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DISCLOSURE OF CRIMINAL RECORDS BUREAU GUIDANCE FOR CURRENT AND PROSPECTIVE EMPLOYEES

The Criminal Records Bureau (CRB) provides access, for employers and voluntary organisations by providing information about people who will be working with children or vulnerable adults.

The CRB gathers information from a number of sources such as the Police, the Department of Health and Department for Education and Skills, to provide a single, reliable, central access point.

Ryedale District Council is committed to safeguarding children and vulnerable adults under Section 11 of the Children's Act 2004. This Council acts as an umbrella organisation for the verifying of CRB applications. From July 2010 this will incorporate ISA registration.

As Ryedale District Council meets the requirements in respect of exempted questions under the Rehabilitation of Offenders Act 1974, all applicants for certain posts within Ryedale District Council and contractors undertaking any of these positions or certain activities, may be subject to a criminal record check from the Criminal Records Bureau (CRB) before employment or clearance is offered or confirmed. This will include details of cautions, reprimands or final warnings, as well as convictions. All posts/activities which require a CRB Disclosure will be declared on any advertisement/contract.

1. Scope

- 1.1 Ryedale District Council has a legal duty to provide a safe working environment and to protect the welfare of children, vulnerable adults, and people who receive it's services. The legislation provides that employers must address their common law duty to provide a safe working environment and a legal obligation to protect vulnerable customer and client groups.

2. Criminal Records Bureau (CRB) Disclosure

- 2.1 CRB Disclosures will be made against Government Records and the national collection of criminal records maintained on the Police National Computer (PNC). A fee (for all individual enquiries) is payable to the CRB at the time the request for a Disclosure is made. Volunteers do not have to pay the CRB fee, but they are required to pay the administration fee of £6.00. This is payable to Ryedale District Council. The current full fees are: £42.00 per person. All other organisations, which use Ryedale District Council as an umbrella organization will be required to pay the required £42.00 per application.
- 2.2 Current and new employees of Ryedale District Council will not be expected to pay for the CRB application or the administration fee.

3. Lead Counter Signatory

3.1 An officer within HR will take responsibility for use of the Disclosure Service. This will be the HR Manager. They are responsible for:-

- Overseeing the operation of the disclosure procedure within the authority and act as the principal point of contact with the CRB;
- Ensuring that disclosure requests fall within the terms of the legislation;
- Ensuring that requests are made at the right time;
- Ensuring that **any relevant** provisions of Rehabilitation of Offenders Act 1974 are observed;
- Ensuring that information received from the CRB is released only to those who need to see it;
- Ensuring that records are kept securely and for no longer than is necessary;
- Specify additional Counter signatories to assist in the disclosure application process.

4. Roles Of The Counter signatory

4.1 All counter signatories will be required to:

- Countersign applications and receive the Disclosures;
- Control the use of, access to and security of disclosures;
- Confirm the details of the documentary evidence requested by the CRB to establish the identity of the applicant applying for the Disclosure;
- Ensure compliance with the Code of Practice, and
- Ensure the position is covered by the exceptions Order to the Rehabilitation of Offenders Act 1974 and the Disclosure requested is at the appropriate level.

5. Procedure

5.1 CRB Disclosures form an integral and important part of recruitment and employment procedures. Managers should refer to the Council's Recruitment and Selection policy for information on the selection process.

5.2 When submitting an application for employment/work with Ryedale District Council, (in posts as declared below exempt from the ROA 1974) an applicant is required by the Council to declare any convictions (including traffic convictions) or cautions he/she may have. An applicant must include spent convictions under the Rehabilitation of Offenders Act 1974 (by virtue of the provisions of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002). The information will be treated in confidence and will only be taken into account in relation to the application.

- 5.3 An applicant or employee who is required to undertake an Enhanced CRB Disclosure, will be informed in writing when a Disclosure is required.
- 5.4 Vulnerable adults and persons under 18 regularly use Council services such as leisure facilities, child care schemes, play schemes and other services. The public expect employees in charge of these schemes to have been through rigorous checking procedures. For these reasons the Council is of the opinion that enhanced disclosures are required in certain circumstances.
- 5.5 The Council will make every effort to confirm the identity of the applicant before the CRB are asked to process a Disclosure. Verification of identity, date of birth address and any change of name will be obtained. Incomplete or incorrect identification details may invalidate the CRB Disclosure.

In line with the advice of the CRB all applicants applying for a CRB Disclosure must **normally** produce the following documentary evidence:

One item of photographic evidence. The following being acceptable:-

- A current passport, or a new-style UK photocard and full paper driving licence;
 - Plus at least **two items** of address-related evidence (eg a utility bill, or a bank, credit card or mortgage statement containing the name and address of the applicant). In the absence of photograph evidence, a full birth certificate **issued within 12 months of the date** of birth plus **two items** of address-related evidence may be sufficient.
- 5.6 The following items of address-related evidence will be accepted only if the personal details match those on the application form(s):-
- Marriage certificate, credit card statement, mortgage/insurance statement, bank details/statement, utility bill.
 - Where an applicant claims to have changed his/her name by deed poll or any other mechanism (e.g. marriage, adoption, statutory declaration) he/she must produce documentary evidence of such a change.
 - Photocopies of any of the above documentation will **not be acceptable**. **Original documents must be produced at all times.**
- 5.7 The Council will take copies of photographic evidence and any birth certificates presented, but will not normally make photocopies of any address-related evidence. With regard to address-related evidence applicants will be assured that it is only the address section of the evidence that will be scrutinised by Officers.
- 5.8 When a CRB Disclosure is desired, the request should be sent to the CRB using the official Disclosure Request Form.

- 5.9 The CRB will reply to the nominated Council Counter signatory and the applicant either indicating that there is no trace on CRB records of a record which matches the details provided, or that those details appear identical with the person whose record will be attached. The record will contain details of all convictions recorded nationally against that person.
- 5.10 It should be noted that the CRB record will not usually include details of motoring convictions. Such information under separate arrangements will be obtained from the Driver and Vehicle Licensing Agency.
- 5.11 Where the information provided by the CRB differs from that provided by the applicant, and is of significance, the nominated Counter signatory will discuss the discrepancy with the applicant before reaching any final decision in which the nature of the information received is a factor. This information may be shared with the ISA (Independent Safeguarding Authority).
- 5.12 It is noted that applicants themselves may reveal certain minor convictions or cautions which are not recorded in the national collection of criminal records and therefore, not included in the convictions provided by the CRB in general, corroboration of such convictions or cautions will not be sought from the CRB.
- 5.13 A person who believes the information provided by the CRB is incorrect and who wishes to make representations to the Council regarding the matter, may do so. Applicants should approach the CRB if they think a mistake has been made on a disclosure.
- 5.14 As a Licensing Authority we license taxi and private hire vehicles. We have a Taxi/Private Hire Policy that determines our principles on dealing with applications where there is a negative CRB Disclosure.
- 5.15 Where an offence has been committed or inappropriate behaviour outlined involving children and or vulnerable adults, this policy and the Taxi/Private Hire Policy will be viewed alongside the Council's Safeguarding Children Policy to comply with Section 11 of the Children's Act 2004.

6. Checks on persons already employed

- 6.1 Checks will be re-made on persons already in employment either at 3 or 5 yearly periods dependant upon job role.
- 6.2 A new Vetting & Barring scheme was introduced in 2009, which requires employees/applicants to be registered with them prior to offer/start of employment.

If, however, serious allegations are made against an employee or previously unrevealed information comes to light and the Council is satisfied that the

information cannot be verified in any other way, the employee may be asked to undergo another verification.

The Council will undertake to pay the cost of the Disclosure. The Disclosure cannot be undertaken without the knowledge of the individual concerned who will be given an opportunity to discuss the outcome of the same.

6.2 Should an employee refuse to cooperate with a request to produce a Disclosure, then the Council will take action accordingly, as is usual in accordance with the Council's Disciplinary Policy. Should an applicant refuse to cooperate with a request to produce a Disclosure, then the Council will take action as to terminate their application for employment.

6.3 The Council will undertake repeat checks as the above frequency, to ensure that adequate protection is maintained and monitored.

6.4 New Procedures from July 2010

From July 2010, individuals will need to register with the ISA (Independent Safeguarding Authority) if they are to volunteer or work with children and or vulnerable adults in a registered activity. New employment applicants will be expected to be ISA registered PRIOR to starting work for Ryedale District Council, and this will be detailed in the recruitment process from August 2010.

6.5 ISA will assess all relevant information on individual applicants and where they believe that the individual poses a risk, bar them from working in any regulated activity with children and or vulnerable adults. However, it is important to understand that the ISA will not be barring every single individual with any kind of criminal conviction – so in order to gain a full picture of an individual's record, it will be necessary to obtain a CRB check at the same time.

6.6 The requirements to have a ISA Registration and CRB check will be phased in over a 5 year period for existing employees – however **all new employees** from July 2010, will be required to **complete both** the ISA Registration and CRB application forms (there will be a new form from July 2010). The new fee for this will be a one off fee of £64.00. The ISA registration fee on its own merits is £22.00. Existing staff will not be expected to pay for the registration fee.

6.7 The new joint application will result in a CRB Disclosure certificate and a notification of the ISA Registration.

6.8 Any information found is considered against their "barring" criteria and the applicant will receive notification of the barring. If a person is barred, then an employer may be committing an offence to employ them to work within the children or vulnerable adults sectors.

- 6.9 It is possible to be barred from one area (i.e., working with children - or working with vulnerable adults) but there will be the requirement to have an enhanced disclosure done as well.
- 6.10 If an employee is found to be barred, then Ryedale District Council will have to deal with the barring on a case by case basis through their Disciplinary Policy. The Council must ensure that a risk assessment of the situation is undertaken prior to any action being taken.
- 6.11 *Barring Criteria*
These are the minimum periods of barring which **MUST** elapse before the person is able to seek a review of the barring process.
- Under 18yr olds will be barred for 1 year
18-24yr olds will be barred for 5 years
25 + will be barred for 10 years
- 6.12 **An automatic bar is imposed for serious offences and which will NOT have a right of representation to be made** and the second decision is based on the conviction history that may not warrant an automatic bar but where the ISA Scheme has made a decision to bar. The applicant has the right of appeal in this situation to the ISA.

7. Use of Information

- 7.1 The fact that a person has a criminal record or is known to the police does not necessarily mean that he or she is unfit to be employed by the Council. The Council will make a balanced judgement about a person's suitability taking into account only those offences that are considered relevant to the person's suitability to be employed in the post they are applying for. A person's suitability will be looked at as a whole in the light of all the information available.
- 7.2 In deciding the relevance of convictions, the Council will bear in mind that offences which took place many years in the past may often have less relevance than recent offences. Similarly, a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. In any event the importance of rehabilitation will be weighed against the need to protect the public.
- 7.3. In order to ensure consistent and fair treatment when determining whether or not criminal convictions render an applicant unsuitable to be employed, the Council have drawn up detailed policy guidelines containing general criteria against which applications may be considered. Guidelines relating to the relevance of convictions should be used in conjunction with this policy and are shown in the Recruitment & Selection Policy.

- 7.4. Where it is discovered that an employee, employed prior to implementation of the Criminal Records Bureau, had failed to disclose past convictions, the Council will consider carefully whether they should now take action against this employee. In most cases, if those convictions are such that they would now lead to the refusal of an offer of employment, the Council's Disciplinary procedures will be followed.
- 7.5 Where a sexual offence has been committed involving children or vulnerable adults, it is highly unlikely that an applicant would be in a position to satisfy the "fit and proper person" test, having regard to the higher risk when compared to other crimes, that such behaviour would be repeated. Generally such offending conduct will permanently debar an applicant and any deviation to this policy would be an exception rather than the rule.

8. Appeals

- 8.1 Any person who is aggrieved by the Council's decision to refuse employment may appeal to the HR Manager.
- 8.2 An automatic bar is imposed for serious offences and which will NOT have a right of representation to be made and the second decision is based on the conviction history that may not warrant an automatic bar but where the ISA Scheme has made a decision to bar. The applicant has the right of appeal in this situation to the ISA.
- 8.3 Any person who is aggrieved by the Council's decision to refuse applications of work may appeal to the Corporate Director.
- 8.4 In the case of a taxi driver licence application, where the Taxi Licensing Officer is not authorised to grant a licence and therefore refuses the application upon receipt of an unsatisfactory CRB disclosure, the applicant has a right of appeal to Committee in accordance with the Taxi Licensing Policy.

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

- 9.1 Any information the CRB supply will be of a sensitive and personal nature. It will be used only in connection with the application which gave rise to the request for a Disclosure to be made. The Lead Counter Signatory must ensure it is kept securely while the recruitment process takes its course and that the information is not kept for longer than is necessary. An indication on the Council's own record that a CRB disclosure has been carried out may be made but this will not refer to specific offences.

10. Checks on Applicants from Overseas

10.1 Other than in exceptional circumstances, the Council can not:

- Make enquiries about the antecedents of people from overseas; or
- Establish details of convictions acquired outside the United Kingdom.

10.2 Applicants from certain EU countries may, however, be able to produce certificates of good conduct.

10.3 The principles of this policy must take precedent over any difficulty to obtain information to ensure the safety and security of staff and service users.

11. Monitoring

11.1 Where possible the Council will collate the following information in respect of CRB Disclosures:

- Number of CRB disclosures requested in respect of applicants for employment;
- Time taken to receive disclosures, and any apparent difficulties with these arrangements, including the resource implications.
- This Policy and subsequent CRB audit systems will be regularly monitored

12.0 Portability Guidance

12.1 There may be instances when a Disclosure issued for one position could be used for another job or voluntary position within the same authority. If there is more than a 3 month break in service, a new Disclosure will be necessary.

12.2 The nature of the duties, the date of original disclosure and the type of Disclosure sought will affect whether it is necessary to reapply or whether a current Disclosure can be used.

12.3 Information may only be shared with recruiters with the consent of the Disclosure applicant.

12.4 A Disclosure, of whatever type, carries no period of validity. This is because Disclosures are designed for use immediately after issue. **Enhanced** Disclosures are designed to be used at the point of recruitment for a particular position only, and will be of most use the closer to the date of issue they are used. Recruiters considering making use of Disclosures issued to other organisations should bear in mind the age of any Disclosure they are considering.

12.5 Enhanced Disclosures

The YSCB (North Yorkshire Safeguarding Children Board) recommendations that an Enhanced Disclosure check is obtained for **ALL** staff and volunteers who work with children and or vulnerable adults.

- 12.6 The line Manager in conjunction with HR should decide whether the duties of the position to be filled are compatible with those relating to the position for which the Disclosure was issued. Where a post involves working with children or vulnerable adults, an enhanced CRB disclosure and an ISA registration is required. ISA need to be informed of any unsuitable applicants/employees.
- 12.7 Should a prospective employee offer an Enhanced Disclosure, HR may refuse depending on time elapsed, or contact the Counter signatory for the original Disclosure application to compare details on the Disclosure to confirm it has not been altered. They may also ask the Counter signatory whether the police issued any additional information.

The above may only be carried out with the permission of the individual concerned.

13.0 Elected Member Involvement

Where members require a CRB check and/or need to be ISA registered, the same procedures will follow as per (5.0) and (6.4) of this policy.

- 13.1 Where a Member is “barred” through the ISA registration scheme, or a disclosure is made through a CRB check, then a risk assessment of their portfolio must be considered prior to any action.

14.0 Further Training

All staff and Members will receive further training on the policy and its implications on Children and Vulnerable Adults agenda as part of our commitment to the Safe-Guarding Programme.

15.0 Inappropriate Behaviour

Where staff during the course of their employment at Ryedale District Council or Members in their roles as ambassadors for the Council act inappropriately towards a child/children or vulnerable adult, this must be reported directly to ISA.

- 15.1 ISA will then notify the employers of what action is required. The Council will be required to follow its own Disciplinary procedures.

For additional information please refer to the CRB Portability Guidance (www.crb.gov.uk) and the new ISA guidance at the CRB website.