

Criminal disclosure & barring information investigatory interview guidance for managers

1. Introduction	2
2. Process	3
3. DBS Certificate Retention Applicant Consent Form	4
4. Risk Assessment Form	5
5. Guide - Assessing criminal disclosure & barring information	10

FOR OFFICE USE ONLY	DATE	HRMS ID	Comments
Risk Assessment Notes Received			
Copy DBS Certificate Received			
DBS Retention Consent Received			
All documents loaded to HR ER			

1. Introduction

This document includes the process, templates and guidance for managers who are required to conduct an investigatory interview with an employee, volunteer or job applicant with a disclosed criminal or barring record in accordance with the [Warwickshire County Council Disclosure & Barring Service \(DBS\) policy](#).

Warwickshire County Council has a [policy on the recruitment of ex-offenders](#). We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.

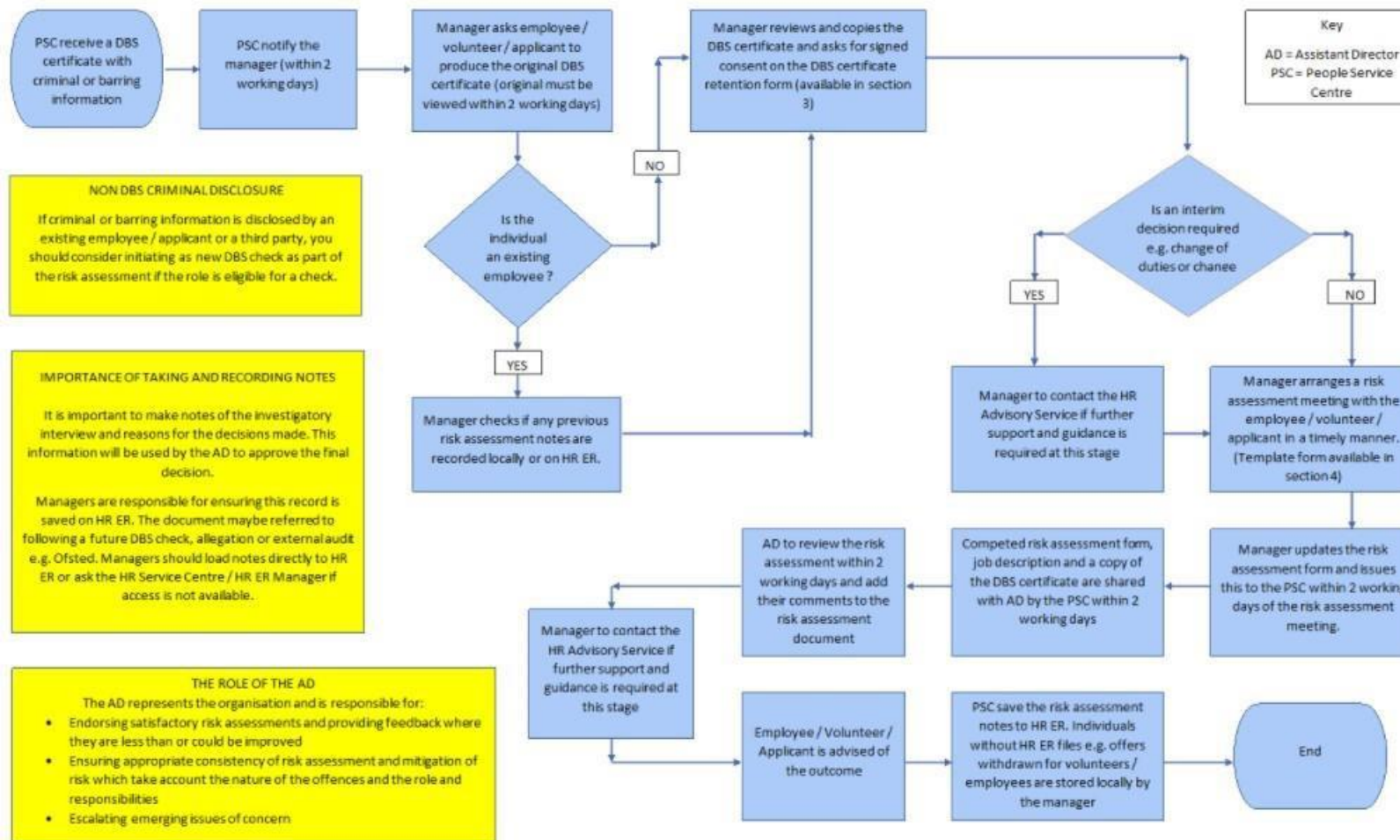
Having a criminal record alone should not automatically bar an individual from a role. The disclosed information should be fully risk assessed by managers in a timely manner to identify and consider any potential risks of hiring or continuing the employment of an individual to safeguard and protect children and vulnerable people.

Executive Directors are responsible for ensuring policies are followed for their Directorates and making Safeguarding decisions regarding employments.

Assistance with this form

For assistance with this form or the process that the form relates to or if you don't have access to HR ER to save the completed forms please contact the HR Service Centre Email: dbs@warwickshire.gov.uk or Tel.: 01926 738444

2. Process



3. DBS Certificate Retention Applicant Consent Form

Please read this Declaration of Consent carefully and sign below to confirm your agreement.

- As part of Warwickshire County Council's vetting process you recently completed a Disclosure & Barring Service (DBS) application.
- Your DBS Certificate disclosed criminal and/or barring information. You were requested to produce the original DBS certificate to your manager to view in order for a full risk assessment of the disclosed offences to be undertaken.
- A copy of your certificate will be retained electronically with your consent until the outcome of the risk assessment is communicated to you.
- Your certificate and related risk assessment notes will be stored and processed in accordance with the Data Protection Act 1998. We will treat your personal information as confidential and we will not disclose it to any third party except: (i) with your prior agreement; or (ii) as required by law.

DBS Applicant Declaration

I authorise Warwickshire County Council to retain a copy of my DBS certificate until the conclusion of the risk assessment process. I confirm that my consent is explicit, fully informed and freely given for the purposes of obtaining a disclosure certificate as stated above.

Signature	
Name	
Date	

4. Risk Assessment Form

This form should be completed by managers to record the notes and outcome of an investigatory interview in relation to the disclosure of criminal and barring information of employees, volunteers and job applicants.

1. DBS Applicant Details

Is the DBS applicant a:	Job Applicant <input type="checkbox"/>	Employee <input type="checkbox"/>	Contingent Worker <input type="checkbox"/>	Other <input type="checkbox"/>
Name				
Job Title				
Team				
Service Area				

2. Disclosure & Barring Information Disclosed By

DBS Certificate	<input type="checkbox"/>
Disclosed by individual	<input type="checkbox"/>
Disclosed by third party (e.g. another employee, member of the public, police etc)	<input type="checkbox"/>

3. Interim Decision (to be completed in advance of the interview)

Date

		Date
1.	No action required in advance of interview.	
2.	Redeployment to another role while further investigation is undertaken.	
3.	Modify role while further investigation is undertaken.	
4.	Suspension while investigation continues.	
5.	Offer on hold (Job applicants/volunteers)	
6.	All offences disclosed on the DBS Certificate have been assessed following a previous DBS check. The activity of the role remains unchanged and no new information has been disclosed that would require further assessment.	
Justification of interim decision (If number 6 is selected in section 3 please proceed to section 6)		

4. Interview Questions & Notes

- Before conducting the risk assessment meeting ensure you read the full guidance at the end of this document.
- Provide the individual with an overview of the purpose of the meeting and the risk assessment/investigatory process.
- Explain to the individual that the information disclosed on the DBS Certificate and the risk assessment notes will only be shared with individuals involved in hiring or continuing to employ individuals.

Q1.	Are the details on your DBS certificate accurate? If not accurate the applicant should be advised to refer the issue to the DBS and an interim decision should be made.)
A1.	
Q2.	Did you disclose the offences when you applied for this position/ when the offences occurred if already employed? If not what are the reasons why you did not disclose them?
A2.	
Q3.	What is the offence or offences that have been disclosed and the dates?
A3.	
Q4.	Please can you explain the circumstances of each offence disclosed?
A4.	
Q5.	Has there been a change in your circumstances which is relevant to the offences e.g. domestic/financial situation?
A5.	

Q6.	Are you subject to a police investigation currently?
A6.	
Q7.	Please record here any additional questions that were raised with the individual and their response. Please attach additional paper if required.
A7.	
Q8	Is there anything further that would be helpful to know/consider before a decision is made?
A8.	

5. Managers next steps

Decide the outcome of the investigatory interview in a timely manner. Consider factors such as the following before making your final decision:

- Is the individual barred from undertaking regulated activity which is a requirement of the role?
- What was the seriousness of the offence/concern raised and the impact for those using WCC services?
- Was the offence a 'one off' or do they have several convictions?
- How long ago were the offences committed?
- How old was the individual when the offences were committed?
- Is the type of offence/s relevant to the duties of the role?
- Were there particular circumstances at the time that led to the offending? Which have now changed? What evidence is there of this change?
- What is the person's attitude to the offences?

6. Managers recommendation (to be completed after the interview)		Please select	Date
1.	To continue in post/Progress offer of employment.		
2.	Withdrawal of offer of employment.		
3.	Continue/initiate redeployment/role modification pending investigation.		
4.	Continue/initiate suspension pending investigation.		
5.	All offences disclosed on the DBS Certificate have been assessed following a previous DBS check. The activity of the role remains unchanged and no new information has been disclosed that would require further assessment.		

Detailed justification of managers recommendation

--

7. Manager Declaration

Signature*	
Name	
Job Title	
Date	

**If this form is emailed from a valid WCC email account then a signature will not be required*

8. Next steps

Submit the completed risk assessment, DBS certificate and a job description for the role to the HRSC dbs@warwickshire.gov.uk within two working days. Please send the DBS Certificate as a separate attachment as this will be deleted once a decision is endorsed.

You will be notified of the outcome of the Executive Director review of the risk assessment within 6 working days.

The Executive Director will notify the HR Service Centre and the manager of the decision.

9. Executive Director Outcome/Decision

Justification for the decision (to be completed by the Executive Director).

--

**If this form is emailed from a valid WCC email account then a signature will not be required*

Manager next steps

1. Inform the employee/job applicant/volunteer of the outcome in a timely manner.
2. For existing employees the manager must ensure they upload the consent form and the risk assessment notes to HR ER. For non-employees please retain the documents locally. This information may be requested to assist with future vetting/DBS rechecking requirements or by external auditors e.g. Ofsted.

5. Guide - Assessing criminal disclosure & barring information

Introduction

Warwickshire County Council has a [written policy on the recruitment of ex-offenders](#). We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.

Having a criminal record alone should not automatically bar an individual from a role. The disclosed information should be fully risk assessed by managers to identify any potential risks of hiring or continuing the employment of an individual. A process and relevant forms are included with this guide to support managers with this task.

The Rehabilitation of Offenders Act 1974 & Exempted Posts

The Rehabilitation of Offenders Act 1974 is designed to help people with a criminal record get back into work by allowing their record to become 'spent' after a period of time, provided they have not reoffended.

Once a record is spent, this means that the person is no longer required to declare their offence to a prospective employer. At this point, as the Act says, they are 'entitled to be treated for all purposes in law as a person who has not been convicted or sentenced'.

Some occupations are rightly exempt from the Act. Please refer to the [Rehabilitation of Offenders Act 1974 \(Exceptions Order\) 1975](#). For example, people working with children or with adults in vulnerable circumstances may be required to have a Disclosure & Barring Service check which will disclose their offences, whether they are spent or not.

On 10 March 2014 changes came into force that alter the way some rehabilitation periods are set so that they are fairer and reflect better the seriousness of sentences imposed.

Under the new system, rehabilitation periods for community orders and custodial sentences will comprise the period of the sentence plus an additional specified period, rather than all rehabilitation periods starting from the date of conviction as it was under the previous regime. So, for an example, an adult offender sentenced to two and a half years custody, who would previously have had to declare their criminal conviction for ten years from the date of conviction, will now have to disclose their conviction for the period of the sentence plus a further four years (giving a total rehabilitation period of 6.5 years). Detailed information in relation to the rehabilitation periods for custodial sentences can be found [here](#).

Disclosure of criminal and barring information

Individuals conditionally offered paid and volunteer positions eligible for DBS checks will be required to complete an online DBS Application Form as part of the pre employment vetting process.

Existing employees are obliged to declare information in relation to criminal and barring information throughout the duration of their employment (please refer to the employer/employee responsibilities document available here <http://www.warwickshire.gov.uk/conduct>) or the information may be disclosed by a third party (e.g. another employee, a member of the public, the police etc). Depending on the nature of the information disclosed by an employee or third party the individual may be asked to complete a new DBS application subject to the eligibility of their post.

Barring

Jobs that involve caring for, supervising or being in sole charge of children or adults may require an enhanced DBS check with a check of the barred lists. This will check whether someone's included in the 2 DBS 'barred lists' (previously called ISA barred lists) of individuals who are unsuitable for working with children and/or adults. People on the barred lists can't do certain types of work.

There are specific rules for working in places where there are children - known as working in a regulated activity with children. These are different than the rules for regulated activities for adults.

It's against the law for employers to employ someone or allow them to volunteer for this kind of work if they know they're on one of the barred lists.

Barring Referrals

Employers must refer someone to DBS if they:

- dismiss them because they harmed someone
- dismiss them or removed them from working in regulated activity because they might have harmed someone
- were planning to dismiss them for either of these reasons, but they resigned first

You're breaking the law if you don't refer someone to DBS when you should. Contact the DBS barring helpline for help referring someone to DBS. Email dbsdispatch@dbs.gov.uk.

Notification of completed DBS certificates

The HR Service Centre will be notified when a DBS application is complete including whether the DBS certificate contains information or not; but will not have access to view a copy of the completed disclosure. The HR Service Centre will notify the relevant manager of a DBS certificate with information. The manager should check HR ER to confirm if a previous risk assessment was completed for the offences disclosed.

Timescales for requesting the applicant DBS certificate

For DBS certificates that contain information it is the managers responsibility to ensure that the applicant produces their copy of the DBS Disclosure in a timely manner. For existing employees or volunteers completing DBS rechecks, certificates should be viewed within 2 working days.

Making an interim decision in advance of a risk assessment meeting

On receipt of criminal disclosure and barring information via a DBS certificate or on receipt of information from an individual or third party an interim decision should be made by the manager in relation to any

action required in advance of the completion of a risk assessment. Depending on the type of information disclosed managers might require existing employees/volunteers to be removed from their post pending the outcome of the risk assessment/ investigation.

Verifying DBS certificates

If you are unsure if the DBS certificate produced by the DBS applicant is genuine please check with the HR Service Centre for advice. Alternatively further information in relation to security features of a DBS Certificate are available on the DBS website www.gov.uk/disclosure-barring-service-check/tracking-application-getting-certificate

Assessing the risk of disclosed criminal or barring information

Following receipt of the applicants DBS certificate a risk assessment should be completed in a timely manner involving a meeting with the individual to consider whether you continue with your conditional offer/ employment of the individual. Key considerations before making your final decision are:

- Was the offence a 'one off' or do they have several convictions?
- How long ago were the offences committed?
- How old were they when the offences were committed?
- Is the type of offence/s relevant to the duties of the role?
- Were there particular circumstances at the time that led to the offending?
- Have these circumstances now changed?
- What evidence is there of this change?
- What is the person's attitude to the offences?

Hiring Managers may contact the HR Advisory Service for further advice on how to proceed with the investigation.

Decision

Executive Directors are responsible for reviewing all risk assessment decisions and making the final decision on the outcome relating to the disclosure of criminal offences.

Outcome of the risk assessment/investigation

Following approval by the Executive Director, the manager and the HR Service Centre will be informed of the final decision. The manager should load the approved risk assessment form to HR ER. DBS certificates completed for volunteers and other workers without electronic HR ER files should be securely retained locally by the manager.

Importance of conducting the risk assessment process in a timely manner

Failure to complete the risk assessment process in a timely manner could mean that vulnerable clients are unnecessarily exposed to risk and therefore may be considered a disciplinary offence.

Further assistance with this form

For assistance, please contact the HR Service Centre. Email: dbs@warwickshire.gov.uk or Tel.: 01926 738444.

Version:	1
Date Issued:	November 2022
Team:	Recruitment
Protective Marking	Not Protectively Marked