(5) of the Children Act 1989.
  - A position whose normal duties include work on a day care premises;
  - A position whose normal duties include caring for children under the age of 16 in the course of the child's employment
  - A position whose substantial part of normal duties includes supervising or training children under the age of 16 in the course of the child's employment.
2. It is anticipated that SCDC employees may fall into the following categories:
  - A position whose normal duties include caring for, training, supervising or being in sole charge of children;
  - A position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person.

The types of role covered will include sports coaches and staff at Milton Country Park, including volunteers if asked to supervise children unaided.

The types of role may include community development and support, sports development and arts and development.

Further guidance is available in the Safeguarding Children documentation and from the Corporate Manager (Policy & Performance).

All roles meeting the definition will require an Enhanced check.

Employees asked to become involved in one the following in a professional capacity should seek advice from a counter-signatory:

- member of the governing body of an educational institution
- member of a relevant local government body
- charity trustee of a children's charity

- member of the Youth Justice Board for England and Wales
- member or chief executive of the Children and Family Court Advisory and Support Service (CAFCASS).

### **Vulnerable adults**

The definitions are again provided by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Further information is available from the CRB website

<http://www.crb.gov.uk/Default.aspx?page=0>

and the Vulnerable People Policy.

- **Enhanced checks**

A vulnerable adult for the purposes of an Enhanced Disclosure (check) is a person aged 18 or over who receives services of a type listed in paragraph 1) below and in consequence of a condition of a type listed in paragraph 2) below, has a disability of a type listed at 3) below:

1. The services are:
  - a) accommodation and nursing or personal care in a care home;
  - b) personal care or support to live independently in his or her own home;
  - c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body;
  - d) social care services, or
  - e) any services provided in an establishment catering for a person with learning difficulties.

It is anticipated that SCDC employees will only come within category 1 (b) above.

2. The conditions are:
  - a) a learning or physical disability;
  - b) a physical or mental illness, chronic or otherwise including an addiction to alcohol or drugs, or
  - c) a reduction in physical or mental capacity.

It is important to note that being elderly without any of the above conditions does not make a person vulnerable.

3. The disabilities are:
  - a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions,
  - b) severe impairment in the ability to communicate with others, or
  - c) impairment in a person's ability to protect him or herself from assault, abuse or neglect.

It is anticipated that roles within Sheltered Housing will come within the definition.

Roles within Sheltered Housing, Housing Services, Housing Advice/ Homelessness, Property Services, Home Improvements Agency and Revenues and Benefits (Visiting Officers) may be covered by the definition.

It is not anticipated that within SCDC any office or employment will be concerned with the representation of, or advocacy services for, vulnerable adults in a service that has been approved by the Secretary of State or created under any enactment; and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services. Advice should be sought from a countersignatory if the situation arises.

- **Standard checks**

Work which is concerned with the provision of care services to vulnerable adults and which is of such a kind to enable the holder of that employment or the person engaged in that work to have access to vulnerable adults in receipt of such services in the course of his normal duties will need a standard check.

1. "Care services" means:

- a) accommodation and nursing or personal care in a care home (where "care home" has the same meaning as in the Care Standards Act 2000);
  - b) personal care or nursing or support for a person to live independently in his own home;
  - c) social care services;
  - d) any services provided in an establishment catering for a person with learning difficulties.
2. "Vulnerable adult", means a person aged 18 or over who has a condition of the following type:
- a) a learning or physical disability;
  - b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs;
  - c) or iii) a reduction in physical or mental capacity.

The main difference between the level of check is the level of involvement with vulnerable adults.

An example would be a Sheltered Housing Officer is likely to have regular daily contact with vulnerable adults in their own homes and would require an Enhanced check. A Multi-skilled Operative might come into contact with vulnerable adults in their own home as part of their regular working pattern and so would need a standard check.

**Appendix 2 - Flowchart**

