

Disclosure & Barring Service (DBS) Procedure



It's not
just
the
bricks
about
bricks



July 2017

CONTENTS

1	DISCLOSURE & BARRING SERVICE (DBS) PROCEDURE.....	3
1.1	Types of Disclosure and Barred List Checks.....	3
1.2	Legal Requirements for an Enhanced DBS Check.....	3
1.3	Legal Requirements for an Enhanced Check for Regulated Activity	4
1.4	Establishing DBS Requirements for a New Post.....	4
1.5	Recruitment.....	4
1.6	Identity Checks.....	6
1.7	After Recruitment	6
1.8	Applicants with Adverse Disclosures.....	6
1.9	Enhanced DBS and Barred List Re-Checks for Employees	7
1.10	Employees with Adverse Disclosures.....	8
1.11	Data Protection.....	9
1.12	Agency Workers	9
1.13	Contractors.....	9
1.14	Volunteers	9
1.15	Referral to the Disclosure & Barring Service (DBS)	10
1.16	Gender Recognition Certificates.....	10
1.17	Complaints	11
2	USEFUL CONTACTS	11
3	FURTHER INFORMATION	11
	Appendix A: Posts Requiring an Enhanced DBS Check (current definition)	
	Appendix B: Posts Requiring an Enhanced check for Regulated Activity (Post 10th September 2012 definition)	
	Appendix C: The Manager/Data/Evidence Checkers Guide to Completing an Applicant's DBS Application Form and Verifying Identity Checks	
	Appendix D: Risk Assessment Template – Employees Starting Work before an Enhanced DBS Check is Returned	
	Appendix E: Cause for Concern Risk Assessment Proforma	
	Appendix F: Relevant Legislation	
	Appendix G: Statement of Good Conduct	
	Appendix H: Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information	
	Appendix I: Checks	

1 DISCLOSURE & BARRING SERVICE (DBS) PROCEDURE

Broadacres Group is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and the Exceptions Order to the Rehabilitation of Offenders Act (1975). However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act 2012, the Rehabilitation of Offenders Act (1974), the Data Protection Act (1998), the DBS Code of Conduct and the Human Rights Act (1998). A description of each piece of key relevant legislation can be found in Appendix F: Relevant Legislation.

This policy will apply to those seeking paid work or volunteering opportunities with Broadacres.

1.1 TYPES OF DISCLOSURE AND BARRED LIST CHECKS

The Protection of Freedoms Act 2012 has resulted in a differentiation between those posts which can legally have an enhanced DBS check and those posts which can also legally be checked against the Children or Adult Barred Lists (an Enhanced check for Regulated Activity).

As a manager you should begin by looking at Appendix B to establish if a position comes under the post 10th September definition of Regulated Activity and is therefore entitled to an Enhanced check for Regulated Activity. If the position does not come under this definition then turn to Appendix A to establish if the position comes under the pre 10th September definition and is therefore entitled to an enhanced DBS check. If a post does not come under either definition then it is not entitled to a DBS check.

It is an offence for individuals on the Barred List to apply for posts In Regulated Activity.

If someone is on the Barred List it will not be stated on an Enhanced DBS check, but there will be details of criminal convictions that would indicate that someone might be on the Barred List and a manager must investigate thoroughly and complete Appendix E: Cause for Concern Risk Assessment Proforma, if any such disclosures are received.

The minimum age that someone can have a DBS check is now 16 years old. Broadacres will not be able to countersign an application for anyone under 16.

Basic Checks

Broadacres will carry out Basic Checks for any role involving regular contact with vulnerable adults.

All applications for a Basic Disclosure check are processed through the Police National Computer (PNC) and the Scottish Criminal History System (CHS) in

search for any details of convictions considered “unspent” under the Rehabilitation of Offenders Act 1974.

This check is not subject to an eligibility requirement, therefore it can be conducted for anybody (with their permission). Please see to Appendix I: Checks for posts requiring a Basic Check.

1.2 LEGAL REQUIREMENTS FOR AN ENHANCED DBS CHECK

Broadacres will ensure the national minimum requirement for Disclosure & Barring Service compliance is met. This requires all those who commenced working in a role exempt from the Rehabilitation of Offenders Act after 1st March 2002 to undertake an Enhanced DBS check.

Broadacres will only ask for an Enhanced DBS check when it is not an offence under the Police Act 1997 to do so. See Appendix A: Posts requiring an Enhanced DBS check We are still entitled to ask all post holders in these posts to undertake an Enhanced DBS check but not all these posts are now entitled to a Children or Adult Barred List check.

1.3 LEGAL REQUIREMENTS FOR AN ENHANCED CHECK FOR REGULATED ACTIVITY

Where an individual within a role meets the new definition of undertaking “Regulated Activity” an application will be made for an enhanced DBS check and a relevant (Adult or Children) Barred List check (an Enhanced check for 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. For information on the new definition of Regulated Activity and posts for which a check can be made against the barred list, please see Appendix B: Posts requiring an Enhanced check for Regulated Activity.

1.4 ESTABLISHING DBS REQUIREMENTS FOR A NEW POST

If a manager has a new post which they believe requires an enhanced DBS check/an Enhanced check for Regulated Activity they should check this with the Human Resources team who will confirm whether the post is eligible for a DBS check. If the HR team believes it would be illegal to request a DBS check they will ask for the manager’s rationale behind their request and clarify the parameters for which the Exceptions Order can be applied.

1.5 RECRUITMENT

All recruitment will be in line with the Broadacres Recruitment and Selection Policy.

Where a post is identified as one that requires an Enhanced DBS check, or an Enhanced check for Regulated Activity, all application forms, job adverts and recruitment literature will contain a statement advising that this will be requested in the event of the individual being offered the position.

Applicants should be made aware that enhanced disclosures might include non-conviction information from local police records if the police “reasonably believe” the information is relevant to the post in question.

We will make every applicant, subject of an Enhanced DBS check aware of the existence of the DBS Code of Practice.

Where an Enhanced DBS check is to form part of the recruitment process, we will ask all applicants to “self disclose” details of their criminal record at an early stage. This information will only be seen by those that need to as part of the recruitment process. Failure to reveal information that is directly relevant to the position sought may lead to the withdrawal of an offer of employment.

We have a written policy on the recruitment of ex-offenders to which we adhere. See the DBS Policy on the Rehabilitation of Offenders and on Self Disclosure.

We will not employ someone to work in Regulated Activity with children if they have been barred through the DBS Children Barred list, or someone to work with adults who is barred through the DBS Adult Barred List..

We will use an Enhanced check for Regulated Activity as one part of a range of safeguarding tools for assessing the suitability of preferred candidates, volunteers, contractors, agency workers, those transferring within Broadacres and the continued employment of those in specific roles which require re-checking. Other tools include thoroughly confirming identity, qualifications, taking up and verifying references and examining dates of employment histories on application forms.

Where an individual has undertaken an enhanced DBS check for a position with Broadacres and they move to another position within the organisation, the enhanced DBS check will be acceptable where the new work does not represent a significant increase in responsibility for, and contact with, children and/or adults. When appointing internally managers are required to ask to see the employees DBS Certificate.

We will not accept an Enhanced DBS check or Enhanced check for Regulated Activity obtained by an applicant from their previous employer as a disclosure is technically out of date on the day it is issued (i.e. new or further criminal conviction, caution, etc. will not be recorded against the individual after the issue date).

Applicants who have worked or been resident overseas for longer than three months within the previous five years, including UK citizens who have worked or lived overseas, require the Statement of Good Conduct. Broadacres will request that a Statement of Good Conduct (SOGC) (sometimes referred to as a Certificate of Good Conduct) is provided where one is required. See Appendix G: Statement of Good Conduct for further information.

1.6 IDENTITY CHECKS

When making an application to the DBS for disclosures, the Human Resources team will act as the evidence checker (also termed the data checker) of the individual's documents. Full guidelines on the documents that can be used and how to check them is available in Appendix C: The Manager/Data Checker/Evidence Checkers guide to completing an applicant's DBS application form and verifying identity checks.

1.7 AFTER RECRUITMENT

As part of an employee's induction new employees should be made aware of their commitment to safeguarding children and adults via an e-learning programme.

Where posts which are entitled to an Enhanced DBS check or an Enhanced check for Regulated Activity, a manager should complete a risk assessment if they have to, for operational reasons, allow someone to work before the enhanced DBS disclosure is returned. In this instance the manager must complete Appendix D: Risk Assessment Template – Employees starting to work before an Enhanced DBS Check is returned, and update this once a relevant disclosure is received.

The risk assessment includes:

- A correctly completed enhanced DBS application has been submitted.
- An adult or children Barred List check, if applicable. The manager must provide the name of the individual, any previous surnames they have been known as and their date of birth. They can then be checked against the relevant Barred List held by the DBS (Children or Adult list).
- All of the pre-employment checks as outlined in the Recruitment and Selection Policy have been completed for example the identity of the job applicant is confirmed, references have been taken and verified.
- The manager has introduced sufficient safeguards for the individual not to have unsupervised access to children or adults.
- The manager introduces appropriate safeguards e.g. the employee has no unsupervised contact until the enhanced DBS is returned.

1.8 APPLICANTS WITH ADVERSE DISCLOSURES

If a DBS check reveals details of convictions which may render the applicant unsuitable for the applied post – termed "Cause for Concern" - the appointing HR manager will discuss the situation with the applicant and in line with the DBS Code of Practice and through use and completion of Appendix E: Cause for Concern Risk Assessment Proforma. The applicant will be asked to sign the completed risk assessment to verify the information provided and give permission for the risk assessment to be stored securely and later destroyed in accordance with Appendix H: Policy on the secure storage, handling, use, retention and disposal of disclosures and disclosure information.

When assessing any disclosure or declared conviction information received, consideration will be given to a range of issues and the risk assessment will support a manager's decision enabling them to assess the suitability of the applicant for their proposed position in light of matter(s) disclosed on their DBS certificate.

Having a conviction will not necessarily bar someone from employment with Broadacres who will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of clients, employees and the public, including Broadacres duties and responsibilities towards these or other groups.

Managers will not allow personal prejudices to "cloud" their judgement and good practice. They will consider the relevance of offences and be aware that no two offences are exactly alike e.g. a premeditated burglary that involves extensive damage to property and the physical intimidation of the occupants is different from the opportunist convicted of reaching in through an open window and stealing a purse.

If the candidate has made a false declaration on their application form then Broadacres will not be able to confirm the appointment. If the disclosure certificate contains information that was not revealed by the candidate or additional information from the Police is received it will be necessary to hold a further discussion with the candidate and undertake a further review against any risk assessment before deciding to confirm or withdraw the offer of employment.

It is an offence for a barred person to work, apply to work or offer to work in Regulated Activity with a group they are barred from working with. Candidates on the Barred List will not be employed in Regulated Activity by Broadacres. If the checks reveal that a candidate is on the Barred List for Regulated Activity Broadacres will make a referral to DBS to notify them of the individuals attempt to apply for barred work.

1.9 ENHANCED DBS AND BARRED LIST RE-CHECKS FOR EMPLOYEES

In accordance with Care Quality Commission (CQC) some roles require a three yearly re-check.

If a post requires an Enhanced DBS check or an Enhanced check for Regulated Activity Broadacres can legally re-check their staff as regularly as they wish to. There is a cost associated with re-checks. The costs for a DBS check are met by Broadacres.

Where there are reasonable grounds Broadacres may require existing employees to re-apply for an up to date Enhanced DBS check or Enhanced check for Regulated Activity. It reserves the right to ask existing members of staff in relevant positions to apply for a new DBS check if their actions or activities give "cause for concern". The grounds for "cause for concern" could include allegations of suspicious or inappropriate behaviour made by a child or other person or a colleague, parent,

carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with Broadacres' Disciplinary Policy. As part of the investigation process, the employee may be required to undergo an Enhanced DBS check or Enhanced check for Regulated Activity with consideration and legal advice taken in respect of human rights and employment legislation.

Where, due to changes in legislation, occupational groups become subject to regulation for the first time, Broadacres will write to existing employees in those groups informing them of the requirement to obtain an Enhanced DBS check or Enhanced check for Regulated Activity. All employees will be expected to comply. Any existing employee refusing to comply with the request for an enhanced DBS check or Enhanced check for Regulated Activity will be advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued by an appropriate manager and/or to comply with a contractual agreement will lead to the employee being subject to a disciplinary investigation.

1.10 EMPLOYEES WITH ADVERSE DISCLOSURES

Where existing employees, who have not been previously checked, or their post requires a re-check and subsequently have an adverse disclosure result, the manager should follow the guidance in section 1.8 Applicants with adverse disclosures and complete Appendix E: Cause for Concern Risk Assessment Proforma. It may be appropriate to move the employee to an alternative post with no access to children and/or vulnerable groups, property/information/resources etc. depending on the nature of the disclosures and pending the outcome of a full investigation. It may be that there are no suitable duties the employee could undertake during this period which do not bring them into contact with children/adults. If this is the case, the manager must give consideration to suspending the employee on full pay pending the outcome of the disciplinary investigation.

The employee may confirm or refute the information provided by the DBS, where this is the case Human Resources, in conjunction with the employee's line manager, may pursue a range of options and this may include further checking with the DBS.

When completing Appendix E: The Cause for Concern Risk Assessment Proforma it should be considered whether the conviction is relevant to the post and evidence of previous convictions should not be used to dismiss a person for poor job performance. The track record of the individual should be carefully assessed and if it is satisfactory, this should be considered positively. If the disclosure results are considered to be of a serious nature and prove to be correct the manager may consider various options. Options include:

- Termination of employment.
- Redeployment pending the availability of a suitable vacancy.
- The introduction of safeguards.

Only after a full appraisal of the situation including the risks involved and other alternative employment options investigated should dismissal be considered and then only after advice from Human Resources. If the manager decides to consider

termination of employment, then the employee must be informed in writing and a hearing held in line with the Disciplinary Procedure.

If the disclosure results are considered not to be serious and do not impinge on an employee's ability to work in their existing role the line manager should inform the employee accordingly in writing.

1.11 DATA PROTECTION

Broadacres will ensure that sensitive personal information is held securely, and only seen by those entitled to see it in the course of their duties. An Enhanced DBS or Enhanced check for Regulated Activity and, if applicable, the cause for concern assessment (Appendix E) will only be stored for as long as necessary, and then confidentially destroyed. See Appendix H: Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

Under section 124 of The Police Act 1997 it is a criminal offence to pass disclosure information about a spent conviction to anyone who is not entitled to receive it.

Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1,000, or both.

1.12 AGENCY WORKERS

The agency is legally the employer of any agency workers and the responsibility to obtain a relevant DBS check or an Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that the agency provides workers to work within. Our agency worker provider undertakes annual audits of the agencies to ensure they are compliant with our safeguarding requirements.

When using an agency worker, Human Resources / line manager should ask to see written confirmation from the agency or a copy of the DBS check (this should be no more than one year old), to ensure that each worker supplied to them has had a satisfactory DBS check and checks against the Children's and/or Adult's barred list.

1.13 CONTRACTORS

The organisation providing the contractor is legally the employer of any contractors and the responsibility to obtain a relevant DBS check or Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that contractors are provided to. If contractors are procured, Broadacres will ensure that all Safeguarding requirements are included within the procurement documentation. An audit of the contractor's organisation will be undertaken on an annual basis to ensure compliance with these requirements.

1.14 VOLUNTEERS

A volunteer is described as a person who performs an activity which involves spending time unpaid (except for travelling and approved out of pocket expenses)

doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.

Volunteers who assist on a regular basis in a role which meets the parameters for requiring a DBS check are required to undertake a DBS check, and if the role is also classed as Regulated Activity they will be eligible for an Enhanced check for Regulated Activity. See Appendices A and B.

The disclosure is provided free. Some people can be referred to as volunteers but do not actually meet the DBS criteria to get a free disclosure check. To qualify for a free of charge disclosure, the applicant must not benefit directly from the position the DBS application is being submitted for.

The applicant must not:

- receive any payment (except for travel and other approved out of pocket expenses);
- be on a placement/work experience;
- be on a course that requires them to do this job role; and/or
- be in a trainee position that will lead to a full-time role post qualification.

Volunteers roles should be properly described under “role of applicant” on the DBS disclosure form e.g. “volunteer classroom helper”.

1.15 REFERRAL TO THE DISCLOSURE & BARRING SERVICE (DBS)

The Safeguarding Vulnerable Groups 2006 Act sets a legal duty for Broadacres to refer information to the DBS if we dismiss or remove a member of staff/volunteer from working with children and/or adults (in what is legally defined as Regulated Activity) because they meet the referral criteria. Broadacres has a duty to refer information to the DBS as a Regulated Activity Provider. See the Policy on Referral to the DBS.

1.16 GENDER RECOGNITION CERTIFICATES

The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.

If the person is required to undergo a DBS check as part of the recruitment process they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contact officer to maintain confidentiality (email: sensitive@dbs.gsi.gov.uk).

Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the

provision of conviction information on the DBS disclosure certificate showing both gender names.

1.17 COMPLAINTS

Applicants unhappy with any aspect of the DBS process, including the application of this procedure, should initially raise their concerns through the HR Department.

The above complaints procedures are intended to deal with Broadacres own internal processes. Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the Disclosure & Barring Service.

2 USEFUL CONTACTS

- Gail Hodgson, Head of Human Resources – 01609 767926 / gail.hodgson@broadacres.org.uk
- Sally Baxter, Human Resources Officer – 01609 767973 / sally.baxter@broadacres.org.uk
- Kerry Rowe, Human Resources Advisor – 01609 767913 / kerry.rowe@broadacres.org.uk
- Fiona Webb, Human Resources Advisor – 01609 767949 / fiona.webb@broadacres.org.uk

3 FURTHER INFORMATION

Further relevant Policy

- Disclosure & Barring Service (DBS): Policy on the Rehabilitation of Offenders and Self Disclosure
- Disclosure & Barring Service (DBS): Policy on the Referral to the DBS

Updated July 2017

APPENDIX A: POSTS REQUIRING AN ENHANCED DBS CHECK (current definition)

Note: All of these posts are still entitled to an enhanced DBS check but may not be entitled to a barred list check. Only posts which fall under the parameters of Regulated Activity are entitled to a Barred List Check (See Appendix B).

An activity is classed as ‘regulated’ and therefore eligible for an enhanced DBS check if one of the three following criteria is met:

1. The work is of a Specified Nature – e.g. teaching, training, supervision, advice, treatment, transport	and	Frequently, intensively and/or overnight – once a week for most services, but once a month or more for health and social care services providing personal care, takes place on four days in one month or more, overnight between 2am-6am.		
or				
2. The work is in a Specified Place – e.g. schools, pupil referral units, childcare premises, residential children’s care homes, children’s centres, adult care homes	and	Frequently, intensively and/or overnight – once a week for most services, but once a month or more for health and social care services providing personal care, takes place on four days in one month or more, overnight between 2am-6am	and	Gives that person the opportunity, in consequence of anything he is permitted or required to do in connection with the activity, to have contact with children or vulnerable adults.
or				

3. The work is in a Specified Role – including fostering and adoption or a ‘defined office holders’ such as Director of Children’s Services, Member of a Local Safeguarding Children’s Board, Members of Fostering and Adoption Panels, Member of any committee of a Local Authority that discharges any of that Authority’s education or social services function.

No distinction is made between paid and voluntary work.

There is a fine line of distinction with some posts across Broadacres. A library is not a listed establishment in the Safeguarding Vulnerable Groups Act 2006 and therefore all roles must be assessed on the nature of the duties the individual will carry out, i.e. training, teaching, instructing and supervising children or vulnerable adults. Examples include:

There is a story time session for the general public. Some people may bring their children along and the children may join in. This is classed as incidental contact with children and the assistant is therefore not eligible for a DBS check.

There is a story time session for children aged 18 and under. The assistant meets the criteria and is eligible for a DBS check even if the children in the club may differ from week to week.

In summary, activities in a library which are open to the general public are not covered by any exceptions in legislation and, therefore, unless a class or event has been organised wholly or mainly for children or vulnerable adults on a regular basis, the instructor/facilitator would not meet the criteria for a DBS check.

Certain posts within Broadacres are not eligible for a DBS check, for example, if an employee has access to sensitive or confidential information such as home addresses, financial details, databases of vulnerable clients or medical information, application for a disclosure does not currently fall within legislation; this is because the employee has no direct contact with children and/or vulnerable adults.

What is meant by working regularly?

The key test is ‘frequent’ or ‘intensive’ contact which was clarified in December 2009 by Sir Roger Singleton and the Secretary of State for Children, Schools and Families as:

“The frequent contact test should be met if the work with children takes place once a week or more. The intensive contact test should be met if the work takes place on four days in one month or more or overnight. Individuals who go into different schools or similar settings to work with different groups of children should not be required to register unless their contact with the same children is frequent or intensive.”

Updated July 2017

APPENDIX B: POSTS REQUIRING AN ENHANCED CHECK FOR REGULATED ACTIVITY

LEGISLATION ON DEFINITION OF REGULATED ACTIVITY

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012). Regulated activity still excludes family arrangements, and personal, non-commercial arrangements.

What is meant by working regularly?

The key test is 'frequent' or 'intensive' contact which was clarified in December 2009 by Sir Roger Singleton and the Secretary of State for Children, Schools and Families as:

"The frequent contact test should be met if the work with children takes place once a week or more. The intensive contact test should be met if the work takes place on four days in one month or more or overnight. Individuals who go into different schools or similar settings to work with different groups of children should not be required to register unless their contact with the same children is frequent or intensive."

Regulated Activity (Children) - Current Definition of Regulated Activity - Children

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

1. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children.
2. Work for a limited range of establishments ('specified places' – see list below), with opportunity for contact, (but not work by supervised volunteers).

Work under 1 or 2 above is regulated activity only if done regularly. Regular means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight). Statutory guidance about supervision of activity.

Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once;
Registered childminding; and foster-carers;

Regulated activity still excludes:

- Family arrangements;
- Personal, non-commercial arrangements.

Definition of Supervision

Supervision must be:

Regular.

Day to day.

Reasonable in all the circumstances for the purpose of protecting the children concerned.

Carried out by someone who is engaging in regulated activity relating to children.

Specified Places

Schools and colleges wholly or mainly for under 18 year olds (all or mainly full-time, for children).

Pupil referral units (also known as Short Stay Schools) not falling within the above.

Nursery schools.

Institutions for the detention of children.

Children's homes.

Children's centres in England.

Childcare premises (including nurseries).

No longer in regulated activity - children

Activities

Activity supervised at reasonable level.

Health care not by (or directed or supervised by) a health care professional.

Legal advice.

“Treatment/therapy” (instead “health care”).

Establishments

Occasional or temporary services, e.g. maintenance (not teaching etc.).

Volunteers supervised at reasonable level.

Office holders (England):

All “positions” removed, e.g. governors, councillors.

Inspectorates removed.

Part 1: Regulated Activity in relation to children activities

The activities in the left-hand column are regulated activity in relation to children, subject to:

- exceptions in the right-hand column;
- different provisions for “establishments” (specified places) in Part 2 below.

Do not read the left-hand column in isolation from the right-hand column or from Part 2.

In the right-hand column:

- “new” exceptions are those in the 2012 Act;
- “existing” exceptions are already in the 2006 Act as amended before the 2012 Act, or in secondary legislation under it.

Changes to Legislation: There are outstanding changes not yet made to the Safeguarding Vulnerable Groups Act 2006, but which are in force.

Activity	Exceptions – not Regulated Activity
All of regulated activity.	Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children. This is the “peer exemption”.
In para 2(1) of Schedule 4: of the Safeguarding Vulnerable Groups Act 2006	
<p>(a) Teaching, training or instruction of children, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period, or overnight*.</p> <p>Day to day management or supervision on a regular basis of a person providing this activity which would be regulated if unsupervised.</p> <p>*Sources:</p>	<p>New:</p> <ul style="list-style-type: none"> • Supervised activity - under reasonable day to day supervision by another person engaging in regulated activity. Para 2(3A). <p>Existing:</p> <ul style="list-style-type: none"> • Activity relating to a child in the course of his employment, not by a person for whom arrangements exist principally for that purpose. • Activity merely incidental to activity

<ul style="list-style-type: none"> - once a week: guidance, March 2010, Annex B, page 70 para B.12; - four or more days/ overnight: Schedule 4, para 10(1) as amended. 	<p>with adults.</p>
<p>(b) Care or supervision of children if carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period or overnight.</p> <p>Day to day management or supervision on a regular basis of a person providing this activity which would be regulated if unsupervised.</p>	<p>New:</p> <ul style="list-style-type: none"> • Supervised activity - under reasonable day to day supervision by another person engaging in regulated activity. Para 2(3B)(b). <p>Existing:</p> <ul style="list-style-type: none"> • Activity relating to a child in course of his employment, not by person for whom arrangements exist principally for that purpose. • Activity merely incidental to activity with adults.
<p>Particular types of care within (b) above, which apply to any child, even if done only once: (i) to (ii) below.</p>	
<p>(i) Relevant personal care. Para 1(1B):</p> <p>(a) physical help in connection with eating or drinking, for reasons of illness or disability;</p> <p>(b) physical help for reasons of age, illness, or disability, in connection with:</p> <ul style="list-style-type: none"> • (i) toileting (including re menstruation); • (ii-iii) washing, bathing, or dressing; <p>(c)-(d) prompting with supervision, in relation to (a)-(b), where the child is otherwise unable to decide;</p> <p>(e)-(f) other training or advice in relation to (a)-(b).</p>	

<p>(ii) Health care. Para 1 (1C):</p> <p>All forms of health care relating to physical or mental health including palliative care and procedures similar to medical or surgical care.</p>	<p>New:</p> <ul style="list-style-type: none"> • Health care not by, or directed or supervised by, a health care professional*. Para 2(3B)(a). • *Defined by reference to regulatory bodies. Para 1(1C).
<p>(c) Advice or guidance provided wholly or mainly for children relating to their physical, emotional or educational well-being if carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period or overnight.</p>	<p>New:</p> <ul style="list-style-type: none"> • Legal advice. Para 2(3C); <p>Existing:</p> <ul style="list-style-type: none"> • Activity relating to a child in course of his employment, not by person for whom arrangements exist principally for that purpose. •
<p>(a), (b) & (c): Definition of “overnight”:</p> <p>In relation to teaching, training or instruction; care or supervision; or advice or guidance, it is also regulated activity if carried out (even once) at any time between 2am and 6am and with an opportunity for face-to-face contact with children. Schedule4, Para 10(2).</p>	
<p>Former category (d), treatment or therapy, is now replaced by “health care” provisions.</p>	
<p>(e) Moderating a public electronic interactive communication service likely to be used wholly or mainly by children, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period.</p>	<p>Existing:</p> <ul style="list-style-type: none"> • Activity by a person who does not have access to the content of the matter, or contact with users.

<p>(f) Driving a vehicle being used only for conveying children and carers or supervisors under arrangements as prescribed*, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period.</p> <p>*Prescribed by SI 2009-1548</p>	
<p>In para 1 of schedule 4:</p>	
<p>(3) Early years or later years childminding* with a requirement to register, or voluntary registration, under Childcare Act 2006.</p> <p>*That is: on domestic premises, for reward; as opposed to “childcare premises”, part 2 below.</p>	
<p>(5) Fostering** a child.</p> <p>**Defined at section 53.</p>	<p>Existing:</p> <ul style="list-style-type: none"> • Care arranged by family members and not for reward is not regulated activity. Section 53(8). • Local Authority can foster child with barred person who is, or lives with, a relative of the child. <i>SI 2009-1797, Art 3(2)</i>.
<ul style="list-style-type: none"> • (14) Day to day management on a regular basis of a person providing a regulated activity in Schedule 4, paragraphs 1(1) or (2) – that is, activity: <ul style="list-style-type: none"> - at (a) to (f) above; <p>or</p> <ul style="list-style-type: none"> - in establishments in part 2 below; 	

Part 2: Regulated Activity in relation to Children - Establishments

An activity is regulated activity in relation to children if carried out (subject to exceptions below):

in one of the following establishments;
 frequently (once a week or more often), or on 4 or more days in a 30-day period;
 by the same person, engaged in work for or in connection with the purposes of the establishment; and
 it gives the person the opportunity, in their work, to have contact with children.

Day to day management or supervision on a regular basis of a person providing the above regulated activity for children is regulated activity for children.

Establishment	Exceptions – not Regulated Activity
Schedule 4, para 3(1) of the Safeguarding Vulnerable Groups Act 2006	
<p>(a) schools (all or mainly full-time, for children);</p> <p>(aa) pupil referral units (also known as Short Stay Schools) not falling within the above;</p> <p>(b) nursery schools;</p> <p>(d) institutions for the detention of children;</p> <p>(e)&(f) children’s homes;</p> <p>(fa) children’s centres in England;</p> <p>(g) childcare premises (including nurseries).</p> <p>Day to day management or supervision on a regular basis of a volunteer activity which would be regulated if unsupervised. <i>Para 1(15).</i></p>	<p>New:</p> <ul style="list-style-type: none"> ▪ Activity by person contracted (or volunteering) to provide occasional or temporary services (not teaching, training or supervision of children). <i>Para 1(2A) & (2B)(a);</i> ▪ Volunteering, under day to day supervision of another person engaging in regulated activity. <i>Para 1(2B)(b).</i> <p>Existing:</p> <ul style="list-style-type: none"> ▪ Activity by a person in a group assisting or acting on behalf of, or under direction of another person engaging in regulated activity; ▪ childcare premises which are the home of a parent etc. of at least one child to whom the childcare or child minding is provided; ▪ for activity undertaken regularly in a number of different establishments, but only infrequently in each: each establishment is only arranging the

	activity infrequently, so each establishment is not a regulated activity provider in relation to that activity.
--	---

Note: Categories for office holders (“Positions” - Para 1(9) and Para 4) and for Inspectorates in England (sub-paragraphs of Para 1) are removed.

Regulated Activity (Adults)

Anyone providing personal care to an adult is in regulated activity irrespective of whether that occurs in, say, a hospital, a care home, a day care centre, a prison or in sheltered housing.

Any time a person engages in the activities set out below, they are engaging in regulated activity.

General points

1. Regulated activity continues to exclude any activity carried out in the course of family relationships, and personal, non-commercial relationships.
 - a) Family relationships involve close family (e.g. parents, siblings, grandparents) and relationships between two people who live in the same household and treat each other as family.
 - b) Personal, non-commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.
2. An adult is a person aged 18 years or over.
3. A person whose role includes the day to day management or supervision of any person who is engaging in regulated activity, is also in regulated activity.

Current definition of regulated activity Adults

There are six categories within the new definition of regulated activity.

Providing Healthcare

The provision of health care by any health care professional to an adult, or the provision of health care to an adult under the direction or supervision of a health care professional, is regulated activity. A health care professional is a person who is regulated by one of the following professional regulators:

- General Medical Council
- General Dental Council
- General Optical Council
- General Osteopathic Council

General Chiropractic Council
General Pharmaceutical Council
Pharmaceutical Society of Northern Ireland
Nursing and Midwifery Council
Health Professions Council

Health care includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. Health care also includes procedures that are similar to forms of medical or surgical care that are not provided in connection with a medical condition. An example of this is taking blood from a blood donor or cosmetic surgery.

The provision of psychotherapy and counselling to an adult which is related to health care the adult is receiving from, or under the direction or supervision of, a health care professional, is regulated activity. This would include the provision of psychotherapy and counselling over the telephone. Life coaching is excluded. The secondary legislation that will bring psychotherapy and counselling into regulated activity is soon to be laid before Parliament.

First aid, when any person administering the first aid is doing so on behalf of an organisation established for the purpose of providing first aid (for example, St John Ambulance Service), is regulated activity. This includes first aid given by Community First Responders.

A worker employed for another purpose who volunteers, or is designated, to be that organisation's first aider is not in regulated activity. For example, a person who works in a department store whose role includes being a first aider is not engaging in regulated activity.

Members of peer support groups (for example, Alcoholics Anonymous), are not in regulated activity, even if the group is directed or supervised by a health care professional.

All staff who work in community pharmacies and opticians who are not regulated health care professionals will be excluded from regulated activity. For example, a person who works in a high street pharmacy providing health advice to customers over the pharmacy counter will not be in regulated activity.

Staff in GP surgeries or dental practices who do not provide health care (for example, receptionists) will not be in regulated activity.

1. Providing Personal Care

Anyone who provides an adult with 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 the adult's age, illness or disability, is in regulated activity.

Anyone who 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 and supervision, is in regulated activity.

Anyone who trains, instructs or provides 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, is in regulated activity.

There is one exception to this. Excluded from regulated activity is any physical assistance provided to an adult in relation to the care of their hair when that assistance relates only to the cutting of the adult's hair. This is to ensure that hairdressers who cut the hair of patients and residents in hospitals and care homes are not engaging in regulated activity.

Illustrative examples:

A care assistant in a care home who cuts and files an adult's nails to keep the nails short and safe, because the adult cannot do it themselves, because, for example, they cannot see well enough, would be engaging in regulated activity.

A beauty therapist who attends a day care centre once a week and provides manicures for anyone who would *like* one, instead of for people who *need them* because of their age, illness or disability, is not engaging in regulated activity.

A volunteer who prepares and serves a meal to an adult in their own home (but does not feed the adult) is not engaging in regulated activity. To be engaged in regulated activity you must provide physical assistance to the person, for example spoon feeding that person, or you must be prompting and supervising (for example, prompting and supervising a person with dementia, because without it they would not eat), or you must be training or instructing (for example, teaching a person who has suffered a stroke to eat using adapted cutlery).

A health care assistant on a hospital ward who feeds an adult because they are too frail to feed themselves would be engaging in regulated activity.

A worker in a care home who reminds a person with dementia to eat their lunch, and ensures they do so is in regulated activity.

2. Providing Social Work

The activities of regulated social workers in relation to adults who are clients or potential clients are a regulated activity. These activities include assessing or reviewing the need for health or social care services, and providing ongoing support to clients.

3. Assistance with general household matters

Anyone who provides day to day assistance to an adult because of their age, illness or disability, where that assistance includes at least one of the following, is in regulated activity:

- managing the person's cash,
- paying the person's bills, or
- shopping on their behalf.

Illustrative examples:

A volunteer who collects shopping lists and the cash to pay for the shopping from older adults' homes, who then does the shopping on their behalf, would be engaging in regulated activity.

A befriender who helps a disabled person compile their weekly shopping list is not in regulated activity.

4. Assistance in the conduct of a person's own affairs

Anyone who provides assistance in the conduct of an adult's own affairs by virtue of:

Lasting power of attorney under the Mental Capacity Act 2005.

Enduring power of attorney under the Mental Capacity Act 2005.

Being appointed as the adult's deputy under the Mental Capacity Act 2005.

Being an Independent Mental Health Advocate.

Being an Independent Mental Capacity Advocate.

Providing independent advocacy services under the National Health Service Act 2006 or National Health Service (Wales) Act 2006.

Receiving payments on behalf of that person under the Social Security Administration Act 1992 is in regulated activity.

5. Conveying

The secondary legislation that will prescribe when conveying is regulated activity.

Any drivers and any assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are in regulated activity. The driver does, or the person assists in, such conveying for the purpose of enabling the adult to receive services. Health care, relevant personal care and relevant social work are discussed above.

In addition, hospital porters, Patient Transport Service drivers and assistants, Ambulance Technicians and Emergency Care Assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are also in regulated activity.

Conveying does not include licensed taxi drivers or licensed private hire drivers, and does not include trips taken for purposes other than to receive health care, personal care or social work (for example, trips for pleasure are excluded).

Illustrative examples:

A person who volunteers to take an adult to and from their GP appointment on behalf of a community group is in regulated activity. It would not matter if that person knows, or is friends with, the adult they were taking to the appointment if the conveying is on behalf of the group.

A friend who takes their neighbour to a hospital appointment would not be in regulated activity, as this is a personal relationship.

Updated July 2017

APPENDIX D: RISK ASSESSMENT TEMPLATE – EMPLOYEES STARTING WORK BEFORE AN ENHANCED DBS CHECK IS RETURNED

Please complete this form fully as it will form the basis of a decision to appoint/not to appoint someone into a position subject to it.

If a Barred List check is not applicable for this role, approval for allowing an applicant to start, based on the completion of this risk assessment must be approved by the appropriate Director. Please note all other recruitment checks must be completed before submitting this form.

Name of Manager

Name of Applicant

Position Applied For.....

Service.....

Date of Risk Assessment.....

Questions	Comments
<p>Is this post eligible for a Barred List Check? <i>If 'No', then sign off will be required by an appropriate Director on the completion of this form before the applicant may start in role.</i></p>	<p>Yes No</p>
<p>Has the Barred List check been undertaken if applicable? <i>See <u>Appendix B</u> to determine if applicable. If it is applicable and the answer here is 'no' then this must be undertaken – contact HR</i></p>	<p>Yes No</p>
<p>Is the applicant barred from working with Children/Adults? <i>If 'Yes' end process now.</i></p>	<p>Yes No</p>
<p>Have all Pre-employment checks been undertaken including</p> <ul style="list-style-type: none"> • References checked and verified. • Application form checked and all breaks in employment and or training are accounted for. • Evidence of qualifications/professional qualifications • Proof of identity • Right to work in UK documentation 	<p>Yes No</p>

Questions	Comments
<ul style="list-style-type: none"> Pre-employment medical declaration received and confirmed fit for work 	
Has the HR team confirmed that they have received all the required above paperwork?	Yes No
Has a correctly completed DBS check application form been sent to DBS?	Yes No
What level of and how much supervision is available to the applicant from an appropriately qualified and experienced member of staff?	
Can any safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	Yes No
Has the applicant advised of any disclosures that the DBS check will show? If so, what is the impact of these – see <u>Appendix E</u> : Cause for Concern Risk Assessment Proforma.	Yes No
Any questions/additional comments from the applicant?	

Outcome of Risk Assessment (delete as appropriate):

Allow employee to begin before the enhanced DBS is returned?

Yes

No

Please state (if applicable) whether approval is dependent upon conditions being met, such as recommendations, restrictions or safeguards to be implemented by the employing service/school.

Name of Authorising Officer:

Signature of Authorising Officer:

I have considered the content of this risk assessment and give approval for the applicant to start in position, with the safeguards set out above put in place, prior to the return of an enhanced DBS check.

Name of Director.....

Signature of Director

Date

Updated July 2017

APPENDIX E: CAUSE FOR CONCERN RISK ASSESSMENT PROFORMA

Please complete this form fully and discuss with Human Resources, as it will form the basis of a decision to appoint/not to appoint someone into a position where adverse disclosures have been identified on a returned DBS check.

Name of Manager

Name of Applicant.....

Name of HR Representative.....

Position Applied For

Service

Date of Risk Assessment.....

Questions	Comments
Does the applicant meet all the essential criteria for the post in terms of skills, knowledge, experience and ability?	
Does the applicant agree that the information detailed on the DBS certificate is correct? In the event of a challenge from the applicant the matter needs referring to the disputes team at the DBS.	
The country in which the offence was committed e.g. some activities are offences in Scotland and not in England and/or Wales and vice versa. Whether the offence has since been decriminalised by Parliament.	
What was the nature of the crime, when did the relevant offence(s) occur e.g. less/more than two years ago, what were the circumstances involved and what was the sentence?	
Do the matters disclosed form any pattern? Was the offence a one-off, or part of a history of offending e.g. is the offence likely to re-occur?	
What is the seriousness of the offence(s) and	

relevance to the safety of other employees, customers, service users and property?	
Are there any assessments and reports from those agencies involved in the applicant's process of rehabilitation e.g. probation service, specialists working in prison, other agencies?	
Are the type and/or nature of the offence(s) directly relevant to the post?	
What is the nature of the contact the applicant will have with children/adults/the public and how vulnerable are they? If working with adults, will the applicant have access to finances or to items of value?	
Was the relevant offence committed at work (either paid or unpaid work)? Does the job present any opportunities for the applicant to re-offend in the place of work?	
Did the applicant declare the matters on the DBS disclosure application form and/or the application form?	
Are there any mitigating circumstances e.g. any relevant information offered by the applicant about the circumstances that led to the offence being committed e.g. the influence of domestic or financial difficulties?	
Has the applicant's circumstances changed since the offence was committed, making re-offending less likely (e.g. improved personal circumstances, drug addiction therapy etc.). Can the applicant demonstrate any efforts not to re-offend? i.e. rehabilitation course	

Would the applicant do anything differently now - has their motivation changed? Does the individual regret the matter (degree of remorse) and what is their attitude towards the matters now?	
What level of and how much supervision is available to the applicant?	
Can any safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	
Any questions/additional comments from the applicant?	

Applicant

Are there any additional comments in support of your employment;

I understand that any offer of employment will be subject to the information I have supplied and that this is complete and correct. False information, or a failure to supply the details required could make an offer of employment invalid or lead to termination of employment. I understand that this proforma will be held securely by Human Resources. It will only be accessed if a) Regulatory/enforcement organisations ask for clarification on this recruitment decision, or b) any allegations are made against me during the course of my employment with Broadacres, where an investigation would require access to this data. It will be destroyed in line with Broadacres Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

I consent to the above:

Signature:

Date.....

Name:.....

Line Manager

Are there any additional comments, eg approval is dependent upon conditions being met, restrictions and/or safeguards to be implemented by the employing service:

I have discussed this with the Human Resources team? Yes / No

Signature: Date:

Outcome of Risk Assessment (delete as appropriate):

Continue with offer of employment/withdraw offer of employment

Please state (if applicable) whether approval is dependent upon conditions being met, such as recommendations, restrictions, safeguards to be implemented by the employing service

Name of Authorising Officer:

Signature of Authorising Officer:

Updated July 2017

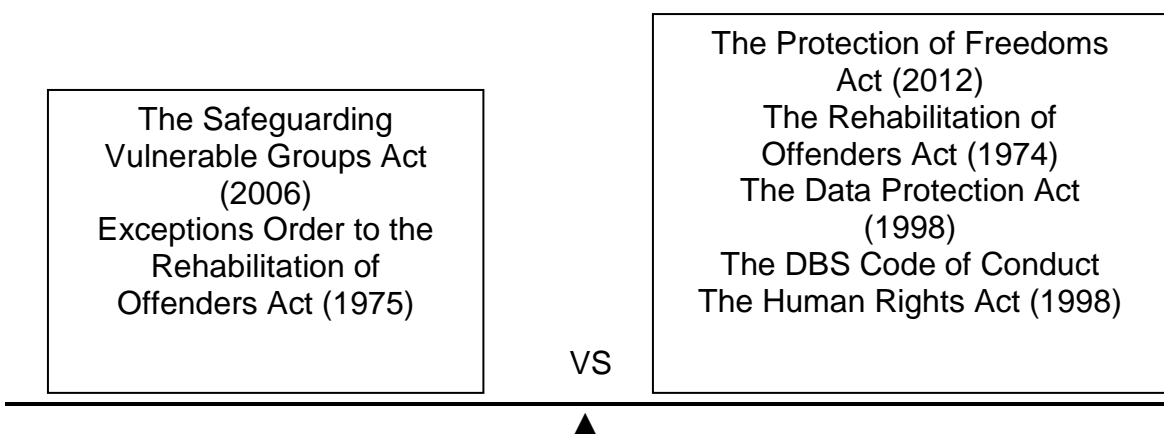
APPENDIX F: RELEVANT LEGISLATION

INTRODUCTION TO THE LEGISLATION

- F.1 The Safeguarding Vulnerable Groups Act (2006)
- F.2 The Rehabilitation of Offenders Act (1974)
- F.3 Exceptions Order to the Rehabilitation of Offenders Act (1975)
- F.4 The Protection of Freedoms Act (2012)
- F.5 The Data Protection Act (1998)
- F.6 The Disclosure & Barring Service and the DBS Code of Practice
- F.7 The Human Rights Act (1998)

INTRODUCTION TO THE LEGISLATION

Broadacres is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and the Exceptions Order to the Rehabilitation of Offenders Act (1975). However, this duty must be carried out with due regard to all other relevant legislation including the Rehabilitation of Offenders Act (1974), the Data Protection Act (1998), the DBS Code of Conduct and the Human Rights Act (1998). In effect Broadacres needs to balance the legislation carefully to ensure we recognise the rights of ex-offenders and remain within the legal requirements of the law whilst meeting our Safeguarding responsibilities.



F.1 The Safeguarding Vulnerable Groups Act (2006)

The Safeguarding Vulnerable Groups Act (2006) provides the legislative framework for the new Vetting and Barring scheme (VBS). In summary the Act allows for the Independent Safeguarding Authority (ISA) to make all decisions about who should be barred from working with children and vulnerable adults. The Vetting and Barring scheme will consider those activities that are classified as 'regulated'. These activities include both paid and unpaid (voluntary) work. This Act has been superseded to a degree by the Protection of Freedoms Act (2012).

Regulated Activity based upon the SVA can be seen under **Appendix A: Posts requiring an enhanced DBS check**

F.2 The Rehabilitation of Offenders Act (1974)

The Rehabilitation of Offenders Act (1974) (ROA) ensures those people who have been convicted of a criminal offence in the past are not discriminated against when seeking appropriate employment. After a certain period of time certain (not all) convictions will become 'spent' which means a person no longer needs to disclose these to potential employers. See the Policy on the Rehabilitation of Offenders. However there are a number of professions and posts where the ROA is 'over ridden' by the Exceptions Order to the Rehabilitation of Offenders Act (1975) – see below.

F.3 Exceptions Order to the Rehabilitation of Offenders Act (1975)

Various kinds of employment, occupations and professions are 'exempted' and this Exceptions Order to the Rehabilitation of Offenders Act (1974) overrules the employment rights an ex-offender would otherwise have in respect of 'spent' convictions. Ex-offenders have to disclose information about spent and unspent convictions provided the employer states clearly on the job advert and literature and the application form that the job applied for is exempted. These posts are those where it is legally permissible to ask an applicant to complete an enhanced DBS check (which discloses information on all spent and unspent convictions). **Appendix A: Posts requiring an enhanced DBS check** and **Appendix B: Posts requiring an enhanced check for regulated activity**

F.4 The Protection of Freedoms Act (2012)

The Protection of Freedoms Act (2012) makes a number of amendments to the vetting and barring scheme under the Safeguarding Vulnerable Groups Act (2006), which are in force from 10th September 2012. The 2012 Act introduces a new definition of "regulated activity" in relation to children and adults and the activities covered. See **Appendix B: Posts requiring an enhanced check for regulated activity**

F.5 The Data Protection Act (1998)

Under the Data Protection Act (1998) Broadacres has a duty to ensure confidentiality of all information - where all information will be handled and stored appropriately and used only for its proper purpose. Individuals have the right to see their own personal data subject to the rights of confidentiality of any third parties involved in that information and will receive their own copy of the Enhanced DBS check certificate.

F.6 The Disclosure & Barring Service and the DBS Code of Practice

The DBS was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). Its primary role is to help employers in

the public, private and voluntary sectors identify individuals who may be unsuitable for certain types of work, especially that involving contact with children or other vulnerable members of society, by providing controlled access to criminal records and related information through its Disclosure service.

The Code of Practice is produced by the Disclosure & Barring Service and all staff, Members, Partnerships, Agencies and Contractors must abide by its contents. The Code is published under section 122 of the Police Act 1997 in connection with the use of information provided to registered persons (Disclosure information) under Part V of that Act.

It is a requirement of the DBS Code of Practice that all Registered Bodies must treat applicants who have a criminal record fairly and not to discriminate because of a conviction or other information revealed. The DBS is empowered to refuse to issue a disclosure if it believes that a registered person, or someone on whose behalf a registered person has acted, has failed to comply with the Code of Practice. This code can be accessed at: **DBS Code of Practice**.

F.7 The Human Rights Act (1998)

Under the Human Rights Act anyone who believes their rights as set out in the European Convention on Human Rights have been violated by a Public Authority is able to raise their complaint before a UK court. Managers should therefore be aware of the possibility of legal challenge from ex-offenders who believe their rights have been violated under Article 14 of the Act, which guarantees freedom from discrimination.

Equally, they should be aware that victims of physical/verbal/sexual abuse caused by employees known to have a criminal record might also seek legal challenge on the grounds that the organisation failed to protect them sufficiently. In order to avoid prosecution by the courts, Broadacres needs to apply policies in such a manner that ensure vulnerable people are protected but at the same time treat ex-offenders fairly.

Updated July 2017

APPENDIX G: STATEMENT OF GOOD CONDUCT

The DBS can only access criminal records held on the Police National Computer and this does not hold details of convictions, cautions, reprimands or warnings from outside the United Kingdom. An enhanced DBS check will not provide details of an overseas criminal record that may, or may not exist. All persons who are appointed to a post requiring an enhanced DBS check must however undergo a DBS check regardless of their length of stay in the UK even if they have never been resident.

All new arrivals to the UK must provide, in addition to all documentation in relation to the immigration requirements, and DBS requirements, a Statement of Good Conduct (SOGC). The definition of new arrival is an applicant who has worked or been resident overseas in the previous five years for a period of more than three months and this includes citizens of the UK who have worked or lived overseas.

It is preferred that the SOGC is obtained via the relevant UK embassy of every country in which residency or employment is relevant. The applicant is responsible for acquiring this. Human Resources will request that the applicant obtains the SOGC in English or costs may be incurred for translation. This document should be considered along with the internal risk assessment process and all other employment checks before taking a decision regarding appointment. It is recommended therefore that prospective candidates are advised that they should obtain their SOGC prior to application or at least before interview. SOGC from the appropriate UK embassy can be authenticated by contacting that embassy. Contact details for those countries that have a representative in the UK can be found at <http://www.fco.gov.uk/en/travel-and-living-abroad> or by telephoning 020 7008 1500.

References must be obtained from previous employers and in the case of those seeking to work with children and/or adults, one of these references should be from the last employer where the individual worked with clients. In addition particular care must be taken with the usual range of other pre-employment checks such as confirming identity, qualifications, verifying right to work in the UK and employment medical questionnaires.

Some countries do not provide SOGC. The unavailability of an applicant's SOGC may give cause for concern about his or her suitability to be offered employment in a position of trust. Although such candidates will not be barred from working for Broadacres, appointing officers must make their final recruitment decision with due regard to all the relevant facts, the risk assessment and the overall requirement to protect vulnerable groups. Any decision not to appoint must be carefully explained to the candidate and reassurance given about the reasons for it.

Countries that currently carry out CRB checks include Australia, Canada, Czech Republic, Denmark, Finland, France, Germany, Hungary, Irish Republic, Italy, Jamaica, Latvia, Malaysia, Malta, Netherlands, New Zealand, Philippines, Poland, South Africa, Spain and Sweden. If an applicant is from a country listed above then they should be asked to follow the procedure for that country. Details can be

found at www.fco.gov.uk/en/about-us/what-we-do/services-we-deliver/legal-services/local-document-search/010-certificate-of-good-conduct/

Updated July 2017

APPENDIX H: POLICY ON THE SECURE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF DISCLOSURES AND DISCLOSURE INFORMATION

Broadacres complies fully with the DBS code of practice regarding the correct handling, use, retention and disposal of disclosures and disclosure information. It complies fully with its obligations under the Data Protection Act and other relevant legislation.

Disclosure information is never kept over 6 months on an applicant's personnel file and is always kept separately and securely, in secure confidential scanned folders with restricted access and if paper copies in a lockable, non-portable, storage containers with access strictly limited to those entitled to see it as part of their duties.

A record of the disclosure number and date is held on the HR management system.

In accordance with section 124 of the Police Act 1997 disclosure information is only passed to those who are authorised to receive it in the course of their duties. Broadacres maintains a record of all those to whom disclosure or disclosure information has been revealed and we recognise it is a criminal offence to pass this information to anyone who is not entitled to receive it.

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

Once a recruitment decision or other relevant decision has been made we do not keep disclosure information for any longer than is necessary and they are destroyed confidentially after six months which allows for consideration and resolution of any disputes or complaints. In exceptional circumstances it may be considered necessary to keep disclosure information for longer than six months. We will consult the DBS before we do this and give full consideration to the Data Protection and Human Rights of the individual before doing so. Throughout this time the usual conditions regarding safe storage and strictly controlled access will apply. Exceptions allowed by the DBS are as follows:

For establishments regulated by the Care Quality Commission - disclosure must be destroyed after 12 months.

Once the retention period has elapsed, we will ensure that any disclosure information is immediately destroyed by secure means. We will not keep any photocopy or other image of the disclosure or any copy or representation of the contents of the disclosure.

If Appendix E: Cause for Concern Risk Assessment is completed this is kept securely for:

- 6 months from the date of the Assessment if not appointed

The form will then be destroyed as above.

In order to maintain Broadacres DBS database (a record of disclosures undertaken) we will keep a record of the name of the subject, the date of the disclosure, the position for which the disclosure was requested, the unique reference number of the disclosure and the details of any associated recruitment decision taken e.g. employed or not employed.

Updated July 2017

APPENDIX I: CHECKS

Basic Checks

Bricklayer
Kitchen Assistant
Chef Manager
Assistant Chef
Assistant Property Surveyor
Catering Manager
CBL Housing Advisor
CBL Team Leader
Cleaner
Cleaning Services Supervisor
Cook
Compliance Surveyor
Electrical Team Leader
Electrician
Environmental Officer
Estate Caretaker
Gas Team Leader
Heating Engineer
Housing Management Trainee
Housing Manager
Housing Officer – Estate Management
Janitor
Joiner
Labourer
M&E Manager
Painter and Decorator
Planned & Cyclical Manager
Planned Surveyor
Plasterer
Property Surveyor
Structural Surveyor
Team Leader, Labourer
Team Leader, Planned & Cyclical
Team Leader, Responsive
Team Leader, Voids

Standard Checks

Cleaner – Domiciliary Care
Customer Liaison Officer
Energy Assessor
Rent Account Manager
Rent Manager
Support Worker, Extra Care
Support Worker, OPSS
Support Worker, Flexi OPSS
Team Leader, OPSS

Enhanced with Adult Checks

Debt Recovery Officer
Customer Services Director
Head of Support Services
Head of Housing Services
Money Advisor
Diversional Therapist, ABLE
Extra Care Co-ordinator
Scheme Manager, ABLE
Scheme Manager, Domiciliary Care
Scheme Manager, Learning Disability Scheme
Scheme Manager, Mental Health Service
Scheme Manager, Refuge *
Scheme Manager, Extra & Complex Care
Support Worker, Domiciliary Care
Support Worker, Learning Disability Scheme
Support Worker, Mental Health Scheme
Support Worker, Refuge
Support Worker, Young Persons Services
Tenancy Support Officer

Enhanced with Children Checks

Children's Worker, Refuge
Community Development Manager (Youth Clubs)
Customer Involvement Officer (Youth Clubs)
Scheme Manager, Refuge*

*Post requires both adult and children checks due to managing roles in two schemes