

CYNGOR SIR *POWYS* COUNTY COUNCIL

Disclosure & Barring Service (DBS) Policy and Procedure

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Cyngor Sir Powys County Council

Disclosure and Barring Service (DBS) Policy and Procedure

Preface

Following the murders of Jessica Chapman and Holly Wells by Ian Huntley (a school caretaker) in 2002, the Bichard Inquiry was commissioned. One of the issues this Inquiry looked at was the way employers recruit people to work with children and vulnerable adults.

It asked whether the way employers check the background of job applicants is reliable enough. It also asked whether employers should be responsible for deciding whether a job applicant can be safely employed.

The Inquiry's recommendations led to the Safeguarding Vulnerable Groups Act 2006, which recognised the need for a single agency to vet all individuals who want to work or volunteer with vulnerable people.

In 2011 the Government announced its plans to scale back the criminal records and barring system to more proportionate levels whilst ensuring that they continue to provide effective protection for those who need it. The changes to those systems are included in the Protection of Freedoms Act 2012. Some of these changes will come into effect on the 10th September 2012 and this policy has been amended to incorporate these changes.

During December 2012 the work of the DBS and the ISA has been merged into a single, new Non-Departmental Public Body. This is called the Disclosure and Barring Service (DBS).

A number of further changes came into effect in June 2013; the Update Service, Single Certificate and the Rehabilitation of Offenders Act 1974 exceptions order and this policy has been amended to incorporate these changes.

Policy Statement

Powys County Council has a duty to ensure the protection of children and vulnerable adults to whom it provides a service.

This places a responsibility on the Council to ensure that it has clear and robust procedures for establishing the suitability of all Council employees and volunteers as a fundamental part of the recruitment and appointment process and beyond. This responsibility also extends to include the checking of individuals who hold responsibilities as Corporate Parents, to those organisations contracted by the Council to discharge its duties and those to whom we offer advice as an Umbrella Body. Such organisations may include other statutory, independent and voluntary bodies as well as private businesses.

This document sets out the standards expected of all managers and staff responsible for Disclosure and Barring checks as part of safe recruitment, selection and management of the workforce. The Head of Business Services will have overall responsibility for the implementation of Disclosure & Barring Service Certificates (DBS) within the Council. The

relevant Strategic Director will be registered with the DBS as the Lead Counter-signatory. Advice and support on the proper implementation of this policy will be made available from the DBS Unit within Business Services.

The procedure for the checking of criminal records of potential employees (and others) does not take the place of normal recruitment procedures, and the results of other elements of the recruitment procedure must also be taken into account when assessing the suitability of candidates. This policy is about reducing risk by putting in place clear standards and robust practices to protect children and vulnerable adults. This means deterring and preventing unsuitable people being put into positions where they can cause harm, and on the occasions that unsuitable people are found in the organisation or within the recruitment process, that they are removed effectively and as far as possible prevented from moving on to another organisation to do the same. The best safeguard is a high standard of management practice which is applied consistently – including induction, performance management, appraisal, supervision and monitoring once the recruitment decision has been made.

This policy should therefore be used in conjunction with the wider policies and procedures relating to recruitment and selection to ensure safe and best practice is maintained and that the statutory obligations of the Council have been met. Detailed guidance on Recruitment and Selection can be found in the Recruitment Code of Practice.

Even the most careful selection process cannot identify all those who pose a risk to children or vulnerable adults. Therefore, employees at all levels should be alert to untoward behaviour. The emphasis should be on the creation of an ‘offender aware’ culture which gives the people we work with the confidence to raise any concerns they may have.

Further information and guidance about the Disclosure & Barring Service can be found at www.homeoffice.gov.uk/agencies-public-bodies/DBS/

1. Strategic Safe Recruitment Forum

The implementation of this policy and procedure is governed by the Strategic Safe Recruitment Forum comprising Heads of Service, co-ordinated by Business Services and chaired by the relevant Strategic Director. The role of this forum is to consider, discuss and agree policy matters and facilitate any required action within their service areas. The significance of matters pertaining to DBS checks determines that, wherever possible, Heads of Service attend the forum in person rather than nominating a substitute.

2. Counter-signatories

Counter-signatories and people who verify identification as part of the DBS process must be made aware of their explicit responsibilities and obligations in line with this policy and the DBS Code of Practice and existing and emerging Online Guidance. In particular they should frequently check the on-line information guidance for updates, read and circulate the DBS ‘Disclosure News’ newsletter and ensure that they are following all relevant guidance. Counter-signatories will reside within the DBS Unit with the exception of those employees nominated by the Safe Recruitment Forum to remain signatories for specific business reasons.

3. Who is covered by this policy?

DBS checks are most commonly applicable to appointees to posts/roles that undertake regulated activity.

Basic Checks are undertaken on those individuals with access to PSN Services. Baseline Personnel Security Standard (BPSS) has mandatory pre-employment controls that are required before individuals can have access to some secure ICT systems. A Basic Disclosure will only be required for those staff whose position within the Authority does not have a DBS requirement. Eligibility for this check is determined by the Principal ICT Security Officer.

Standard level DBS checks are undertaken on those individuals who have access to sensitive information relating to children or vulnerable adults.

Someone who is aged under 16 is not eligible to apply for a DBS check.

What is Regulated Activity?

The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

Regulated activity excludes family arrangements, and personal, non-commercial arrangements.

Regulated activity relating to children

The new definition of regulated activity relating to children comprises only:

(i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;

(ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers;

Work under (i) or (ii) is regulated activity only if done regularly. Regular means carried out by the same person frequently (once a week or more), or on 4 or more days in a 30 day period or overnight.

(iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;

(iv) Registered childminding; and foster-carers.

Regulated activity relating to adults

The definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on

the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity

There are six categories of people who will fall within the new definition of regulated activity **(and so will anyone who provides day to day management or supervision of those people)**. A broad outline of these categories is set out below.

(i) Providing health care

Any health care professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for further details about what is meant by health care and health care professionals.

(ii) Providing personal care

Anyone who:

- provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability;
- prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting or supervision; or trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability.

(iii) Providing social work

The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client.

(iv) Assistance with cash, bills and/or shopping

The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person's cash, paying their bills or shopping on their behalf.

(v) Assistance in the conduct of a person's own affairs

Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example by virtue of an enduring power of attorney. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for the further categories which are covered here.

(vi) Conveying

A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health

care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.

DBS checks apply to appointees to posts/roles which involve working with, or who have access to, sensitive information or those with key decision-making responsibilities in respect of children and/or vulnerable adults, in a voluntary or employed capacity. Guidance is provided below for specific groups for clarification.

- ***Adopters:*** checks are carried out for all Adoption applicants and are free of charge. A new DBS check will need to be undertaken if the approval process has not been completed within 12 months of the date of the DBS check.
- ***Agencies:*** employment agencies and businesses must provide written confirmation (including Certificate number) to Powys County Council of a DBS check (including Children's/Adult Barred List Check) dated within the last 12 months for all agency staff working with children or vulnerable adults.

For agency staff employed through Randstad DBS checks are undertaken on initial engagement and then annually using the new Update Service. Powys County Council DBS Unit will need to see a copy of the certificate and undertake the online check. Agency staff employed through Randstad would be required to follow the same DBS process as Powys County Council Staff.

- ***Contractors:*** where private organisations are engaged under contract by the Council, and those organisations employ staff to carry out work for the Council, DBS checks will be required where the contractor is engaged in regulated activity. In such cases, the contractor will be required to provide sufficient evidence that their own employees have undergone the DBS process with a satisfactory outcome. Such contractors should be made aware of the Council's DBS policy, and Service agreements should outline the responsibilities and expectations that Contractors should be required to follow appropriate checking procedures which should be written into contract documentation. DBS checks for Contractors are to be renewed every 3 years.
- ***Direct Payment Service Users:*** it is the responsibility of the Care Manager to ensure that the service user is informed that the Council will meet the cost of a Disclosure & Barring Service check of prospective personal assistants. Service users may already know their prospective personal assistant on a personal level, and may be reluctant to ask for a check to be made. However, the Council has a responsibility to seek to protect children/vulnerable adults and service users must be advised that a DBS check is required.
- ***Foster Carers:*** checks are carried out for all Powys County Council Foster Carer applicants, Foster Care family members and Foster Carer Support. A new DBS check will need to be undertaken if the approval process has not been completed within 12 months of the date of the DBS check.
- ***Host Families:*** a DBS is not required if the exchange visit is for less than 28 days. A DBS check will only be required if the exchange visit is for 28 days and over.

- ***Hosting Work Experience:*** DBS checks should be considered for the employer hosting work experience in all of the following cases:
 - 1) Students identified by the school as vulnerable for educational, medical, behavioural or home circumstance reasons.
 - 2) Students on placements lasting more than 15 days over an extended time-frame, especially where these involve:
 - regular lone working with an employer over long periods (i.e. anything over half a day at a time);
 - placements located in particularly isolated environments; and
 - placements involving a high degree of travelling.
 - 3) Placements which include a residential element.
- ***Overseas Workers:*** special care should be taken to utilise all available avenues to check candidates' backgrounds when candidates are from overseas – the DBS website details availability of criminal record checks from overseas, and relevant professional bodies such as Care Council for Wales, also have registration processes and guidance that can be followed. The DBS provides an Overseas Information Service which will provide employers with details of the information that applicants may be able to obtain from their country of origin. This may involve obtaining a translation of the information that comes back. Further information and guidance can be found at:
<http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1087477219&type=RESOURCES&furlname=DBSoverseas&furlparam=DBSoverseas&ref=&domain=www.businesslink.gov.uk>
- ***Powys Teaching Health Board (tHB) Staff:*** it is the responsibility of Powys tHB to carry out and maintain DBS checks for their staff seconded to work with children or vulnerable adults within Powys County Council. Written confirmation of the individual's DBS details must be submitted to Powys County Council DBS Unit. Details required include the level, date and certificate number of DBS check.
- ***Regular Visitors to Schools:*** regular visitors to the same school who have contact with the same groups of children on a regular basis will need an enhanced DBS check. However, a DBS check will **not** be required in cases where a person may visit a school only once but their work takes them into numerous schools as a one-off visit. This would be likely to apply to visiting authors, drama companies, poets and other people who visit an individual school to deliver a one-off session for pupils, but will repeat such sessions in other schools on a regular basis.
- ***School Governors:*** school Governors who do not hold a current Enhanced Powys County Council DBS at the time of their appointment will be required to complete a check immediately after being elected to their position. School Governors will undertake a renewal of the DBS Check every 4 years.
- ***Schools Offering Access to Extended Services:*** many primary and secondary schools offer breakfast and after school clubs and other services within the Community such as Mudiad Meithrin and community use of facilities including adult and family learning and ICT. These services will often be provided beyond the school day but not necessarily by teachers or on the school site but may be at other schools or run by private and voluntary sector providers.

Requirements placed upon schools relating to existing staff and volunteers at the school will extend to incorporate those involved in the provision of extended services. So where the governing body provides services or activities directly under the management of the school, the school's arrangements for appointments, recruitment, vetting checks and record keeping will apply.

Where a third party is responsible for running the services there should be clear lines of accountability and written agreements setting out the responsibility for carrying out recruitment and vetting checks on staff and volunteers. Schools should only work with providers that can demonstrate that they have effective procedures, training and vetting arrangements for their staff.

- ***Students and Trainees:*** checks must be carried out on students where they would have substantial access to vulnerable adults and children, or information pertaining to those groups, as part of their training, for example to become Social Workers. It is the headteacher's responsibility to ensure that student teachers have a DBS from the relevant University. Students, trainees and others employed for limited periods of practical work as part of their training, or for work experience, should not be subject to a DBS check. Effective supervision must be an integral part of all placements as a matter of good practice.
- ***Supply Teachers:*** supply teachers are required to undertake a 3 yearly Enhanced level DBS check in order to be added to the live pool of E Teach. The DBS application form is sent as part of the recruitment pack. The DBS check is valid for a period of 6 months before the addition of the supply teacher to E Teach. If other checks and references have not been processed within this 6 month period then a new DBS check will be required.
- ***Taxi Drivers:*** licenced taxi drivers who drive a vehicle only for children are subject to an Enhanced level DBS check with a check to the Children's barred list as part of their licensing application.
- ***TUPeD Staff:*** if an Employee is being TUPeD over to Powys County Council from another organisation, employment checks cannot be undertaken until the transfer is completed. Once the transfer is complete and the employee is under the Council's employment pre-employment checks can be undertaken. If the Authority are made aware of any Cautions/Convictions they should be dealt with in line with Powys County Council's adverse disclosure process.
- ***Volunteers:*** a volunteer can be defined as a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative. It is the responsibility of the manager or headteacher to ensure that a DBS check is carried out on volunteers who undertake regulated activity. The DBS does not charge for checks for volunteers. Volunteers should undertake a renewal of the DBS check every three years.
- ***Voluntary Organisations:*** the Council may engage voluntary organisations to discharge some of its statutory functions. The arrangements applicable to contractors also apply to voluntary organisations. The DBS does not charge for checks for volunteers.

4. What Are DBS checks For?

A DBS check is a checking mechanism managed by the Disclosure and Barring Service which provides registered bodies and employers with a report on the criminal record of an individual, subject to eligibility criteria described throughout this policy. The process is a formal one and involves a standard application procedure. DBS checks will provide information required by statute that has been recorded via Police records and other statutory lists; they do not give all the answers to an individual's suitability, however, and during the recruitment process, appointing officers must ensure that due attention is given to other recruitment checks as a whole.

The Disclosure and Barring Service have two levels of checks, depending on the nature of the post in question: Standard and Enhanced.

5. Basic Certificate

The Basic Disclosure check contains only convictions considered unspent under The Rehabilitation of Offenders Act 1974. Powys County Council only undertake Basic level checks on those individuals requiring the check under the Baseline Personnel Security Standard (BPSS). For information and guidance regarding eligibility for a Basic Check please contact the Principal ICT Security Officer.

6. Standard Certificate

The standard certificate shows current and spent convictions, cautions, reprimands and warnings held on the Police National Computer (PNC). Standard checks do not include checks on the Children and Vulnerable Adults' barred lists therefore should not be used for individuals or posts working in direct contact with these groups.

7. Enhanced Certificate

Enhanced certificates are available to anyone engaged in regulated activity. It is also available for certain licensing purposes and judicial appointments. This is 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 in the Council would include (but not be exclusive to) teachers, social workers, corporate parents, youth workers or care assistants.

This level of certificate involves an additional level of check to those carried out for the Standard certificate. An Enhanced certificate includes a check on local police records. Where local police records contain additional information that might be relevant to the post the applicant is being considered for, the Chief Officer of Police may release information for inclusion in an Enhanced certificate.

8. Checks to the Barred Registers – a register of those individuals barred from working with Children or Adults

Individuals who hold positions which meet the eligibility criteria for an Enhanced Level DBS Check also need to be checked against one or both of the registers of those individuals who are barred from working with either Vulnerable Adults or Children as appropriate.

The check to the barred register is undertaken at the time of applying for the DBS check. The Countersignatory indicates that this check is required on the DBS application form.

9. Ebulk – online DBS check

Ebulk is a secure online system which enables applicants to apply for Standard or Enhanced DBS checks online, completely paperless. Ebulk reduces errors by validating data as soon as it is entered on the system and speeds up the whole DBS process from start to finish.

Ebulk is a connection between a registered body (Powys County Council) and the Disclosure and Barring Service. The entire Ebulk system is very secure with a full encryption process which ensures security of the information input by the applicant and verification officer.

Ebulk has been approved by the Disclosure and Barring Service, the Home Office and the Ministry of Justice.

To access the system the applicant should contact the DBS Unit with their name, email address and position applied for.

10. Update Service

The online service which is available in Welsh is based on an annual applicant subscription which can be done at the time of the new application or certificate from the 17th June 2013. The Update Service will then keep that certificate up to date. With the applicants consent a free online and instant Status Check can be carried out to see if the certificate is up to date or if there has been any change. Subscription to the service needs to be taken within 2 weeks of the Disclosure's date of issue and updated annually. For volunteers and Governors there will be no cost. For paid roles a charge of £13 per annum will be made by the applicant.

The update system can be used to check all applicants who are subscribed and will return a status result when the employer undertakes the online check. Cases where a new DBS Certificate will need to be undertaken at cost of £44 even when the annual subscription of £13 has been paid are as follows

- If the applicant has changed workforce e.g. Adults workforce to Children Workforce
- If the Certificate has changed – new caution or convictions
- If the applicant has misplaced their original certificate
- If the Certificate is at a different level to that required for the post applied for
- If the applicant has changed their name (i.e. got married etc)

Certificates will also need to be undertaken at cost of £44 if the applicant has failed to subscribe and pay the annual subscription fee.

The Update Service is not mandatory for Powys County Council employees, volunteers, Governors and Foster Carers. Powys County Council WILL accept DBS certificates of those new employees who are registered with the Update Service and can provide the relevant information to enable the Powys County Council DBS Unit to undertake a status check.

11. How do I determine the level of check required for a post?

It is a criminal offence to request a DBS check for an individual appointed to a post (either paid or unpaid) which is not covered by the Rehabilitation of Offenders Act (Exemptions) 1975. This enables the Authority to request information regarding both spent and unspent convictions which will then be taken into account when assessing their suitability to the post applied for.

Each Head of Service will need to determine and is responsible for defining which posts in their area require a DBS check and at what level the check should be and the renewal period. This information is recorded on TRENT and accessed by the DBS Unit and recruitment service for reference and consistency.

The eligibility for a Basic Disclosure will be determined by the Principal ICT Security Officer.

12. The DBS check Procedure

The administration of the DBS check procedure will be managed and provided by the Workforce Development Unit. The relevant Strategic Director will hold the role of Lead Counter-signatory and matters such as those pertaining to an adverse employment decision will be referred to the relevant Strategic Director for final decision.

Where a DBS check is required as part of the appointment process for a person to undertake a particular role in the Council (or relevant organisation), the Head of Service responsible for that employment must ensure compliance with the following procedure:

- Staff responsibilities to protect vulnerable adults and children must be clearly stated in job descriptions including the level of the check, Rehabilitation of Offenders (Exceptions Order) Act and professional membership requirement. It should be reiterated during interview and induction, backed up by appropriate criteria in the person specification and applied equally to support staff and others involved in supervision, information management, disciplinary and contracting decisions;
- At the point of advertising, it should be made clear that applicants will be required to disclose details of any criminal record and that the successful/preferred candidate will be required to participate in the DBS check process where the post requires it;
- Anyone applying for a post where a DBS check applies is required to disclose the details of all convictions on record, including those that are classed as 'spent' (i.e., those that have exceeded any time limits), as well as details of any cautions,

reprimands, bind-overs or warnings or any decision from DBS to add to the list of those individuals barred from working with vulnerable adults or children;

- Where a DBS Check is a requirement for the job, it should be initiated as soon as an applicant has been notified that they are the preferred candidate;
- All pre-employment checks should be fully completed before commencement as the risks of potential abuse from unsuitable workers outweighs the risks to service provision from the additional time it would take to employ someone. Therefore, sufficient planning must be carried out to ensure that the result of the DBS check has been received together with all other pre-employment checks, prior to the appointee commencing employment;
- In *exceptional* circumstances when it is not possible to delay an appointment, the Strategic Director, in conjunction with the Head of Service must undertake and sign-off a detailed ***Risk Assessment, generally within 24 hours (See Appendix 1 for documentation and flow-chart)*** to establish whether or not the candidate may commence employment before a DBS check is in place. It is the responsibility of the Head of Service (or headteacher for schools) to ensure that adequate and appropriate supervision arrangements are in place and that there are adjustments to the individual's duties that prevent their contact with children or vulnerable adults until a satisfactory DBS check is received. The candidate must be made aware that their employment remains conditional until receipt of a satisfactory DBS check. Some legislation may state that an employee is not able to start in post until the relevant checks have been completed. For example, Domiciliary Care Agency (Wales) Regulations 2004 do not allow a worker to be employed by a Domiciliary Care Agency in a new care position temporarily under risk assessment. Another example is the national minimum standards for boarding and residential special schools which state that a person cannot start work at the school until a DBS certificate is in place, even if other checks have been undertaken. For those who have duties beyond teaching, a DBS certificate must always be in place before the person starts work. For those who only teach, the Department for Children, Schools and Families (DCSF) guidance may apply, where a person may start work in a school before a DBS certificate is in place as long as they are supervised;
- If the risk assessment is not in place within the 24 hour period (or an extended period in exceptional circumstances), employees will be removed from employment until a satisfactory DBS check is received.

In situations where an applicant fails (within a given time period) or refuses to take part in a DBS check where it is an essential selection criterion, they will be considered to have withdrawn from the application process and the appointment will not be progressed.

Where there has been any break in continuous employment i.e. of one day or more of an employee or volunteer, a new DBS form must be completed.

Where a person who holds a DBS check transfers into a different position, the level of DBS check held needs to be considered by the recruiting manager and if not at the correct level for the new position, a new DBS check must be undertaken before the person commences work or a Risk Assessment should be put in place.

If a person who has undertaken an approved DBS check for one role which contains details of cautions or/and convictions, the approval decision will need to be reviewed by the Strategic

Director before the person can undertake a different role which may involve an increased level of access to children or vulnerable adults.

Under the current scheme DBS checks are valid for a period of three, four or five years. There is no renewal period for Basic Disclosures. The DBS Unit will be responsible for the co-ordination of the renewal of the DBS check. The process followed will be an initial letter to the individual concerned three months prior the expiry of the DBS check, requesting the completion, verification and return of a new application form. If no action is taken then a second reminder will be sent eight weeks prior to the applicant with an email to the line manager. If there is still no action four weeks prior to the expiry of the DBS check then an email will be sent to Head of Service. If the DBS check date expires before renewal then the DBS Unit will notify the Head of Service and the person will not be able to work and will need to be removed from the workplace until a DBS application has been completed. Failure to renew a DBS check in a timely manner may result in separate disciplinary action in accordance to the Council's Disciplinary Policy and Procedure. This may include dismissal.

Under the new single certificate process the DBS Unit are only made aware that there are cautions/convictions on an applicant's DBS certificate, the details of offences and dates the offence occurred are not disclosed to the employer. When a renewal application indicates a caution/conviction the DBS Unit requests that the member of staff provide a copy of their certificate to establish the details of offences. If the DBS check renewal date expires before a copy of the certificate has been provided by the applicant to the DBS Unit the individual will be removed from the workplace, without pay, until the information has been provided. If the DBS renewal check has been processed but the result has not been received until after the date of renewal and cautions/convictions are present on the DBS check the individual will be given five working days from receipt of letter from DBS Unit to provide the information; failure to provide the information to the DBS Unit within five working days will result in the DBS Unit notifying the Head of Service and the individual will be removed from the workplace, without pay, until the information is received and approved. Subsequent offence(s)/caution(s) at the point of renewal may result in disciplinary action in accordance with the Council's Disciplinary Policy and Procedure if an individual has not disclosed this information to their Line Manager. This may include dismissal.

The DBS Unit will receive the original copy of the Basic Disclosure and will arrange for the certificate to be sent to the applicant. If there are any cautions/convictions present on the certificate the normal Powys County Council Adverse Disclosure process will be followed.

Powys County Council does not accept portability of DBS or Basic Certificates from other Organisations/Employers with the exception of contractors and agency workers. Powys County Council *will* accept DBS checks for those individuals registered with the Update Service once a consent form has been completed by the applicant, the DBS Unit have seen the original certificate, the online result is satisfactory and the level of check is correct.

Existing Employees Responsibilities:

Existing Employees must notify their line manager of any subsequent offence(s)/caution(s) reprimands, warning or decision from DBS to add to the list of those individuals barred from working with vulnerable adults or children received or implemented immediately which occur after the date of their last DBS check, as required by specified terms and conditions of employment. On receipt of such notification, the manager must immediately inform Powys

County Council DBS Unit and seek advice on whether the disclosure may affect the employee's ability to undertake their role. As part of this process the DBS Unit will undertake a new DBS or Basic Disclosure check to verify the information given by the employee. Failure to disclose subsequent offence(s)/caution(s) may result in disciplinary action in accordance with the Council's Disciplinary Policy and Procedure. This may include dismissal.

If a serious allegation is made against an employee who works with vulnerable adults or children, Powys County Council will undertake a new DBS check for employees concerned. This may only take place with the knowledge of the individual concerned, who must be given the opportunity to discuss the allegation. Reference must be made to the Disciplinary Policy for procedural guidance on conducting such investigations. Managers should refer any such cases to their relevant Service area HR Adviser.

A DBS check should also be carried out at the appropriate level for existing staff where they are transferring to a post in which they will have access to children or vulnerable adults. A satisfactory check must be obtained before the transfer takes effect. As a matter of course, employees with more than one post with the Council will undertake a DBS check at the highest appropriate level to cover all employments.

13. Service Area Responsibilities

Where there is a requirement to use DBS checks for any appointments, each Head of Service should ensure there are sufficient resources available to handle the management and administration of DBS checks.

Such resources will need to include:

- Named Heads of Service who accept responsibility for the DBS checks system within their Service have the necessary authority to ensure that DBS checks are managed effectively;
- Clear and documented guidance (supplementary to this policy) as to which posts/appointments within the Service would be subject to an individual undergoing a DBS check, and any other service-specific requirements or protocols;
- Sufficient number of officers appropriately trained to carry out the administration of the DBS check system, to meet candidates to check identification and complete DBS application forms;
- Appropriate resources to handle storage of DBS documentation in compliance with the requirements of the Data Protection Act and DBS Code of Practice;
- Heads of Service should ensure they manage their recruitment planning and lead-in times effectively as it will not be possible to commence new employees prior to receipt of DBS check information. In *exceptional circumstances* where commencement in post is unavoidable, a Risk Assessment **must** be carried out by the Head of Service in conjunction with the Strategic Director and in accordance with the documentation provided at Appendix 1.

Heads of Service to ensure that verification officers comply with the DBS Code of Practice when verifying applicant's identification. Areas of concern or the repeated processing of

invalid applications by individual verification officers will be escalated to the relevant Head of Service by the DBS Unit.

Designated Verification Officers are not to undertake the checking of identification for DBS purposes for family members or themselves.

14. Dealing with an Adverse Disclosure

Having past convictions does not automatically bar an applicant from employment, and indeed, the Council has certain responsibilities under the Rehabilitation of Offenders Act, *where appropriate*, to avoid discrimination against ex-offenders.

However, if someone fails to disclose some or all of their convictions when reasonably requested, and these then come to light through a DBS check, it could be seen as a deliberate attempt to gain employment by deception, thus destroying the trust of a reasonable employer. In such circumstances the Council may reserve its right to disqualify the applicant from the recruitment process or withdraw any offer of employment. The decision to disqualify an applicant in this way should be objective and based on an assessment of the facts presented and should always include advice from Human Resources. Where cautions/convictions are declared at interview consideration should be given to the nature of the offence and its relevance to the post applied for.

Where the conviction disclosed is considered serious, the DBS unit must divulge the details immediately to a Head of Service or Strategic Director to allow the Manager or Director to make an informed decision whether to remove the employee from employment with immediate effect.

Once the relevant Manager (headteacher for schools) has interviewed the applicant, seen the original certificate, obtained a photocopy and asked the applicant to complete a consent form; then the interview, copy of certificate and consent form should be sent to the DBS Unit.

The DBS Unit will meet with the Strategic Director for a final decision about that appointment (on occasions, consultation with Head of Service will be required and/or further information will be requested from the individual). Head of Adults Services will be notified and will make a recommendation on all adverse disclosures received for Adults Services. Head of Children's Services will make decisions on adverse certificates for Foster Carers and Adopters. In making a decision about whether or not to continue with the appointment, the Strategic Director should weigh up the facts based on the following considerations:

- What is the nature of the conviction?
- Is the conviction a one-off or are there a number listed (are these of a related/similar nature)?
- How long ago was the sentence enforced, e.g. is it a juvenile or adult conviction?
- What was the context of the offence?
- Were there particular circumstances at the time that led to the offence which have now changed, e.g. peer pressure, dysfunctional family circumstances?
- Is the behaviour that constituted the offence a cause for concern?
- What is the person's attitude to the offence?

- What risk does the conviction pose to the Council, i.e., will it compromise the person's position within the Council?

A risk assessment pro-forma to establish the employment decision can be found at Appendix 2 and will be forwarded with DBS2 letter (see Appendix 3) requesting that a Manager interviews the candidate to discuss the disclosure within 10 working days of the date of the letter. In the letter to line managers, it will **not** state what the caution/conviction is. The risk assessment must be sent to the DBS Unit within 3 working days of the interview.

Any matters revealed by the DBS or Basic Scotland certificate that will affect a recruitment decision must be discussed with the candidate prior to a decision about their appointment being made. Managers are encouraged to seek support and advice from Human Resources in such matters.

Where Services are undertaking a planned programme of DBS checks for existing employees, and an adverse certificate is returned for an individual already employed by the Council, the Head of Service should apply the procedure above. Please note that an employee does not need to be re-interviewed for offences which they have previously been interviewed for in respect of an earlier check. In addition, if it is decided that the individual should not continue in their post, the Head of Service should consider the following action, which must involve consultation with the individual and their representative:

- Immediate removal of the employee from relevant duties, i.e. unsupervised contact with children and vulnerable adults;
- A decision should be made as to whether or not the individual should remain in their post in the longer term, and whether additional safeguards could be put in place;
- Effort made to redeploy the individual to suitable alternative employment where the nature of the conviction does not compromise their employment.

If it is the case that the employee has not declared any conviction, caution, reprimand, warning or decision from DBS to add to the list of those individuals barred from working with vulnerable adults or children that has arisen since the last DBS check, this may result in separate disciplinary action in accordance with the Council's Disciplinary Policy and Procedure. This may include dismissal. Referral may also need to be made to the relevant Professional bodies such as General Teaching Council and Care Council for Wales and should be referred to your Service Area HR Adviser or for outside Contractors and Agencies via your Service Area contact.

For external umbrella organisations within Powys who complete their DBS checks through Powys County Council, the same process for internal applications will be followed, however, the Strategic Director will make a recruitment recommendation and not a final recruitment decision.

For external umbrella organisations outside of Powys who complete their DBS checks through the Powys County Council DBS Unit will notify the Organisation that there is additional information on the certificate via email or through the Ebulk System. Powys County Council will not make any recruitment recommendations for those external umbrella organisations outside of Powys.

15. Adverse Disclosures not approved by the Strategic Director

Disclosure and Barring Checks not approved by the Strategic Director due to adverse disclosures where an applicant has been made a conditional offer of employment. Offer to be withdrawn. No appeals process.

Disclosure and Barring Checks not approved by the Strategic Director due to adverse disclosures where an applicant has undergone a renewal check. Individual to be redeployed if appropriate or/and Powys County Council disciplinary policy and procedures implemented.

Disclosure and Barring Checks not approved by the Strategic Director due to adverse disclosures where an applicant has commenced employment prior to receipt of DBS check working under the conditions of an approved DBS Risk Assessment. Terminate employment with notice period utilising the Powys County Council disciplinary policy and procedures. Employee to be removed from place of work immediately.

16. Secure Handling of Disclosure Information and Data Protection

The DBS holds a Code of Practice which all registered bodies must follow. This code refers to the safe and appropriate management of personal information gathered during the DBS checking process. This includes the correct handling, usage, storage, retention and disposal of certificates and DBS information.

Detailed DBS certificate information should not be stored on an applicant's personal file. Rather, evidence of a DBS check having been undertaken should be kept by the DBS Unit. Any sensitive information pertaining to an individual's DBS check, for example, decision-making regarding an appointment against an adverse certificate, or regarding declaration of a conviction by an individual, should be kept separately and 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. The same restrictions apply for accessing electronic information in the Ebulk System.

The Police Act requires that certificate information is passed only to those who are authorised to receive it in the course of their duties. Services should ensure they have taken steps to only use certificate information for the specific purpose that it was requested and for which the applicant's consent has been given.

Once a recruitment decision has been made, certificate information should not be retained for longer than is necessary to fulfil its proper purpose. In most cases, this should not need to be for longer than 6 months, and this should allow for any resolution of disputes or complaints. If, for any reason, it is considered necessary to retain certificate information for longer than 6 months, advice should be sought from the DBS and consideration given to Data Protection and human rights of the individual. For example, care providers are allowed to keep evidence of DBS processes between each inspection so that the service is following correct recruitment procedures.

On the expiry of the retention period, certificate information should be destroyed securely, e.g., by shredding. No further record, such as a copy or scan of the certificate, should be retained, except for a record of the date of the Disclosure request, the name of the individual,

the level of Disclosure requested, the Disclosure reference number and the details of the recruitment decision.

Powys County Council is a Registered Body with the DBS and will at all times comply with the DBS's Code of Practice and guidelines for Registered Bodies. Powys County Council will ensure that it retains E-Registered Body Status with the DBS.

Powys County Council has completed and is at all times compliant with the necessary DBS/Ministry of Justice supporting Compliance Document, Code of Connection and E-Bulk Deed of Trust.

Powys County Council will store, handle and retain and dispose of all certificate results strictly in accordance with the DBS Explanatory Guide for Registered Persons and Other Recipients of Certificate Information. Once a recruitment decision is made, the electronic DBS check is archived by Powys County Council DBS Unit. The Ebulk System will automatically purge sensitive data for all archived checks after 6 months in line with the DBS Code of Practice.

Powys County Council will comply with all other DBS policy requirements and regulations as amended from time to time.

Ebulk information can only be accessed by authorised persons with the correct level of access required as part of their role in the Recruitment and Vetting process. Logins are only provided to authorised staff and are deactivated after 6 months if they have not accessed the system. The system retains an audit trail of administrative user activity and access is monitored regularly to protect such information from unauthorised disclosure or misuse.

17. Single Certificate

The Applicant Only Certificate took effect on the 17th June 2013, from this date the DBS Unit no longer receive copies of DBS Certificates. This change has come as a result of the Protection of Freedoms Act 2012 and reflects the recommendations made to the Government as part of the first phase review of the criminal records regime.

The Police Act 1997 made the provision for the Home Secretary to issue certificates to applicants containing details of their criminal records and other related information. Certificates have generally been used to enable employers and prospective employers or voluntary organisations to assess a person's suitability for employment or voluntary work, particularly where this would give the person access to children or vulnerable adults.

The amendments brought about by the Protection of Freedoms Act 2012 removes the provision that requires a copy of criminal record certificate to be sent to an employer (or registered body) so that the certificate is issued to the applicant only. The new arrangement will allow an applicant time (28 days) to dispute and make appropriate representations regarding the information contained in the certificate without this information already having been seen by the employer.

The amendments also repeal the provisions in the 1997 Act which allowed for the disclosure of information to a potential employer alone where the police judged that the same

information should not be disclosed to the person applying for the role. However, when considering whether to release non-conviction information about an individual, the police will now apply the relevancy test to a workforce rather than a single position or role. This will ensure that the information released is relevant to the workforce described on the certificate and any future status check that might be undertaken by a number of different employers within that same workforce. Overall the changes do not affect the employer's right to have sight of the DBS Disclosure information for eligible roles and they will continue to retain responsibility for risk assessing positive disclosure information and for ensuring safeguarding practices are maintained. In circumstances where the applicant hasn't presented their certificate to the employers, Registered Bodies will be entitled to ask the DBS for a copy, but this is subject to certain conditions being in place and only after a period of 28 days from the time of the Certificate being issued. The processes for managing the single certificate changes are outline in Appendix 4.

18. What if a DBS Report is Disputed?

Disputes may arise where an applicant claims that the content of the information released on the DBS certificate does not relate to the applicant or there are elements of it that are incorrect, including some of the personal information printed on the DBS Certificate.

Disputes must be raised with the Disclosure & Barring Service within 3 months of the date of the issue of the certificate. The DBS has its own procedure for dealing with disputes which it will invoke under such circumstances.

If an applicant wishes to raise a dispute, they should notify the Disclosure and Barring Service disputes team (by contacting them on 0870 90 90 811) and inform them of the disputed information. They should also inform the person who asked them to apply for the DBS check (the counter-signatory) about the error *at the earliest opportunity*. Because the certificate will present information that will affect an employment decision, the individual must lodge the dispute as soon as possible in order to prevent a misinformed decision before the dispute is resolved. The DBS may contact the Council to confirm the facts of the dispute.

The DBS will seek to correct the information as quickly as possible, and if it is found that the DBS is in error, they will issue a replacement certificate free of charge.

However, if the original certificate was based on incorrect information provided by the applicant or the Council (e.g. a miss-spelt name or address), a fresh application will be required, for which the DBS will make a charge.

It is recognised by the DBS that there may be a small number of cases where applicants may have similar or identical personal details to someone with a criminal record. In such cases, the DBS may consider that the only way to disassociate the applicant from the criminal record is by fingerprinting. In such cases, the DBS will write to the applicant requesting their consent to have their fingerprints taken at a local police station.

19. The Rehabilitation of Offenders Act 1974 Exceptions Order

The Rehabilitation of Offenders Act 1974 protects rehabilitated offenders from having to reveal certain past convictions and seeks to aid the reintegration and resettlement of offenders into employment by not requiring them or any person to answer questions regarding their spent convictions.

The Exceptions Order creates exceptions to the Act with the effect that, in some circumstances, all convictions and cautions must be disclosed and may be taken into account when assessing a person's suitability for certain positions. It defines activities requiring a high degree of trust, often involving vulnerable people as those where it would be appropriate for an employer to know a person's full criminal history before an offer of employment is made and for consideration to be given for putting in place necessary safeguards.

This has now been amended under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 2013 which came into force on the 29th May 2013 following a Court Appeal judgement. Court of Appeal held that blanket disclosure of all criminal record checks, can amount to a breach of the right to respect for a private and family life (Article 8 of the European Convention on Human Rights).

The Exception Order 2013 allows for the filtering of certain cautions and convictions which are sufficiently old and minor to have no bearing on an employment decision. However, in order to maintain public protection the Exception Order does list offences which must always be disclosed and these refer to serious, violent and sexual offences and others of specific relevance for posts concerned with safeguarding children and vulnerable adults. In addition, no conviction resulting in a custodial sentence will be filtered.

The revised legislation impacts on what an employer can ask an individual in relation to cautions and convictions (for example a self-declaration on an application form "do you have any convictions") and what is released on a Standard and Enhanced DBS Certificate. If an employer takes into account a caution or conviction that would not have been disclosed on the DBS certificate they will have acted unlawfully under the Rehabilitation of Offenders Act 1974. To ensure compliance with the Act the DBS has amended its application form (Questions E55) and has advised Registered Bodies to ensure that applicants are aware when responding to the question on existing forms that they should respond on the basis on any unspent convictions.

An employer can only ask an individual to provide details of convictions and cautions that they are legally entitled to know.

Where a Standard or Enhanced certificate can legally be requested (this is where the position is one that is listed in the Rehabilitation of Offenders Act 1975 (Exceptions) Order 1975), an employer can only ask an individual about convictions and cautions that would fall under the rules described below. That means only those convictions and cautions that would be disclosed on a DBS certificate.

When completing the DBS application form, a question will be asked whether you have ever been convicted of a criminal offence. The response to this question should only be in relation to convictions which would not be subject to filtering.

An adult conviction will be removed from a DBS criminal record 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 relevant to safeguarding. 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 under 18 at the time of the caution:

- 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.

A list of offences which will never be filtered can be found at www.gov.uk/dbs (751 Offences).

20. Referral to the Disclosure and Barring Service

It is an offence for an organisation to knowingly allow a barred person to work in regulated activity. If an employer dismisses or removes someone from regulated activity (or you would have done so had they not already left or if they leave while under investigation) because they harmed or posed a risk of harm to vulnerable groups including children, an employer is legally required to make a referral about that person to the DBS. It is a criminal offence not to do so. Further guidance on the duty to refer on the DBS website:

<https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

Powys County Council HR department will take responsibility for any referrals that need to be made to the DBS for employees of Powys County Council.

The Safeguarding Manager is responsible for any Child Protection referrals that need to be made in respect of residents of Powys and for employees who work outside of the Authority.

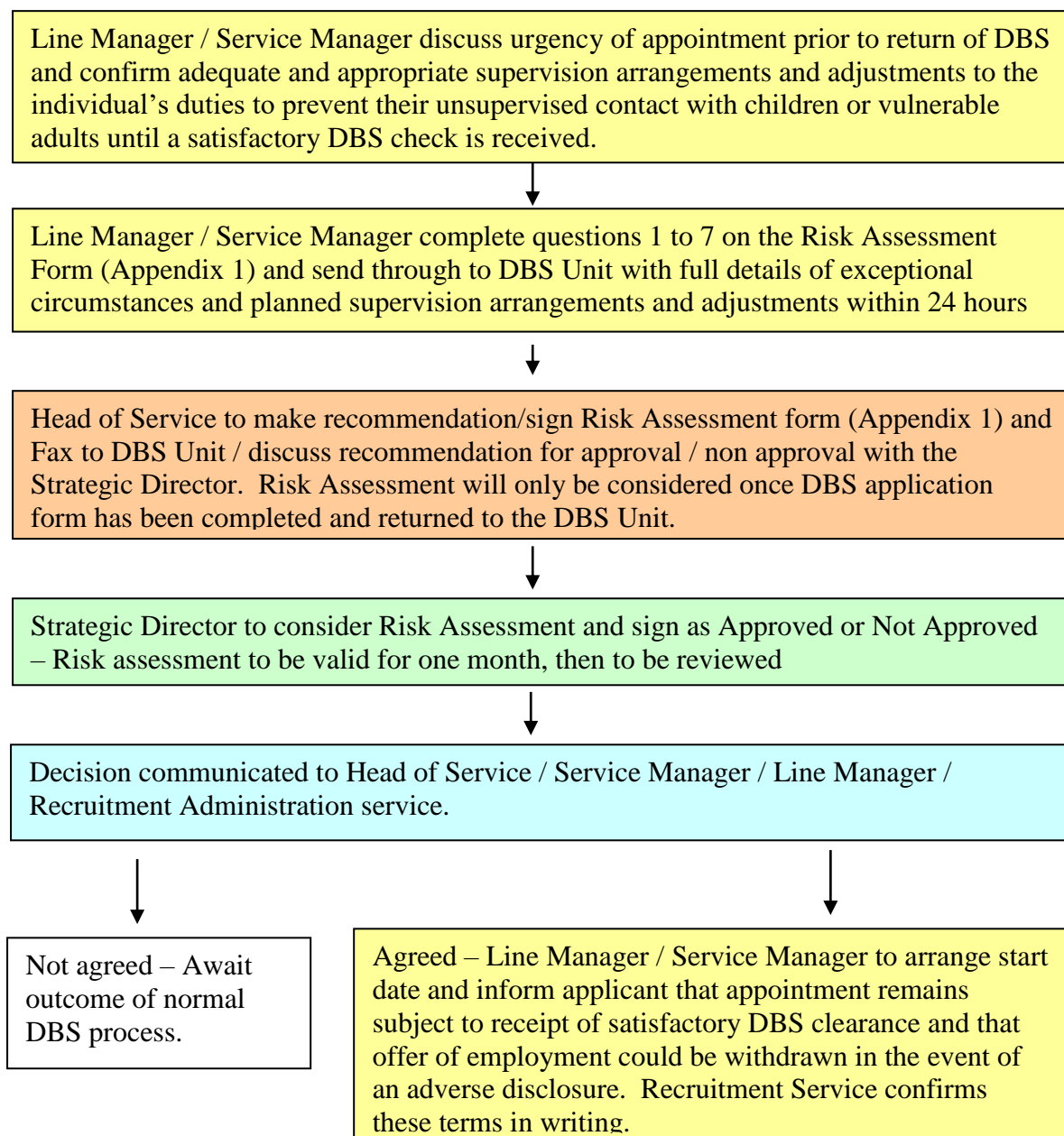
The Policy Development Officer or Adult Protection Senior Practitioner is responsible for any referrals to the DBS as a result of Adult Protection Investigations in respect of residents of Powys and for employees who work outside of the Authority.

The DBS Unit should be informed of all referrals made to the DBS. The PCC DBS Unit will collate the number of referrals and this information will be reported back to the Safe Recruitment Forum.

Those organisations that are contracted to undertake work on behalf of Powys County Council are responsible for investigating and making any referrals in respect of their employees direct to the DBS. Any referrals that are made should be reported to the Service Area by which they are contracted by.

Appendix 1

RISK ASSESSMENT APPOINTMENT OF APPLICANTS PRIOR TO RECEIPT OF DISCLOSURE AND BARRING SERVICE (DBS) DISCLOSURE



This risk assessment procedure is for use in *exceptional* circumstances only, where there is an imperative to commence in post at an earlier point (normally for reasons of service provision/continuity). This procedure must be supported by a clear Risk Assessment using the pro-forma at Appendix 1. (Please note exceptions where risk assessments are not allowed)

It is expected that in the majority of cases, employees and volunteers would commence work **after** receipt of all satisfactory pre-employment checks, including a DBS check (where these are an occupational requirement).



CYNGOR SIR POWYS COUNTY COUNCIL

RISK ASSESSMENT: APPOINTMENT OF APPLICANTS PRIOR TO RECEIPT OF Disclosure and Barring Service (DBS) CHECK

It is recommended that, employees and volunteers may commence work only after receipt of all pre-employment checks, including a DBS check where these are an occupational requirement as the risks of potential abuse from unsuitable workers outweighs the risks to service provision from the longer time it would take to employ someone.

Some legislation states that an employee is not able to start in post until the relevant checks have been completed. For example, Domiciliary Care Agency (Wales) Regulations 2004 do not allow a worker to be employed by a Domiciliary Care Agency in a new care position temporarily under risk assessment. Please contact Powys DBS Unit for further guidance if necessary.

In *exceptional* circumstances, where there is an imperative to commence in post prior to receipt of a DBS Check, the following Risk Assessment pro-forma below **MUST** be completed and submitted for authorisation by the Strategic Director prior to commencement in post.

N.B. This DBS Risk Assessment does not cover or negate the requirement of any other pre-employment check(s) that may be required.

Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 exists to support the rehabilitation into employment of reformed offenders who have stayed on the right side of the law. Under the Act, following a specified period of time which varies according to the disposal administered or sentence passed, all cautions and convictions (except those resulting in prison sentences of over 30 months) are regarded as 'spent'. As a result the offender is regarded as rehabilitated.

For most purposes the Act treats a rehabilitated person as if he or she had never committed an offence and, as such, they are not obliged to declare their caution(s) or conviction(s), for example, when applying for employment or insurance.

There are certain exceptions, **where you do have to disclose your caution or conviction (even if it is spent)**. These are listed on the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and subsequent amendments. The positions listed in the Exceptions Order primarily relate to particularly sensitive areas such as **work with children and vulnerable adults**, work in law enforcement and the legal system, and high level financial positions. Where an exception to the Rehabilitation of Offenders Act exists then you **must list all cautions and convictions, even if they are spent**. Where an exception exists the employer or licensing body will be eligible for Disclosure and Barring Service checks containing your **full criminal record**.

Full Name of APPLICANT:	
Date of Birth:	
Post Applied for:	
Establishment/Base:	
Reason for Requirement to Start Prior to DBS Clearance	
Date of Risk Assessment:	

Requirement	Response	Explanation/Comment(s)	DBS OFFICE Use
1. Please provide the date the DBS Application was completed and sent off to the DBS Unit.			
2. Please state Disclosure application form Reference Number	F		
3. Has the applicant declared any convictions/cautions on their DBS application form?	Yes / No		
4. Has the applicant declared any convictions/cautions on their Powys County Council Job application form?	Yes / No		
5. If Yes answered to Q3 or Q4, are the convictions of a nature to pose a risk or compromise the applicant's suitability for the job applied for?	Yes / No		
5b. Please give details?	(Please give details)		

<p>6. Have <u>all</u> other Powys County Council Pre-employment checks been received satisfactorily? (e.g. References, Occupational Health, Registration) Please provide registration number if applicable.</p>	<p>Yes / No</p>		
<p>7. If the applicant is employed in a position that involves working with children, young people and/or vulnerable adults can you confirm;</p> <p>a) that you are completely satisfied of suitability</p> <p>b) whether you have had cause to refer the applicant to the barred lists on the grounds of misconduct which has caused harm or risk of harm</p>	<p>Yes / No</p> <p>Yes / No (If yes please give details)</p>		
<p>8. Have you ever had cause to refer the applicant to a registered body?</p>	<p>Yes / No</p>		
<p>9. What measures can be put into place to ensure the applicant will have no unsupervised access with children or vulnerable adults until receipt of a satisfactory DBS report?</p>	<p>The applicant will have no unsupervised access with children or vulnerable adults.</p>		

RECOMMENDATION

INTERVIEWING OFFICER DECLARATION/RECOMMENDATION: *(Please delete* as applicable)*

I have considered the questions outlined above and confirm that **I am satisfied** that it is safe to allow the above named individual to commence work before the Disclosure clearance is received, subject to the safety measures detailed above being in place.

I confirm that:

- Appropriate measures are in place to ensure that the applicant does not have unsupervised access to children or vulnerable adults until a satisfactory DBS check has been received.
- Satisfactory references have been completed and received and I am satisfied that the individual is suitable for the position applied for.
- That I have notified all relevant managers that the individual is still subject to clearance and of the need to ensure the above measures are implemented.
- That I have explained to the individual concerned the implications of commencing work prior to clearance being received and that the appointment remains subject to receipt of satisfactory DBS clearance and that the offer of employment could be withdrawn in the event of an adverse Disclosure.
- This Risk Assessment will be reviewed on _____ (Date)

Additional comments:

Print Name:

Designation:

Signed:

Date:

HEAD OF SERVICE RECOMMENDATION: *(Please delete* as applicable)*

*I have considered details above and recommend that the applicant named is *** approved / NOT approved** for commencement in post prior to receipt of satisfactory DBS clearance.*

Additional comments:

Print Name:

Signed:

Date:

* * * When completed, please fax to DBS Unit: 01597 826855 * * *

DECISION

TO BE COMPLETED BY STRATEGIC DIRECTOR:

RISK ASSESSMENT CONFIRMED: *YES / NO*

Additional comment(s):

Print Name:

Designation: Strategic Director

Signed:

Date:

PCC DBS UNIT - OFFICE USE

	Date	Initial & Date
Date Received:		
Initial Check Completed:		
Submitted to Strategic Director:		
Outcome Received:		
Notification of Outcome Sent:		
DBS Certificate Received:		

Extension of Risk Assessment:

4 Week Review Date:

Date Confirmed by Line Manager:

Strategic Director Authorisation: Date:
.....

CYNGOR SIR POWYS COUNTY COUNCIL

RISK ASSESSMENT: REVIEW OF ADVERSE INFORMATION DISCLOSED OR RECEIVED THROUGH A DISCLOSURE & BARRING SERVICE (DBS) CHECK

Prior to completing this form, please refer to the additional guidance notes which can be accessed via Powys County Council Intranet page 4789 or by email upon request. Please ensure that this form is completed in full and that a full account is given of any matters which have been disclosed.

Any queries with regards to the DBS process should in the first instance be directed to Powys County Council DBS Unit on 01597 826881. **Once the form is completed please return it in a Private and Confidential envelope to Powys County Council DBS Unit, Library HQ, Cefnlllys Lane, Llandrindod Wells, Powys, LD1 5LD or by Fax to 01597 82 6855 for Decision.**

Full Name of APPLICANT:	<input type="text"/>
D.O.B.:	<input type="text"/>
Job Title:	<input type="text"/>
Establishment/Base:	<input type="text"/>
Date Of Interview:	<input type="text"/>

Question	Response (delete as app.)	Explanation/Comments
1. Did the applicant declare cautions or convictions on the Powys County Council job application form? (Please refer to letter sent from DBS Unit)	Yes / No	if no please explain
2. Did the applicant declare cautions or conviction on the DBS application form? (Please refer to letter sent from DBS Unit)	Yes / No	if no please explain
3. Please give details of offence(s) provided by the Applicant. (please use continuation sheet if necessary)		

4. What is the length of time since the offence(s) occurred?		
5. Was the offence a one-off or part of a history of offending?		
6. Provide any relevant information offered by the applicant about the circumstances which led to the offence being committed. (e.g. influence of domestic or financial difficulties, peer pressure etc.)		
7. Have the applicant's circumstances changed since the offence(s) were committed, making re-offending less likely? <i>Please explain.</i>	Yes / No	
8. Will the nature of the job present any opportunities for the post holder to re-offend in the work place?	Yes / No	
9. What is the seriousness of the offence and its relevance to the safety of other employees, customers, clients and property?		
10. Does the post involve one to one contact with children or other vulnerable groups as employees, customers and clients?	Yes / No	
11. What level of supervision will the post holder receive?		
12. Does the post involve any direct responsibility for finance or items or value?	Yes / No	
13. Does the post involve direct contact with the public?	Yes / No	
Additional information, comments or observations (<i>please use continuation sheet if necessary</i>):		

APPLICANT DECLARATION: *I declare that this is a true record of the discussion that took place and I am aware that this information will be kept on my personal record.*

Signature:

Date:

WITNESS DECLARATION

If applicable, please ensure witness declaration completed/signed for each witness present.

WITNESS DECLARATION: *I declare that this is a true record of the discussion that took place.*

Print Name:

Designation:

Signature:

Date:

INTERVIEWING OFFICER DECLARATION / RECOMMENDATION:

I have interviewed the applicant and recommend that Powys County Council

Should / Should NOT

(please delete as applicable)

continue with the appointment.

**Additional
Comments:**

Print Name:

Designation:

Signature:

Date:

HEAD OF SERVICE :

DBS check APPROVED? / *(please delete as applicable)*

**Additional
Comments:**

Print Name:

Designation:

Signature:

Date:

STRATEGIC DIRECTOR DECISION:

**DBS check
APPROVED?** / *(please delete as applicable)*

**Additional
Comments:**

Print Name:

Designation:

Signature:

Date:

PCC DBS USE ONLY:

Date Received:

Date All Info Rec'd (if
diff):

Additional
Comments:

Manager Informed of
Decision:

Date Informed:

Appendix 3

Mark Evans (Chartered MCIPD)
Pennaeth Gwasanaethau Busnes
Head of Business Services

Pennaeth Gwasanaethau Busnes
Head of Business Services
Y Gwalia / The Gwalia
Ffordd Ieithon / Ithon Road
Llandrindod / Llandrindod Wells
Powys
LD1 6AA

Strictly Private and Confidential – Addressee Only

Ffôn / Tel : 01597 826894
Ffacs / Fax : 01597 826855
E-bost / E-mail : db@powys.gov.uk
Powys CC website:
www.powys.gov.uk
Eich cyf / Your ref :
Ein cyf / Our ref : DBS2/
Dyddiad / Date :
Os yn galw gofynnwch am /
If calling please ask for: DBS Unit

Dear

DBS Certificate Report for:

Following an application from the above named person for a DBS Certificate, we have now received notification from the DBS which indicates that there is a conviction(s) and/ or caution(s) listed.

In order for Paul Griffiths (Strategic Director – Places) to make an informed decision as to whether to approve the Certificate, can you please interview the applicant with regard to any convictions and/or cautions they may possess? Please note that the Disclosure and Barring Service no longer issue Powys County Council with a copy of the Certificate therefore you will need to ask the applicant to bring their Certificate to the interview.

At the interview you are required to ask the applicant to sign the enclosed consent form agreeing that Powys County Council can take a copy of their Certificate. Once consent is obtained, please take a photocopy of the certificate. Please report the findings of the interview, in writing, to me at the above address using the enclosed Appendix 2 Risk Assessment form and attach the completed consent form and the copy of the Certificate.

The above named person **did / did not** declare these convictions(s) and/or caution(s) on their Powys County Council job application form.

The above named person **did / did not** declare these convictions(s) and/or caution(s) on their DBS application form.

If the applicant withdraws their application or you decide not to continue with the appointment process, can you please inform myself at the DBS Unit on 01597 826894.

Yours sincerely

Joanna Harris

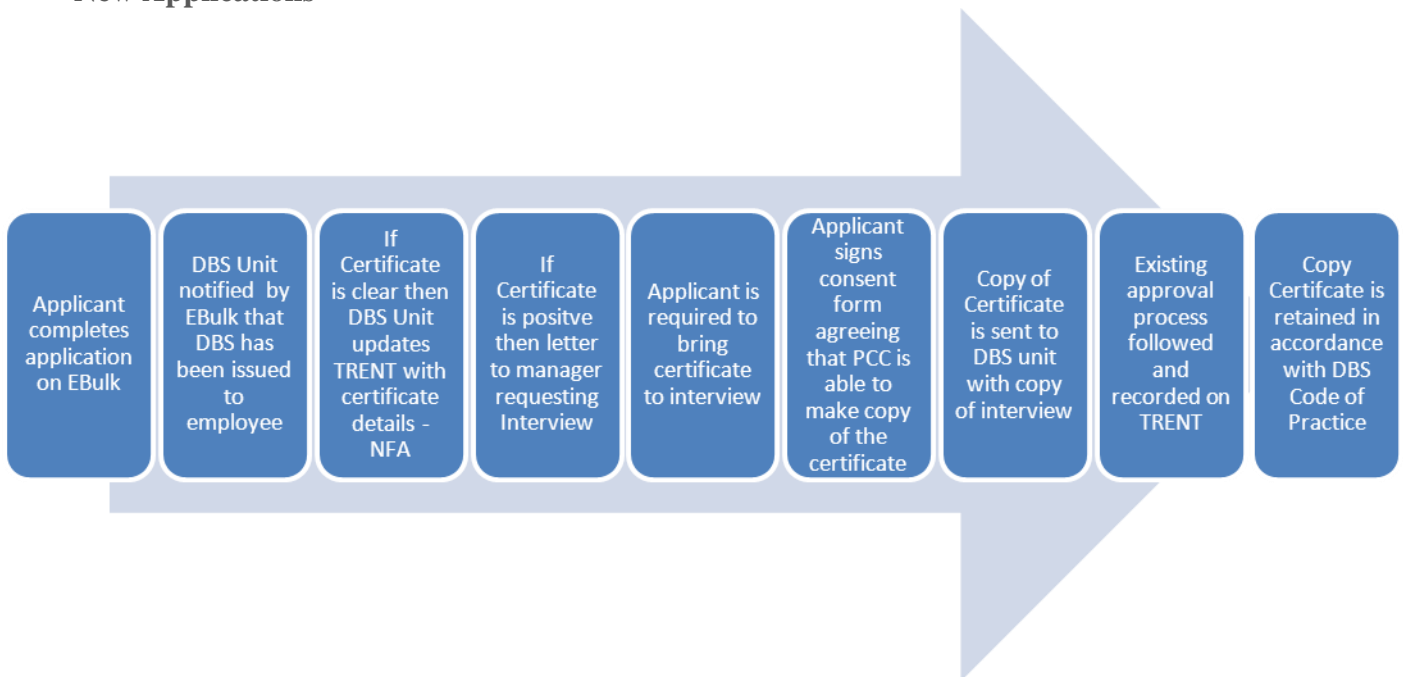
Workforce Development Manager

Enc: Appendix 2: Review of Adverse Information Disclosed
Applicant consent to copy certificate form

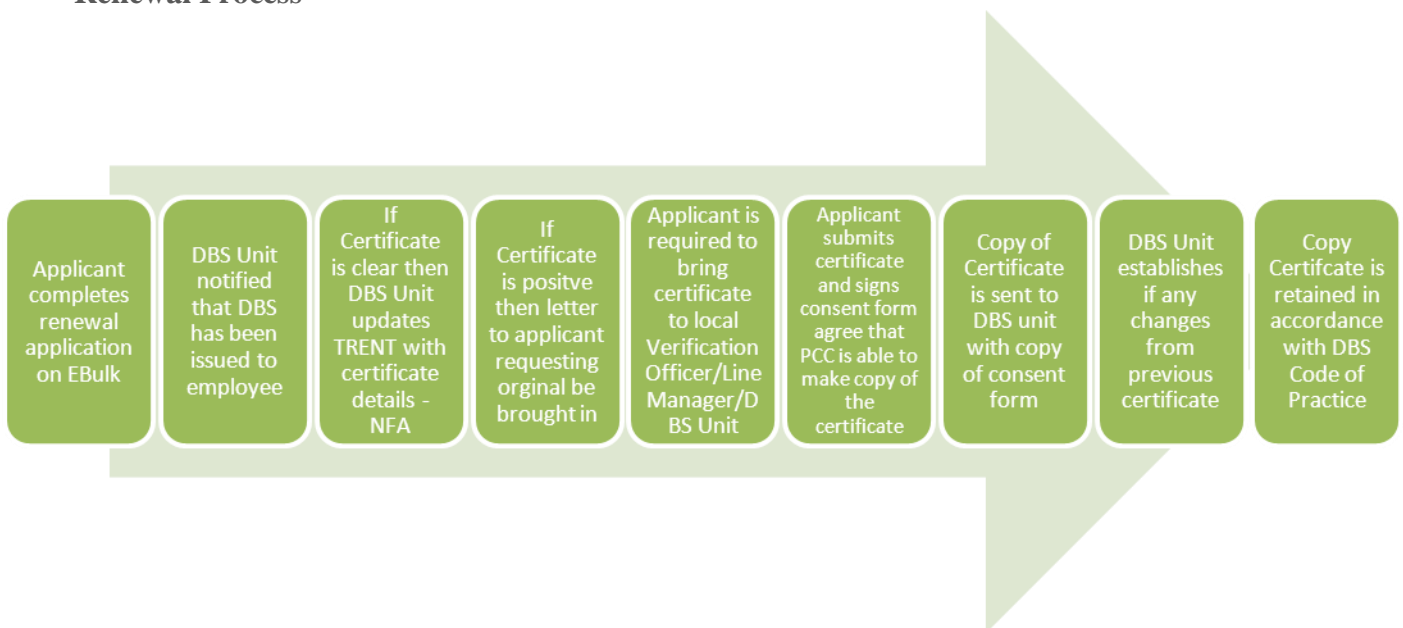
Appendix 4

Single Certificate process maps

New Applications



Renewal Process



Paper Application Process



Appendix 5

Consent Form

DBS Use Only

DBS Ref No':



CYNGOR SIR POWYS COUNTY COUNCIL

CONSENT FORM DISCLOSURE AND BARRING SERVICE (DBS) CHECK

Applicant to complete the following in full:

Applicant Full Name:	
D.O.B:	
Job Title:	
Establishment/Base:	
DBS Certificate Date:	
DBS Certificate Number:	

- If your recent DBS Check is a renewal, please take your DBS certificate and this form to your line manager, DBS Unit or local Verification Officer.
- If your DBS Check is for a new position, please take your DBS Certificate and this form to your Recruiting Manager.

In line with the DBS Code of Practice, the DBS Unit will retain disclosure information, its content or any representation of the same in any format for no longer than is necessary and for a maximum of six months following the recruitment decision unless a dispute is raised or, in exceptional circumstances, where DBS agreement is secured.

APPLICANT DECLARATION:

- I consent for my DBS Certificate to be copied and supplied and retained in accordance with the Code of Practice to Powys County Council DBS Unit.
- I declare to the best of my knowledge that this is a true and accurate record.

Signature:			Date:		

Manager\DBS Unit Officer\Verification Officer DECLARATION:				
<ul style="list-style-type: none"> I confirm that I have seen the original DBS Certificate for the applicant named above and returned the original copy to the applicant. I confirm that I have made a copy of the original Certificate for the sole purpose for it to be supplied and retained in accordance with the Code of Practice by Powys County Council DBS Unit. 				
Signature:			Date:	
Print name				

Any queries with regards to the DBS process should in the first instance be directed to Powys County Council DBS Unit on 01597 826894. **Once the form is complete, please return it in the enclosed envelope – if there is no envelope enclosed please contact the DBS Unit on 01597 826894.**

PCC DBS USE ONLY:			
Date Received:		Date All Info Rec'd (if diff):	
Additional Comments:			

Appendix 6

Powys County Council Policy on the recruitment of ex-offenders

Policy Statement

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), Powys County Council complies fully with the Code of Practice and undertakes to treat all applicants for positions fairly.

Powys County Council undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

Powys County Council can only ask an individual to provide details of convictions and cautions that Powys County Council are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended) and where appropriate Police Act Regulations (as amended), Powys County Council can only ask an individual about convictions and cautions that are not protected.

Powys County Council 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.

Powys County Council has a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the outset of the recruitment process.

Powys County Council actively promotes 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. Powys County Council select all candidates for interview based on their skills, qualifications and experience.

An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.

Powys County Council ensures that all those in Powys County Council who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. Powys County Council also ensures 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, Powys County Council ensures 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.

Powys County Council makes every subject of a criminal record check submitted to DBS aware of the existence of the Code of Practice and makes a copy available on request.

Powys County Council undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

Further information regarding conviction information

On the 29 May 2013, legislation¹ came into force that allows certain old and minor cautions and convictions to no longer be subject to disclosure.

In addition, employers will no longer be able to take an individual's old and minor cautions and convictions into account when making decisions.

All cautions and convictions for specified serious violent and sexual offences, and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults, will remain subject to disclosure. In addition, all convictions resulting in a custodial sentence, whether or not suspended, will remain subject to disclosure, as will all convictions where an individual has more than one conviction recorded.

Further details can be found at www.gov.uk/disclosure-barring-service-check/overview

¹ See Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013; and Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) (England and Wales) Order 2013.