

## Disclosures Policy

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### Introduction

Based on the Police Act 1997 (Part V) and the Rehabilitation of Offenders Act (ROA) 1974, the County Council as a registered body undertakes [disclosure checks](#) via the Criminal Records Bureau (CRB) for potential Council employees, Members, volunteers and for some other partner organisations and voluntary groups.

### Principles

The Council will undertake [disclosure checks](#) in accordance with the following principles:

- the level of check will be appropriate for the post/type of work (paid or unpaid) being applied for;
- 'regular contact' as a determining factor for undertaking a disclosure check will include both face-to-face contact and contact via Information and Communication Technologies (ICT);
- the Council will not use information provided to unfairly discriminate against those people with 'a criminal record' (see Policy on the Recruitment of Ex-Offenders); and
- the Council will make all reasonable efforts to ensure that all contractors, partner/voluntary organisations comply with these principles.

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### Definitions

#### Disclosure Checks

There are two levels of certificate, called Standard Disclosure and Enhanced Disclosure.

The **Standard Disclosure** shows details of both 'spent' and 'unspent' convictions, cautions, formal reprimands and final warnings held on the Police National Computer. It also provides a statement when there is nothing on record. If the individual is applying for a position that will involve working with children, the Standard and Enhanced Disclosure will also show whether the person is banned from this type of work by virtue of his/her inclusion on the lists of those considered unsuitable to work with children, maintained by the DfES and the DOH.

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If the individual is applying for a care position the Standard and Enhanced Disclosure will, on request, also show whether an individual is considered unsuitable to work with vulnerable adults, by virtue of his/her inclusion on the POVA list (a scheme set up by the Care Standards Act 2000). The Standard Disclosure is available for positions that are 'excepted' from The Rehabilitation of Offenders Act (ROA) 1974. Broadly these are:

- those whose duties involve regular contact with children and vulnerable adults;
- certain named professions, e.g. pharmacy and law; and
- senior managers in banking and financial services.

Examples of posts requiring a Standard Disclosure check within the County Council are:

- Financial Assessment Officer (Adults Learning Disability);
- Operations Manager (Children's Fieldcare);
- Financial Adviser;
- Groundsperson; and
- Administrative Assistant, Road Safety.

The **Enhanced Disclosure** contains the same details as the Standard Disclosure. It may also contain non-conviction information from local police records, which a chief police officer believes may be relevant in connection with the position sought. It will also state if there is nothing on record. The Enhanced Disclosure is available for positions involving regular caring for, training, supervising and/or being in sole charge of children or vulnerable adults. It is the Council's normal policy to require an Enhanced Disclosure check for any position where a child or vulnerable adult, by the nature of the work/contact, might develop a relationship based on trust with the postholder.

Examples of posts requiring an Enhanced Disclosure check within the County Council are:

- Team Manager (Children's Services);
- Care Assistant (Adults Services);
- Education Psychologist;
- Teacher;
- Teaching Assistant;
- School Caretaker;
- Midday Supervisor;
- Youth Offending Service Worker; and
- School Crossing Patrol.

### Regular Contact

The County Council defines regular contact as face-to-face contact or contact via Information and Communication Technologies (ICT) that may occur on more than one occasion.

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### **Determining the Level of Disclosure Check**

The relevant manager will determine the appropriate level of disclosure check required for new posts in conjunction with the Head of HR for the relevant Office. An authorised Disclosure Level Assessment Form must be completed and signed by both parties. Details of the disclosure level will be recorded against each post on ORACLE HR. Once the level has been agreed and recorded on ORACLE HR, the HR team will inform the manager, who will then be responsible for starting the

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process of obtaining a check at the appropriate level, with the help of the Recruitment Team.

The Council requires managers to inform the HR Team for the relevant Office of any changes to the role/responsibilities of posts within their individual sections (including the roles/responsibilities of volunteers), which may have a direct affect on the level of disclosure check required.

The Recruitment Team will be responsible for undertaking [disclosure checks](#) for new employees, volunteers and workers in some partner/voluntary organisations for whom we act as an 'umbrella' body. The Director of People & Policy (or nominated deputy) will be the Council's lead signatory and nominated members of the Recruitment Team will be registered as counter-signatories. The Director of People & Policy will be responsible for carrying out checks for elected Members.

The Council's application process (for paid or voluntary work) will inform candidates whether they must disclose 'spent' convictions as appropriate. The fact that a check is required will be stated in the recruitment literature sent to applicants in relation to a particular vacancy. A copy of the Summary Statement on the Recruitment of Ex-Offenders must be distributed with recruitment material. The level of check required for a particular post will also be confirmed to applicants who are called to interview.

Applicants for posts requiring a disclosure check will be required to provide proof of identity, e.g. passport or driving licence, on the day of interview.

Applicants will be informed that failing to disclose a 'spent' conviction for an 'exempt' post/profession under the Rehabilitation of Offenders Act (ROA) 1974 will be considered an act of Gross Misconduct under the Council's disciplinary procedure if they are subsequently appointed to a post. In some cases failure to disclose a 'spent' conviction may be a criminal offence.

### Criminal Offences

It is a criminal offence:

- to apply for a post if you know that you are disqualified from it because of your criminal record or other unsuitability;
- for an employer to knowingly employ a person in a post for which they are disqualified by reason of his/her criminal record or other unsuitability; and
- to pass on information revealed from a Standard or Enhanced Disclosure in certain circumstances (punishable by fine and/or 6 months imprisonment).

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### **Where a Disclosure Check reveals a 'Trace'**

The Council expects its managers to undertake an [objective assessment](#) of applicants where the candidate discloses, or where the disclosure check reveals, any criminal record or some other information that calls the candidate's suitability for appointment into question. The Recruitment Team will inform the recruiting manager and the Head of HR for the relevant Office when a disclosure certificate shows a 'trace' i.e. information that requires review. Information received from local police records (see [Enhanced Disclosure](#)) will be shared with the recruiting manager.

Managers **must** discuss the details and the potential risks with the HR Manager/ Head of HR for the relevant Office. An [Objective Assessment Form](#) must be completed, giving details of any investigation or background information contained in the disclosure certificate. The form will indicate whether the manager wishes to

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proceed with the appointment and, if so, will outline the risk control measures that may need to be put in place to monitor the appointment. The Head of HR for the relevant Office or their nominated deputy will make an assessment of the risk within one month using the information on the objective assessment form. The Head of HR for that Office will then make a recommendation on the appointment to the Director/Deputy Chief Executive before an offer is confirmed. If there is disagreement on the decision to appoint then another member of the Strategic Management Team can be called to adjudicate and make a final decision.

Under the CRB rules (Section 124 of the Police Act 1997), for the storage and sharing of information the objective assessment cannot be shared with an applicant under any circumstances. There is also an exemption for disclosures under the Data Protection Act as the information is held for the prevention and detection of crime, which covers the CRB checks.

Applicants can dispute the information provided on Disclosures, which they claim to be incorrect, by contacting the [CRB](#) direct. In such cases the County Council will defer a final decision about appointment until the applicant has had the opportunity to challenge the Disclosure information.

The County Council may make conditional offers of appointment subject to satisfactory Disclosure check. However, where this occurs, the individual may not commence work until a satisfactory Disclosure check has been received. In a minor number of exceptional cases, agreement to start an employee before a disclosure check is processed may be sought via the Head of HR for the relevant Office. Managers who allow employees to start work before the Disclosure check process is complete (and who have not been granted exceptional permission to do so) may be subject to disciplinary action.

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### Existing Employees

County Council employees working with children were previously subject to a police check; employees working with vulnerable adults before 1<sup>st</sup> April 2002 were not subject to such a check.

From 1<sup>st</sup> October 2003 the CRB was able to process disclosure checks for existing employees as required. Therefore, from this date, it will be the Council's normal policy to:

- inform affected existing employees of the Council's obligation to process a disclosure check for each of them;
- provide each affected employee with a copy of the County Council's Declaration of Criminal Records Form (to be completed and returned) and a reminder of the Council's requirement that all offences/convictions/cautions be declared;
- process a disclosure check for each affected employee via the Recruitment Team; and
- undertake an objective assessment for each affected employee where the disclosure reveals an offence/conviction/caution. Redeployment or dismissal options may need to be considered where appropriate).

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### Elected Members

The Disclosures policy applies to all Elected Members. The County Council will undertake disclosure checks in accordance with the following principles:

- The level of check will be appropriate for the type of work in which the Member can expect to be involved.
- The determining factor for undertaking a disclosure check will be whether the Member will be involved in regular contact with children, young people or vulnerable adults.
- 'Regular contact' may include face-to-face contact, receipt of regular reports on individual children or vulnerable adults (i.e. non-aggregated data), contact via information technology or via communication technology.
- The Council will not use information obtained via disclosure checking to discriminate unfairly against any Member who has a criminal record (see separate Policy on the Recruitment of Ex-Offenders).
- The requirements of the Code of Conduct for Elected Members and the Standards Committee will apply at all times.
- The County Council's designated Monitoring Officer (the Director of Governance) or the Head of Legal Services (Deputy Monitoring Officer) will act as adjudicator in the event of any complaint.

Members who do not wish to undergo a disclosure check will not be eligible to become involved in work of any kind with children, young people or vulnerable adults. The wishes of the Member will be respected and they will be offered appointment to other service areas, where there will be no contact with children, young people or vulnerable adults. Should a Member wish to work with vulnerable client groups at a later stage, s/he will be required to undertake a disclosure check before doing so.

Appointment or nomination to certain Scrutiny Committees, PDGs or other working groups will carry an automatic requirement for the Member to undergo a CRB check, and these are detailed below. Where the appointment requires a disclosure certificate, the Member will be asked to complete the CRB form. The Member will be required to provide proof of identity, e.g. passport, driver's licences, etc. to the Director of People & Policy, who is the Council's lead signatory and will sign all applications from Members.

In light of the 1999 Protection of Children Act as revised September 2005 the following Members are subject to enhanced checks:

- All members of Cabinet.
- Chairman and Vice Chairman of the Council.
- Opposition Spokespersons for Children and Young People and for Environment and Community Services (whose remit includes vulnerable adults and older people).
- Members of the Adoption and Fostering Panels.
- Assigned visitors for children's homes.
- Members engaged in regular liaison with young people or vulnerable group representative bodies such as the Youth Parliament.

From the next election all other Members will require standard checks. However, as an interim measure prior to the election standard checks will be restricted to the following:

#### Scrutiny Committees:

- Children and Young People's Services Scrutiny Committee
- Health and Adult Social Care Scrutiny Committee

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### PDGs

- Enhanced Services PDG [which covers vulnerable children and adults - previously covered by the Inclusion and Community Learning and Development and Adult Social Care SDGs]
- Service Infrastructure PDG [previously covered by the Planning and Development SDG].

### Where a Disclosure Check Reveals a 'Trace' for Elected Members

Disclosure certificates at the standard level are generally issued within three to four weeks and the Member may expect to have a copy sent to them by the CRB. The process for checking local police records can take time, so it is unlikely that an enhanced check will be returned in under six weeks. The CRB will also send a copy of the enhanced disclosure certificate to the Member concerned.

The master copy of the disclosure certificate will be returned to the Director of People & Policy. If the certificate reveals a trace, i.e. information that requires review, it will be considered by the Director of People & Policy regarding the course of action to be taken from the options set out in paragraph 7.2. This may include a discussion with the Member on whether the data is accurate; if so, the circumstances surrounding the offence; any mitigating circumstances; and the reason(s), if appropriate, as to why the information was not shared earlier. Thereafter it will be agreed whether or not a risk assessment is required to be carried out by the Director of People & Policy and the Council's Monitoring Officer.

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### Costs/Payment Process

For potential/existing employees the appropriate unit/section within the Council will pay the CRB fee for [Enhanced Disclosure](#) and [Standard Disclosure](#) checks PLUS an administration fee to the Recruitment Team. The Recruitment Team will pass the CRB fee direct to the [Criminal Records Bureau \(CRB\)](#). Units/sections within the Council responsible for co-ordinating volunteer recruitment will be charged the administration fee only for each check (i.e. the disclosure check itself is free).

Partner organisations and organisations providing services under contract for the Council will be charged for this service (cost of check PLUS administration fee).

Voluntary Organisations (for whom the disclosure check itself is free) will be charged the administration fee only.

Details of the current levels of charges for both CRB fee and Recruitment Team administration fee are available on request from the Recruitment Team ([recruitment@cambridgeshire.gov.uk](mailto:recruitment@cambridgeshire.gov.uk))

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### Retention of Disclosure Information

The Recruitment Team will:

- maintain a database of disclosure checks undertaken, including the date of the disclosure, the type of disclosure, the name of the subject, the type of post in question, the unique number issued by the CRB and the names of those within the Council (and/or outside organisation) to whom the disclosure information has been revealed – this is the only information that may be retained longer than 6 months;

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- retain paper disclosure checks received from the CRB in lockable and non-portable storage containers, access to which will be restricted to members of the Recruitment Team, for a maximum of 6 months;
- restrict access to rooms containing storage containers to members of the Recruitment Team;
- after 6 months disclosure checks will be shredded on-site (confidential waste bins are not sufficient);
- prohibit the photocopying/scanning of paper disclosure checks or copying or representing the contents in any way.

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### Portability of Disclosures

The Criminal Records Bureau does not support the practice of portability of disclosure checks, i.e. the re-use of information issued by the CRB. The County Council has accepted the recommendation that new disclosure checks should be carried out on each and every occasion where a check is required. Therefore, it does not accept disclosure checks from other organisations or confirm the results of disclosure checks to other organisations.

### Schools

The County Council expects HR/Personnel providers to schools to register with the [CRB](#) and requires each provider to advise schools to follow the Council's disclosure policy in relation to school based employees and volunteers.

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### Supply/Temporary Agency Workers/Contractors

The Council expects Supply/Temporary Worker Agencies/Contractors that are used by the Council and/or its schools to either register with the [CRB](#) on their own account or to use the Council as a registered body and follow all its procedures and disclosures policy, including those for risk assessment. Where Supply/Temporary Worker Agencies/Contractors decide to register with the CRB, proof of registration will be required BEFORE the Council will commission services from any independent contractor, agency or company where any part of the work specified will require a disclosure to be obtained in respect of the employee(s)/worker(s) undertaking such tasks. In addition, the Supply/Temporary Worker Agencies/Contractors will be required to supply details of its policies and processes, including risk assessment procedures, which must be agreed with the Council before any services can be commissioned.

The Council expects managers tendering contracts or commissioning work, which falls under the threshold for tendering, to ensure that proof of registration is obtained from any contractor, agency or company. Failure to do so will be considered a disciplinary offence. The following is provided as an example of the wording that should be used in contract documentation:

'Cambridgeshire County Council takes its responsibility for safeguarding children and vulnerable adults very seriously. All contractors and agencies supplying employees/workers to the County Council must provide proof of registration with the CRB for the purposes of undertaking disclosure checks on prospective employees. The County Council will expect any contractor or agency employee working in relevant Cambridgeshire premises, e.g. schools, to have undergone a disclosure

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check and to be considered suitable to work with children and/or vulnerable adults.' If a contractor or agency employee refuses to undergo a CRB check for a relevant post they will not be employed to work on Council contracts. The County Council considers that no right of appeal for such a decision will be allowed.

The Council must satisfy itself that any contractor coming into contact with a child or vulnerable adult has had the appropriate level of check. There must be monitoring arrangements in place to ensure that only cleared people are employed on the Council's contracts. Contractors that regularly come into contact with children or vulnerable adults must have a proper contract, which should contain a clause in accordance with the County Council's Disclosure Policy. Managers and Head teachers should assess the risks of contractors on their site, including the possibility of their forming a relationship with children or vulnerable adults. In an emergency it may not be possible to guarantee that a contractor's employee who has been checked will attend. Managers should contact the appropriate Deputy Chief Executive, who will assess the risk at that time and make a decision on whether the person can be deployed. Head Teachers should assess the risk to children in their care. In all cases appropriate measures should be taken, such as supervising the operative and keeping children and vulnerable adults away from the work area. Further guidance is available from the Recruitment Team or HR teams.

### **Where a Disclosure check reveals a 'trace' on a contractor**

The Council expects its managers to undertake an objective assessment of staff employed on Contracts with the Council where they disclose, or where the disclosure check reveals a criminal record or some other information that calls the contractor's suitability for working on the contract into question. The Head of HR for the relevant Office and the contract manager **must** discuss the details and the potential risks. If they have unanswered questions, they must ask the contractor's employee for this. An objective assessment form must be completed, giving details of any investigation or background information contained in the disclosure certificate. The form will indicate whether the employee/worker is considered suitable to work on the Council's contracts. This decision will be final and there is no right of appeal. The County Council accepts no responsibility for any resulting changes to the employment relationship between the Supply/Temporary Worker Agencies/Contractors and their employees.

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## **Monitoring & Audit**

### Internal Council procedures:

The Council will:

- undertake its own internal audit of the disclosure process on a regular basis;
- co-operate with compliance checks/audits from the [CRB](#);
- report any suspected malpractice to the CRB (employers are liable for misuse of disclosure information NOT the CRB);
- report any loss of disclosure information to the CRB (may be seen as breach of the Code); and
- use disclosure information for employment (paid or unpaid) purposes only.

### External Organisations

The Council will:

- take reasonable steps to satisfy itself that organisations for whom it signs disclosures as an 'umbrella body' comply with this Code.

**Safeguarding Children and Vulnerable Adults**

The County Council is committed to safeguarding children and vulnerable adults. All County Council employees have a shared responsibility for providing a safe environment for children and vulnerable adults. The disclosure check system is an important part of ensuring that we do not employ people who are unsuitable to work with children and vulnerable adults. However, it is important that we all pay constant attention to the behaviour of ourselves and others to ensure that vulnerable groups are not placed at risk.

The County Council will seek to publicise its role as an employer committed to safe employment practices through recruitment advertising and job information packs. Through the Local Children's Safeguarding Board the County Council has adopted fully the provisions of the Cambridgeshire Key Safe Employment Standards and through this policy and other actions is seeking to ensure that these are fully embedded across the direct workforce and contractors/suppliers engaged to work on behalf of the Council.