

PROVISION OF DISCLOSURE CHECK SERVICE TO External Agencies – HR10



Agreement between Dorset County Council and **(insert name of external organisation)** in respect of Disclosure and Barring Service.

It is agreed that Dorset County Council will act as a Registered Body in order to undertake checks on your behalf through the Disclosure and Barring Service on the following terms and conditions.

DORSET COUNTY COUNCIL will :-

- Undertake to provide a criminal record check through the DBS in accordance with the DBS Code of Practice and the requirements of the DBS. Please see attached information on Dorset County Council as an umbrella body.
- Will charge for the clearance of each application at the rate imposed by the DBS plus an administration charge (currently £12 per check) plus an external identity validation check charge (currently £6 per check) if applicants cannot use Route 1 to prove their identity (see DBS guidance notes for identity checkers at <https://www.gov.uk/dbs-check-requests-guidance-for-employers#identity-validation-for-dbs-checks>). Volunteer checks are undertaken by the DBS free of charge however the County Council will apply an administration charge. The external validation check charge will also be applied where applicable for volunteer DBS checks. Invoices will be raised on a quarterly basis. The administration charge and external validation check charge may be amended at the discretion of the County Council and you will be notified at least 30 days in advance of any change being made to these charges.
- Provide this service initially for one year subject to review thereafter.
- Retain the right to withdraw the provision of the service without notice at its discretion.
- Have no comment or responsibility as to the DBS content or the consequences of any decision which you may take as a result of receiving the information from the individual.

(insert name and address of agency) will:-

- Nominate a responsible person who will conduct and certify the identity checks required as part of The County Council requirements in the completion of Section W of the Disclosure Application Form. The nominated person will be responsible for liaising with the Registered Body in all matters relevant to the provision of the Disclosure and Barring Service. The nominated person will also be entirely responsible for viewing the disclosure certificate (which is sent to the applicant only) and for any recruitment or other decision taken in respect of the disclosure information and for the storage, handling and retention of disclosure information in accordance with the requirements of the DBS code of practice/employment of ex offenders requirements (attached).

Name of Nominated Person: **(Insert name of person)**

- I **(insert name)** employed as **(insert position)** of **(insert pharmacy name)** have received the original copy of this agreement and accept and agree to the terms and conditions upon which Dorset County Council will provide a Disclosure and Barring Service. I will ensure full compliance with the DBS Code of Practice (attached). I note the additional guidance on identity checking procedures and completion of applications. I also understand the requirement for my organisation to have a policy on the safe storage and handling of disclosure information and a policy on the recruitment of ex-offenders (sample policies attached). I undertake to ensure that a copy of **(insert pharmacy name)** policy on the recruitment of ex-offenders will be issued to all applicants for employment or voluntary work who are subject to DBS checking.

Name (please print):

Signed:

Date:

From the 17 June 2013 any new applications for a DBS check will result in the release of the disclosure certificate **directly to the individual** and not to the County Council as the Registered Body (this does not include basic disclosure checks).

This means that the external organisation who is recruiting or rechecking will need to rely upon the individual to show their certificate once they have received it, where hard copy DBS applications are used. Where a DBS application is carried out using dorsetcc.employmentcheck.org, then only certificates containing information will need to be seen.

The external organisation should check that the certificate presented shows that the individual has been checked at the required level (Standard or Enhanced) and for the relevant service user group (eg. Child Workforce, Adult Workforce).

The DBS Certificate contains a number of security features, which are shown below, which can be used to verify the authenticity of the certificate. Please see the DBS website to access the security features of a DBS certificate guidance and details on the checks that can be made <https://www.gov.uk/dbs-check-requests-guidance-for-employers#security-features-of-a-dbs-certificate>

Security features

Certificates have security features to prove they're genuine:

- a 'crown seal' watermark repeated down the right hand side of the certificate, visible both on the surface and when holding it up to the light
- a background design featuring the word 'Disclosure', which appears in a wave-like pattern across both sides of the certificate; the colour of this pattern is uniform across the front of the certificate but alternates between pink and green on the reverse of the certificate
- ink and paper that change colour when wet

If an individual produces a certificate with convictions or other disclosed information, the external organisation will need to undertake a risk assessment of the relevance of this information to the work being undertaken by the individual. The external organisation should take account of the policy on the employment of ex offenders as it is important not to discriminate against those with convictions.

DBS Code of Practice for Registered Persons and Other Recipients of Disclosure Information.

Purpose of the code

The Code of Practice is intended to ensure – and to provide assurance to those applying for Standard and Enhanced Disclosures – that the information released will be used fairly.

The code also seeks to ensure that sensitive personal information is handled and stored appropriately and is kept for only as long as necessary. Guidance to employers on other matters will be issued separately.

Introduction

This Code of Practice is published under section 122 of the **Police Act 1997** ("the Act") in connection with the use of information provided to registered persons ("Disclosure information") under Part V of that Act.

Disclosure information is information

- contained in criminal record certificates under section 113 of the Act (which are referred to in this Code as "Standard Disclosures"), or
- contained in enhanced criminal record certificates under section 115 of the Act (referred to in this Code as "Enhanced Disclosures"), or
- provided by the police under section 115(8) of the Act.

Except where indicated otherwise, the Code of Practice applies to all recipients of Disclosure information - that is to say

- registered persons,
- those countersigning Disclosure applications on behalf of registered persons, and
- others receiving such information.

Where reference is made to "employers", this should be read as including any person at whose request a registered person has countersigned an application, including

- voluntary organisations and others engaging, or using the services of, volunteers, and
- regulatory and licensing bodies.

Further information in relation to the Code, and other matters relating to registered persons and others having an involvement with Disclosure information, is contained in an Explanatory Guide.

Purpose of the Code

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Obligations of the Code

These are as follows:

1. Fair use of Disclosure information

Recipients of Disclosure information shall:

- observe guidance issued or supported by the Disclosure and Barring Service (DBS) on the use of Disclosure information - and, in particular, recipients of Disclosure information shall not unfairly discriminate against the subject of Disclosure information on the basis of conviction or other details revealed.

In the interest of the proper use of Disclosure information and for the reassurance of persons who are the subject of Disclosure information, registered persons shall

- have a written policy on the recruitment of ex-offenders, so that a copy can be given to all applicants for positions where a Disclosure will be requested.

- ensure that a body or individual at whose request applications for Disclosures are countersigned has such a written policy and, if necessary, provide a model for that body or individual to use.

In order that persons who are, or who may be, the subject of Disclosure information are made aware of the use of such information, and be reassured, Employers shall

- ensure that application forms for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application, so that applicants are aware of the situation;
- include in application forms or accompanying material a statement to the effect that a criminal record will not necessarily be a bar to obtaining a position, in order to reassure applicants that Disclosure information will not be used unfairly;
- discuss any matters revealed in Disclosure information with the person seeking the position before withdrawing an offer of employment.
- make every subject of a Disclosure aware of the existence of this Code of Practice, and make a copy available on request; and
- in order to assist staff to make appropriate use of Disclosure information in reaching decisions, make available guidance in relation to the employment and fair treatment of ex-offenders and to the Rehabilitation of Offenders Act 1974.

2. Handling of Disclosure information

Recipients of Disclosure information

- must ensure that Disclosure information is not passed to persons not authorised to receive it under section 124 of the Act. Under section 124, unauthorised Disclosure is an offence;
- must ensure that Disclosures and the information they contain are available only to those who need to have access in the course of their duties;
- must securely store Disclosures and the information that they contain;
- should retain neither Disclosures nor a record of Disclosure information contained within them for longer than is required for the particular purpose. In general, this should be no later than six months after the date on which recruitment or other relevant decisions have been taken, or after the date on which any dispute about the accuracy of the Disclosure information has been resolved. This period should be exceeded only in very exceptional circumstances which justify retention for a longer period.

Registered persons shall

- have a written security policy covering the correct handling and safe-keeping of Disclosure information; and
- ensure that a body or individual at whose request applications for Disclosures are countersigned has such a written policy, and, if necessary, provide a model for that body or individual to adopt.

3. Assurance

Registered persons shall:

- Co-operate with requests from the DBS to undertake assurance checks as to the proper use and safekeeping of Disclosure information.
- report to the DBS any suspected malpractice in relation to this Code of Practice or any suspected offences in relation to the misuse of Disclosures.

4. Umbrella Bodies

(a) An Umbrella Body is one which has registered with the DBS on the basis that it will countersign applications on behalf of others who are not registered.

(b) Umbrella Bodies must satisfy themselves that those on whose behalf they intend to countersign applications are likely to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act 1974.

(c) Umbrella Bodies must take reasonable steps to ensure that those to whom they discuss Disclosure information observe the Code of Practice.

5. Failure to comply with the Code of Practice

The DBS is empowered to refuse to issue a Disclosure if it believes that

- a registered person, or
- someone on whose behalf a registered person has acted has failed to comply with the Code of Practice.

Sample Policy Statement on the Recruitment of Ex-offenders

It is a requirement of the DBS Code of Practice that all Registered Bodies have a written policy on the recruitment of ex-offenders; a copy of which can be given to Disclosure applicants at the outset of the recruitment process. The policy should ensure that applicants who have a criminal record are treated appropriately and are not subject to unfair discrimination because of a conviction or other information revealed.

As you are receiving Disclosure information and using it to make recruitment decisions you are also required to have such a policy. To help you meet this requirement the DBS has produced the following policy statement which can be used or adapted.

Please note that you should issue this policy to all applicants for positions requiring DBS Disclosure.

Sample Policy Statement

- As an organisation using the Disclosure and Barring Service (DBS) disclosure service to assess applicants' suitability for positions of trust, [Organisation Name] complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or other information revealed.
- [Organisation Name] is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
- We have a written policy on the recruitment of ex-offenders, which is made available to all Disclosure applicants at the outset of the recruitment process.
- 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. We select all candidates for interview based on their skills, qualifications and experience.
- A Disclosure is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required, all application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
- Where a Disclosure is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within [Organisation Name] and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.
- Unless the nature of the position allows [Organisation Name] to ask questions about your entire criminal record, we only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974.
- We ensure that all those in [Organisation Name] who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders e.g. the Rehabilitation of Offenders Act 1974.
- At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.
- We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.
- Having a criminal record will not necessarily bar you from working with us. This will depend on the nature of the position and the circumstances and background of your offences.

Sample Policy Statement: Secure Storage, Handling, Use, Retention & Disposal of Disclosures and Disclosure Information

It is a requirement of the DBS Code of Practice that all Registered Bodies are obliged to ensure that a body or individual, on whose behalf they are countersigning Disclosure applications, has a written policy on the correct handling and safekeeping of Disclosure information.

To help you meet this requirement, the DBS has produced the following sample policy statement, which can be used or adapted for this purpose.

Sample Policy Statement

General principles

As an organisation using the Disclosure and Barring Service (DBS) Disclosure service to help assess the suitability of applicants for positions of trust, [Organisation Name] complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see it on request.

Storage and access

Disclosure information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with Section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment (or other relevant) decision has been made, we do not keep Disclosure information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, we will consult the DBS about this and will give full consideration to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately destroyed by secure means i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any copy or representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.