

HUMAN RESOURCES

SUPPLEMENTARY POLICY ON CARRYING OUT DISCLOSURE OF CRIMINAL BACKGROUND CHECKS - REVIEWS OF EXISTING STAFF

1. Introduction

The HR unit is responsible for undertaking criminal background checks for the following categories of staff:

- Where the postholder will have substantial, unsupervised access to children.
- Where the postholder will have substantial, unsupervised access to vulnerable adults (in EFDC this will generally apply to posts dealing with older people).

All police checks are carried out via the Criminal Records Bureau (CRB) in accordance with their procedures.

A list of all posts for which the postholder is subject to a criminal background check is held by the HR unit. The Authority will only seek enhanced disclosures on potential and existing staff.

2. Our Policy Statement

Epping Forest District Council, (EFDC) 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 criminal record.

At EFDC, we want to ensure that we select the best person for the job. To do this, we carry out a number of checks on applicants for posts, such as taking up references, medical clearance and disclosure of criminal convictions.

A disclosure is a document held by the police and government departments used by employers to check the background of applicants. We use disclosures to ensure candidates do not have a history that would make them unsuitable for certain jobs such as working with children or vulnerable adults. You may be asked to tell us of any spent or unspent criminal convictions, cautions or bindovers given in the last three years and any proceedings pending against you.

EFDC complies with the Criminal Records Bureau Code of Practice, which is there to make sure the whole process works fairly. Under the provisions of the Code, sensitive personal information will be handled and stored appropriately and will be kept for as long as it is necessary. The Code of Practice is published on the disclosure website or you can request a copy from the HR Unit.

The Council actively promotes equality of opportunity for all with the right mix of talent, skills and potential. We will fairly consider applications from a wide range of candidates, including those with criminal records.

A full version of our policy and associated arrangements is available on the Council's recruitment website.

3. Circumstances in which a Criminal Background Check will be Carried Out

(a) Recruitment to Vacant Posts

The Council will carry out enhanced disclosure criminal background checks as part of the recruitment process for posts designated as having substantial unsupervised access to children or vulnerable adults. The check will take place on the successful applicant only. The offer of employment will be made subject to the outcome of the disclosure process. The successful candidate will not be able to commence employment with the Council (subject to the arrangements set out below) until the disclosure has been received and is considered satisfactory by the Council to enable a formal offer of employment to be made.

Where there is a delay in receipt of a disclosure from the CRB the Council may employ an individual on the following basis:

- (i) That a permanent offer of employment will only be made on receipt of a satisfactory disclosure from the CRB. The determination of whether the information contained in the disclosure is satisfactory rests entirely with the Council;
- (ii) That while the disclosure is awaited the employee may take up the employment only if s/he does not have unsupervised access to children or vulnerable adults while it is awaited;
- (iii) That the employment is dependent upon the receipt of a disclosure which is the sole opinion of the Council is acceptable. In the absence of such disclosure the Council has the right to terminate the employment.

An offer of employment will only be made on condition that the employee agrees to further CRB checks taking place on a three yearly basis, so long as they remain in the post which requires such a check. This requirement applies to external and internal applicants who apply for a post which requires a disclosure.

(b) Existing Staff

Under current contracts of employment the Council may not require an employee to submit to a disclosure once they are in post and have satisfied the requirement for a disclosure on appointment.

From 1 September 2006 all staff who occupy posts which would require a disclosure on appointment will be asked to voluntarily amend the terms of their contract to enable the Council to seek a further disclosure from the CRB at three yearly intervals. Information and advice will be available from the Council to assist staff in making an informed choice. Once the individual member of staff gives their consent to this a process will be put in place to seek triennial disclosures. If the member of staff, having given consent to a variation of their contract, subsequently refuses to participate in future disclosure processes, this would be considered a disciplinary offence.

If the member of staff does not give their consent to a variation of their terms of employment the Council will not seek to impose a change against their will, whereby they are required to submit to triennial checks. However, should an issue of concern about their conduct subsequently come to light the Council will consider this in the light of the fact that they withheld their permission for regular disclosures to take place, and will take action in the light of this.

4. How Information obtained from the Triennial Checks will be Used

On receipt of the disclosure the HR unit will consider any information contained in the document provided by the CRB. If there is no cause for concern, the member of staff will be notified in writing that the disclosure has been received and that the Council does not intend to take any further action until the next triennial review.

Where the disclosure contains information of concern to the Council the HR unit will arrange for a discussion to take place between the employee, their representative (if they choose to be represented), their line manager and the HR officer designated to deal with disclosure matters. The discussion will be open and measured and will concern itself with the subject of any offences or other matters that might be relevant to the individual's employment. Failure to reveal any information at this interview that is directly relevant to any offence committed subsequent to the last disclosure could lead to disciplinary action.

At the conclusion of the interview the HR officer and line manager will form a view on action which might need to be taken. The range of action could be as follows:

- (a) That no further action is required.
- (b) That the information contained in the disclosure and the employee's subsequent explanation of this gives cause for concern in that it potentially poses a risk to the Council.

If this is the case, depending on the severity of the risk, the employee may be subject to a management interview or the disciplinary procedure. In some cases a period of suspension may be necessary.

The employee will then be informed in writing of the decision and any action to be taken.

5. Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information

(a) General Principles

EFDC complies fully with the CRB Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure Information. We also comply fully with our obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, retention and disposal of Disclosure Information.

(b) Storage and Access of Disclosures and Disclosure Information

Disclosure Information will not be kept on an applicant's personnel file but kept separately and securely, in a lockable, non-portable, storage container with access strictly controlled and limited to Human Resources (HR) and the relevant manager responsible for the post.

(c) Handling of Disclosures and Disclosure Information

In accordance with Section 124 of the Police Act 1997, HR will only pass Disclosure Information to the relevant manager responsible for the post. HR will keep a record of all those to whom Disclosures or Disclosure Information has been revealed and acknowledge that it is a criminal offence to pass information to anyone who is not entitled to receive it.

(d) Usage of Disclosures and Disclosure Information

Disclosure Information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given, subject to the requirements of the law.

(e) Retention of Disclosures and Disclosure Information

Once a decision has been made following a triennial review, the Council will keep Disclosure Information for six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure Information for longer than six months, we will consult the CRB about this and will give full consideration to the Data Protection and Human Rights Acts before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will apply.

(f) Disposal of Disclosures and Disclosure Information

Once the retention period has elapsed, HR will destroy any Disclosure Information by secure means. However, notwithstanding the above, we will keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.